

WEST DUNBARTONSHIRE COUNCIL

Report by Chief Executive

Social Justice Committee : 14 March 2007

Subject: The Gender Equality Duty

1. Purpose

- 1.1 The purpose of this report is to inform Committee of the Council's requirement to meet the Gender Equality Duty, which comes into force on 6 April 2007, and to outline the key areas of work necessary to meet this.

2. Background

- 2.1 The Equality Act 2006 amends the Sex Discrimination Act 1975 to place a statutory duty on all public authorities, when carrying out their functions, to have due regard to the need to:-

- Eliminate unlawful discrimination and harassment
- Promote equality of opportunity between men and women.

This is known as the 'general duty' and will come into effect on 6 April 2007.

- 2.2 This duty is different from previous sex equality legislation in two respects:-

- Public authorities have to be proactive in *eliminating* discrimination and harassment, rather than waiting for individuals to take cases against them
- Public authorities have to be proactive in *promoting* equality of opportunity, and not just avoiding discrimination.

- 2.3 The duty applies to policy making, service provision, employment matters, and in relation to enforcement or any statutory discretion and decision-making. It also applies to the services and functions which are contracted out by the Council, and applies to private and voluntary bodies which are carrying out public functions.

- 2.4 The Council must have 'due regard' to the need to eliminate unlawful discrimination and harassment and promote equality of opportunity between men and women in all functions. 'Due regard' is made up of two linked elements – proportionality and relevance. This means that the weight we give to gender equality should be proportionate to its relevance to a particular function. The more relevant a function or service is to gender equality the greater regard should be paid to it to make sure it meets the general duty.

2.5 The Council must also have due regard to eliminate unlawful discrimination and harassment in employment and vocational training (including further and higher education), for people who intend to undergo, are undergoing or have undergone gender reassignment¹. This protection for transsexual² people will be extended to cover goods, facilities and services later in the year.

3. Main Issues

3.1 The Council needs to ensure that it meets the General Duty outlined above, from 6 April 2007 onwards, but it also needs to meet the specific duties under the duty, which includes the development and publication of a Gender Equality Scheme by 29 June 2007.

3.2 The Gender Equality Scheme must set out how the Council will meet the specific duties. All public sector bodies are required to:-

- Gather information on how their work affects women and men.
- Consult employees, service users, trade unions and other stakeholders.
- Assess the different impact of policies and practices on women and men and use this information to inform their work.
- Identify priorities and set gender equality objectives.
- Plan and take action to achieve gender equality objectives.
- Publish a gender equality scheme, report annually and review progress every three years.
- Publish an equal pay statement (if they have 150+ staff) by 28 September 2007 and report on progress every three years.

3.3 The Policy Unit is currently working on the development of the Gender Equality Scheme, and will be consulting with employees, service users and trade unions. Some of the consultation with services users will be carried out in partnership with Community Planning partners.

3.4 The Council also requires to develop an equal pay policy statement by 28 September 2007, setting out the work that has taken place, and where any work is still required to fully meet the requirements of the Equal Pay Act. The current Pay Modernisation work being undertaken is working towards establishing equal pay across the Council, and this will be reflected in both the Gender Equality Scheme in June, and in the policy statement in September.

¹ Gender Reassignment is a medical process whereby individuals undertake medical treatment to alter their bodies to match their gender identity

² Transsexual is a term used to describe people whose gender identity does not match their biological sex. This includes pre-operative, post-operative and people intending to undergo medical treatment. Transsexual people often feel they have been born with the wrong body.

4. Personnel Issues

- 4.1** Corporate Personnel will require to carry out monitoring of the workforce, and work is currently taking place to capture all equal opportunities monitoring information, covering ethnicity, gender, disability and age. This information will eventually be fed on to the HR management system, the procurement of which was agreed through the Best Value Improvement Plan. Employees will require time to complete employee information checks.
- 4.2** Employees willing to take part in employee focus groups will require time off from their regular duties to attend a meeting. Time will also be required to complete the employee questionnaire, which will be distributed to all employees, through managers and established mailing systems.

5. Financial Implications

- 5.1** There will be financial implications in relation to fully meeting the requirements of the Equal Pay Act, but much of this is already highlighted in the Pay Modernisation process.
- 5.2** There are costs associated with the consultation that needs to be carried out with employees and service users with focus groups costing between £500 to £650 per group, including an incentive for service user participants. It is anticipated that approximately 8 focus groups would require to be held.
- 5.3** An employee questionnaire will also be carried out and there will be financial implications in the cost for data input and analysis, as this will have to be procured from outwith the Council. The approximate cost for this work is £3500 based on a 20% return from employees. It may be possible to include these questions within the wider staff survey which will be taking place.
- 5.4** There may be other costs if services are failing to meet the Gender Equality Duty, which could be highlighted through impact assessment of services. Costs may be incurred if work is required to adjust service delivery or carry out further consultation and analysis regarding services thought to be non-compliant.

6. Risk Analysis

- 6.1** If the Council fails to meet the General Duty it may find itself subject to enforcement action, carried out by the Equal Opportunities Commission, or the Commission for Equality and Human Rights, which will replace the three existing Commissions (Commission for Racial Equality, Disability Rights Commission and the Equal Opportunities Commission) in October 2007. There are two methods of enforcement, a judicial review or the serving of a non-compliance notice.

7. Conclusions

- 7.1** The Council requires to meet its duties under the Equality Act 2006, ensuring that it is more proactive about eliminating unlawful sex discrimination and harassment and promoting equality of opportunity between women and men.

8. Recommendations

- 8.1** It is recommended that Committee agree:-

- to work towards the elimination of gender discrimination and harassment and to promote equality of opportunity between women and men
- to support the work of the Policy Unit in developing the Gender Equality Scheme through the Equality and Diversity Working Group
- that employees be given time to complete employee information checks and employee questionnaires
- that employees willing to be involved in focus groups be given time to do so, without using flexi or other leave arrangements.

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Date: 5 March 2007

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Background Papers:

1. Gender Equality Duty Draft Code of Practice, Scotland, Equal Opportunities Commission
2. Equality Act 2006, HMSO

Wards Affected: All