

Community Planning and the Public Sector Duties

January 2007

The three duties

The Race Equality Duty and the Disability Equality Duty are now in force for public authorities, with the Gender Equality Duty coming into force in April 2007. All three public sector duties require a common approach, with the onus on public bodies to work proactively to promote equality and eliminate discrimination in all their functions, including their partnership activities.

The Commission for Racial Equality, Disability Rights Commission and Equal Opportunities Commission in Scotland published a Joint Statement in November 2005 underlining our common approaches to the three public sector duties. In that document we made clear our common expectations that the duties will encourage significant acceleration of public bodies' work to deliver equalities, and continuous improvement thereafter.

We are continuing to work closely together in Scotland to develop an agreed approach to the three duties which supports public bodies to minimise duplication, while recognising the legal differences between each duty. We are about to publish an update to the 2005 statement, in January 2007, which sets out where the public sector duties can be implemented together, and where there are important differences between them. Both these joint statements, and this leaflet, will be available on each of our websites.

This document takes our common approach a step further, by clearly setting out our shared expectations of public bodies in terms of how they should meet their equality duties within their partnership work.

Promoting equality through public service

The Scottish Executive has set out its views about public services in Scotland in the paper *Transforming Public Services: the next phase of reform*. It states 'we start from a strong belief in the value and importance of public services, they are there for us all in times of need; they bind society together'.¹

The three commissions also share a common belief in the importance of the public sector and in its role as an influencer and shaper of life in Scotland. We share a vision that Scotland should be a place where everyone can participate fully and be treated fairly without disadvantage arising from their gender, disability, race or any other personal characteristic.² This is our vision; but our reality tells us that we still have a long way to go.

Public services have a huge role to play in addressing long standing inequalities. Equality is often dependent on different public bodies working together effectively, and this leaflet sets out how partnerships can help achieve this.

Where do partnerships fit in?

Most public bodies will be involved in partnerships in order to better plan and deliver their services – for example, police and fire joint boards, community planning partnerships or regional transport partnerships.

Those partnerships which have a separate legal identity will be bound by each of the public sector equality duties. For example, police and fire joint boards are

¹ Scottish Executive publication, *Transforming Public Services: The Next Phase of Reform*, June 2006

² 3 Commissions Joint Position Paper, Nov 2005

specifically covered by all three duties and will be legally required to publish equality schemes. In contrast, community planning partnerships, for example, are not specifically covered by the public sector duties. However, public bodies that are involved in partnership work are still responsible for meeting the public sector duties within their partnership role, because partnership activity is one of their functions and therefore covered by the duties.

Equality obligations under the Local Government in Scotland Act

The central place of equalities work within community planning partnerships is emphasised by the Local Government in Scotland Act 2003, which requires councils, on behalf of community planning partnerships, to report on actions taken in the course of the community planning process³. This would include an obligation, which is placed on ministers, councils and all other bodies participating in community planning, to do so in a manner which encourages equal opportunities and, in particular, the observance of equal opportunity requirements⁴.

Community planning partnerships are therefore required to report on their progress towards promoting equality and eliminating discrimination.

Public sector duty obligations

As stated above, public bodies that are involved in partnership work are responsible for meeting the public sector duties. Community planning partnerships and any other partnerships which public bodies are involved in will therefore be under obligations in relation to the public sector duties through their public sector members. This is in addition to, and complementary to, the equality obligations of community planning partnerships under the Local Government in Scotland Act.

³ Local Government in Scotland Act section 17

⁴ Local Government in Scotland Act 2003, section 59

In practice, this will mean that each public body will need to agree, at partnership level, arrangements for planning, funding and managing joint work that will allow it to meet its statutory duties, and its partners to meet theirs. Public bodies must ensure that they give due regard to race, disability and gender equality in relation to the work of the partnership by ensuring that it takes forward work to promote equality. This means that elected members or representative officials on these boards have a role to ensure the boards are following the three equality duties, and have a role to play in highlighting non-compliance with their statutory partners.

What should CPPs be doing to promote equality?

The statutory guidance on Best Value and Community Planning makes it clear that equalities must be mainstreamed into a partnership's work.⁵ Further, CoSLA's 2003 *Guidance on Equalities, Best Value, Community Planning and Power of Well Being* sets out a mainstreaming agenda for community planning, which is a useful approach to follow in developing both community plans and other forms of partnership activity such as Regeneration Outcome Agreements or Community Health Plans. CoSLA recommends that to support the mainstreaming of equalities within the community planning process, partnerships should:

- Identify what action they are going to take to encourage equal opportunities
- Assess all policy proposals in terms of their impact on equalities
- Engage with equalities groups / interests as part of the process
- Build up their own capacity and the capacity of community bodies / equalities groups to participate fully in the process
- Share information on the needs and circumstances of equalities groups

⁵ The Local Government in Scotland Act 2003 – Statutory Guidance for Community Planning (Scottish Executive, 2004), section 12

- Monitor and evaluate their performance in relation to the encouragement of equal opportunities
- Report on their performance through the Public Performance Reporting Framework.

The CRE, DRC and EOC in Scotland fully support this approach. If partnerships are already taking this approach, then this represents the basis from which public bodies can start to meet their equality duties within their partnership activity. Public bodies can build on this when seeking to fully meet each of the elements of the three duties, for example by considering how the partnership will promote positive attitudes towards disabled people, and promote good race relations.

We recommend that the council, as lead partner, takes responsibility for ensuring this happens, through the development of partnership-level equalities schemes agreed by all partners, linking into the community plan and into individual partners' own corporate plans.

Scrutiny of partnerships' progress in promoting equality

The Commissions, and after October 2007, the Commission for Equality and Human Rights, have formal powers of enforcement which can be used if they have evidence that public authorities are not taking action required by the duties, including within their partnership activity.

Inspection bodies clearly also have a role to play, and they are bound by the duties in their own functions. We expect that compliance with the duties will become an integral part of the inspection process, built into their inspection regimes and informing their judgements on what constitutes good performance.

For more information

You may find the following websites helpful for more details on each equality duty, or equalities mainstreaming in general.

- Commission for Racial Equality – <http://www.cre.gov.uk/>
- Disability Rights Commission – www.drc-gb.org
- Equal Opportunities Commission – www.eoc.org.uk
- Commission for Equality and Human Rights – www.cehr.org.uk
- Communities Scotland - www.communitiesscotland.gov.uk
- Improvement Service - <http://www.improvementservice.org.uk/>
- Scottish Executive equalities mainstreaming website - www.scotland.gov.uk/mainstreaming/?pageid=403

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