

Title/Subject: Equality Duties

Meeting: Integration Joint Board

Date: 24 March 2016

Submitted By: Chief Governance Officer

Action: For decision

1. INTRODUCTION

- 1.1 This report advises the Board of the duties placed on it by equality legislation and makes recommendations on how these should be fulfilled in the first year of operation.

2. RECOMMENDATION

It is recommended that the Board agrees:

- 2.1 that Falkirk Council's model for equality impact assessments is used where an equality impact assessment is required; and
- 2.2 that the Chief Officer will prepare and publish the information required to fulfil the Board's specific duties in relation to mainstreaming and outcomes.

3. EQUALITY LEGISLATION

- 3.1 The Equality Act 2010 will be familiar to the Board. It provides the legislative framework for preventing discrimination and advancing equality of treatment. All organisations are bound by its provisions but public organisations have additional duties. As the Board has previously been advised, it is a public organisation subject to these duties. Significant obligations arise firstly from the public sector equality duty (PSED) and, secondly, from the specific duties arising from regulations made by the Scottish Ministers.
- 3.2 The public sector equality duty set out in s149 of the Equality Act 2010 places an obligation on public authorities, in the exercise of their functions, to have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation;
 - advance equality of opportunity between different groups; and
 - foster good relations between different groups.
- 3.3 The broad purpose of the equality duty is to integrate consideration of equality and good relations into the day-to-day business of public authorities. The duty requires organisations to consider how they could positively contribute to the advancement of equality and good relations. It requires equality considerations to be reflected into the design of policies, the delivery of services and is a crucial consideration when

changes which may impact on groups who share protected characteristics are made to services.

- 3.4 In the main this duty has been met by public authorities developing means to assess the impact of proposals in relation to the PSED and then having regard to the outcome of that assessment in its decision making. This approach flows both from the PSED itself and one of the specific duties referred to below.
- 3.5 The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 place specific equality duties on public authorities, including the Board. Not all of the duties are relevant as the Board is not an employer. The specific duties which are relevant to note include:
- reporting on the mainstreaming of the equality duty;
 - agreeing and publishing equality outcomes; and
 - assessing and review policies and practices.

4. EQUALITY IMPACT ASSESSMENT

- 4.1 As noted above, the equality impact assessment is an appropriate method through which the public sector can demonstrate that it has given 'due regard' to the needs of people who may experience discrimination from unequal treatment and prejudice. It is important to consider equality otherwise there is a risk that decisions taken may result in discrimination and worsen inequality. This could result in decisions being open to challenge which can be costly, time consuming and damaging to reputation.
- 4.2 An equality impact assessment is likely to be required when the Board is making a decision which is likely to impact on people. This will cover any new or revisions to strategies, policies, strategic plans, major programmes, projects, budget and service decisions which are likely to impact on staff and /or service users.
- 4.3 At the present time NHS Forth Valley and Falkirk Council both have equality impact assessment procedures. The Falkirk Council process includes assessing the impact of poverty. The Board will be aware of the impact poverty can have as a wider determinant on health, and therefore it is proposed that the Board consider adopting Falkirk Council Equalities and Poverty Impact Assessment to be used where required. This can be reviewed if required to develop an integrated equality impact assessment process.

5. EQUALITY MAINSTREAMING AND EQUALITY OUTCOMES

- 5.1 Mainstreaming means that equality is built into the way the Partnership will work; the way decisions are made; the way people who work for and on behalf of the Board behave; our performance and how we can improve. In other words, equality should be a component of everything the IJB does. Mainstreaming the equality duty has a number of benefits including:
- equality becomes part of the structures, behaviours and culture of an authority
 - an authority knows and can demonstrate how, in carrying out its functions, it is promoting equality

- mainstreaming equality contributes to continuous improvement and better performance.

5.2 The duty imposed on the Board is to publish a report on the progress it has made to make the equality duty integral to the exercise of its functions no later than 30th April 2016. Plainly, there is a challenge in reporting at this stage as the Board has been in existence for a very short period of time and the integration functions will be delegated only a month before the date on which the report requires to be published. The report will not be lengthy and is likely to focus on the processes put in place for mainstreaming equality in the future and importantly on the consideration of equality in the development of the Strategic Plan.

5.3 Equality Outcomes are distinct to each organisation and need to reflect its functions, responsibilities, priorities and methods of working. It is suggested that the Board adopt outcomes based on the local outcomes already identified in the preparation of the Integration Scheme and the Strategic Plan. These are:-

- Self-Management: Individuals, carers and families are enabled to manage their own health, care and wellbeing.
- Autonomy and Decision Making: Where formal support is needed people should be able to exercise as much control and choice as possible over what is provided.
- Safe: Health and social care support systems are in place, to help keep people safe and live well for longer.
- Experience: People have a fair and positive experience of health and social care.
- Community Based Supports: Informal supports are in place, which enable people, where possible, to live well for longer at home or in homely settings within their community.

5.4 Over the coming year, the development of the Strategic Plan Implementation and Delivery Plan and the establishment of locality profiles will provide an opportunity to review the Equality Outcomes for the Partnership. It is suggested that any Equality Outcomes established at this stage are reviewed with a view to more focussed outcomes informed by the first year of operation being adopted in April 2017. This would align with the review of Equalities Outcomes by the NHS Board and Falkirk Council.

CONCLUSION

6.1 The equalities duties are central to the work to be undertaken by the Board. The assessment of equalities impacts will be particularly important in light of the contained financial position faced by the Board.

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