

EXTERNAL OVERVIEW AND SCRUTINY COMMITTEE REFERRAL – THE EQUALITY ACT 2010: THE PUBLIC SECTOR EQUALITY DUTY

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WHY HAS THIS REPORT COME TO EXECUTIVE?

This report is a policy development referral from the External Overview and Scrutiny Committee.

At its meeting on 14 October 2010 the Committee considered the Government Equalities Office consultation "Equality Act 2010: The public sector Equality Duty". This was presented by the Equalities Officer, the then Portfolio Holder and the previous Head of Legal and Democratic Services.

The OSC agreed to make recommendations to Executive before the implementation of the Act on 6 April 2011. This is now presented following deferrals from the April and May Executive. It has been updated accordingly.

A key feature of the duty is the ability for councils to take into account local priorities and tailor needs accordingly, while removing the need to fulfil national priorities. The Public Sector Equality Duty places responsibility with public bodies to decide local priorities and what is relevant while being subject to accountability.

Therefore the OSC recommends that the reference to 'rural proofing' which is included within the Equality Impact Assessment (EIA) 'checklist' is strengthened as a local priority.

The OSC also supports and endorses the use of an Equality Impact Assessment and recommends it is referred to as a 'Community Impact Assessment'. This would further demonstrate that the Council is not only considering groups falling within the protected characteristics but is considering wider community implications.

Over one third of the Borough's population live outside of key service centres in rural or semi-rural areas¹. Therefore the OSC recommends that rural issues are recognised as a local priority and a component of the Equality Impact Assessment.

¹ Source: ONS Output Area Data

RECOMMENDED:

- a) That the Executive notes the Council's statutory duties in respect of the Public Sector Equality Duty
- b) That the Council's commitment to carrying out Equality Impact Assessments is supported
- c) That the Executive agrees to the Equality Impact Assessment being renamed as a Community Impact Assessment
- d) That a Community Impact Assessment – if agreed by Executive – recognises rural proofing as a local priority
- e) That the benefits of carrying out a Community Impact Assessment are recognised
- f) That the Executive notes that the Internal OSC will oversee how the Council is meeting the requirements of the Public Sector Duty during the course of its 2011-12 Work Programme.

1. INTRODUCTION

The report will address the requirements of the Equality Act 2010: The Public Sector Duty. It will outline what the Duty is, what is required of the Council to meet the Duty and why the OSC is recommending rural proofing becomes a more detailed part of the EIA process already applied as part of the Council's processes.

2. THE PUBLIC SECTOR DUTY

The Public Sector Duty requires public bodies to consider the equality implications of all of its policies and proposals, taking into account the needs of diverse communities.

Protected Characteristics

- Age
- Disability
- Gender re-assignment
- Pregnancy & maternity
- Race
- Religion & belief
- Sex
- Sexual orientation

It places a responsibility on public bodies to minimise disadvantage by taking steps to meet the needs of people with protected characteristics, encouraging people with **protected characteristics** to participate in public life/activities and take account of disabled people's needs.

More information on each protected characteristic is at appendix 1.

The duty also clearly states a requirement to;

- Eliminate discrimination, harassment, victimisation and other conduct prohibited in the Act
- Advance equality of opportunity for people including those with a protected characteristic
- Foster good relations between groups of people with and without protected characteristics by tackling prejudice and promoting understanding

The duty applies to all public bodies and those who perform functions on behalf of public bodies.

The new Public Sector Duty intends to ensure the following;

- Increase transparency and ensure inequality is tracked and scrutinised
- Equality will become 'business as usual'
- That efficiency savings are transparent and don't have a disproportional impact on vulnerable groups
- Improve life chances of those not currently covered
- It will lead by example promoting behavioural change
- It will concentrate on achieving equality outcomes

3. FULFILLING THE DUTY – WHAT IS REQUIRED OF THE COUNCIL?

2.1 *General Transparency*

The Coalition Government expects the duty to be fulfilled by adoption of transparent approaches which hold public bodies more accountable to the citizen.

