

# **WEST DUNBARTONSHIRE COUNCIL**

## **Report by the Clerk to the Licensing Board**

**Licensing Board : 16 August 2011**

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**Subject:      Licensing Board Equality Scheme 2011-2013**

### **1.      Purpose**

- 1.1      To report on the revision of the Licensing Board Equality Scheme and update on progress to the Action Plan.

### **2.      Background**

- 2.1      The main changes introduced by the Scheme are as follows:-
- 2.2      The scheme is to ensure that the Licensing Board is compliant with the Equality Act 2010. Under this Act the Board is considered to be a service provider rather than an employer.
- 2.3      Previous legislation has been amalgamated and simplified by the Equalities Act 2010. The Act prescribes that there are nine characteristics that are protected however service providers such as the Licensing Board are required to examine 8 of these 9 characteristics. These characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion and belief, sex and sexual orientation. However it is recommended that the ninth characteristic, marriage and civil partnership, is also adopted.

### **3.      Main Issues**

- 3.1      Since the previous scheme was introduced progress was made on the action points raised by the scheme (see appendix 1). Other progress was hampered by the increased demands of the transitional period of the Licensing (Scotland) Act 2005 and staff shortages due to ill health. With this period now past it is envisaged that increased progress can be made during the period of this scheme.
- 3.2      The revision of the Scheme has involved a consultation involving approximately one hundred individuals with an interest in equality issues. The only significant recommendation that resulted from this process was the adoption of the Marriage and Civil Partnership protected characteristic to the Scheme.
- 3.3      It will be noted that the draft Equalities Scheme largely deals with the Board's own practices and does not contain measures aimed at the equalities

practices or disabled access within individual licensed premises. There are a number of reasons for this. Firstly the statutory guidance under the 2005 Act states that Boards should avoid duplication with other strategy regimes so far as possible. This is given further weight by the recent decision by the Inner House of the Court of Session in Brightcrew Ltd versus the City of Glasgow Licensing Board. This case takes the view that the 2005 Act is about the sale of alcohol, no more no less and any policy must relate to the sale of alcohol.

- 3.4 The Equalities Act 2010 does however impose equalities duties on the licensed trade, with the exception of clubs with fewer than 25 members. These include the duty to make reasonable adjustments to both practices and the premises to accommodate disabled patrons. It should also be noted that on 1 October 2011 Section 179 of the Criminal Justice and Licensing (Scotland) Act 2010 comes into force, requiring a disabled access and facilities statement to be made as part of a new Premises Licence Application. This is to contain a statement about access to the premises by disabled persons, the facilities provided on the premises for the use of disabled persons and any other provision made on the premises for disabled persons. While the Licensing Board will not be responsible for enforcing or improving disabled access or facilities, this statement will be helpful to premises to raise awareness of disabled issues and any deficiencies. This statement is also publically available and equalities groups could also chose to raise any deficiencies with the premises.

#### **4. People Implications**

- 4.1 All tasks within the action plan should be achieved by Members and Officers of the Board without adverse impact on the service provided by the Board or Licensing Team.

#### **5. Financial Implications**

- 5.1 There are no significant financial implications relating to the adoption of this scheme. Some costs could be forthcoming if further training in equalities issues were given to Licensees, Board members and Council officers. However there are low cost options available for this.

#### **6. Risk Analysis**

- 6.1 The Board are required to comply with the provisions of the new Equality Act and this will be achieved by adopting and implementing this scheme.

#### **7. Equalities Impact**

- 7.1 An Equalities Impact Assessment has been carried out and is attached at appendix 2.

## **8. Conclusions and Recommendations**

- 8.1 This report summarises the main changes in the Board's Equality Scheme brought about by the Equality Act 2010. It is recommended that the Scheme and accompanying Action plan are adopted by the Board.

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**Appendices:** 1 Review of Action Plan 2010  
2 Equality Scheme 2011-2013  
3 Environmental Impact Assessment

**Background Papers:** None

**Wards Affected:** All