The Government advocates that public bodies need to be more open with citizens about the data they use to plan, commission and evaluate services they provide. It requires public bodies like the Council to be open about the information on which decisions are based, what they seek to achieve and their results.

2.2 *Publication of data*

The Council will also be required to publish equality data which meets Public Data Principles. Data is required to be timely, open aggregated and anonymised in standard format and published under standard open licence.

The Council is also expected to be open about who it has engaged with in the course of decision making as this will demonstrate it is working towards fulfilling the aims of the duty.

The Council needs to demonstrate all decisions have considered the Equality Duty therefore assessments and data underpinning any decisions are important.

Data must be published by 31 July 2011 and thereafter there is a requirement for the data to;

- Be published not less than annually
- ***Demonstrate assessments of impacts of policies and practices***
- Demonstrate any engagement undertaken with persons/bodies with an interest of furthering the duty's names.

2.3 *Workforce Transparency*

The public sector duty requires any public body employing more than 150 people to publish equality data on its workforce annually. Workplace data should give a full picture of equality in the workplace, identify gaps and set out plans and timescales

for filling any gaps. The statutory regulation states that this should include protected characteristics² of all employees to include;

- Gender pay gap
- Proportion of staff from ethnic minorities
- The distribution of disabled employees across the organisations structure

It is recognised that this data will be available via the Council's Workforce Strategy.

2.4 Equality Objectives

Under the duty, the Council must publish data as mentioned at section 2.2. However because there will be more emphasis on outcomes rather than processes, the Council must also publish equality objectives.

Equality objectives are expected to be incorporated into organisational planning and management and measurable by outcomes. This is in contrast to previous legislation whereby public bodies were only required to highlight processes put in place to achieve objectives.

In terms of the Equality Objective, the council must prepare, publish and achieve at least one objective by April 2012. This will be informed by evidence and data, specific and measurable and explain how progress is measured.

4. EQUALITY IMPACT ASSESSMENTS (EIAs)

4.1 The Equality and Human Rights Commission (EHRC) recommends public bodies use a formal document to record EIAs and it is recommended that this is continued to be used by the Council.

Current Position

Since the beginning of April, there has been a requirement for any policy, project or strategy to be measured against an Equality Impact Assessment which is attached at Appendix 2. The OSC supports this and recommends that the section referring to Rural Proofing is strengthened.

5. RURAL PROOFING

When the External OSC considered this matter, it was argued strongly that rural proofing should be among the EIA criteria and any policies, strategies and projects should assess the impact they will have on rural communities. The OSC argues that rural proofing should be considered a relevant local priority for Copeland Borough Council given its Local Authority classification as a 'Significant Rural' authority³.

² Note there is NOT a requirement to routinely collect data on what some would regard as sensitive personnel issues such as religion or belief or sexual orientation.

³ Under the Office for National Statistics (ONS) Rural/Urban Local Authority Classification. The ONS defines a significant rural authority as more than 37000 OR 26% of the population living in rural settlements and larger market towns.

39,378 of Copeland's 70,419 population live in rural areas⁴. More detail on this is attached at Appendix 3.

The OSC recognises that rural proofing will already be carried out to a degree across the Council but would like to encourage and recommend its inclusion and application in the EIA process.

What is rural proofing?

The concept of 'Rural proofing' was introduced in the Government's Rural White Paper (2000).

Rural proofing is a process which checks the effect of policies, projects and strategies on rural communities. It ensures the needs of people in rural areas are considered and if policies or projects have an impact, the significance of those impacts are measured. If appropriate the policy or project needs adjusting to address the needs of those living in rural areas.

It is a mandatory part of the Government's policy process and it is applied to all policies, programmes and initiatives at design and delivery stage. Defra advises that it is a formal part of the Government's policy making impact assessment stage and since its introduction many other bodies have introduced rural proofing and rural proofing toolkits. .

The OSC would like to recommend that rural proofing becomes and remains an integral part of the Council's EIA process.

Other Councils

A comparison has been made with neighbouring Councils of Eden and South Lakeland. Both have included rural proofing as relevant local issues in their Equality Impact Assessments.

How to rural proof

The Countryside Agency and the Commission for Rural Communities both offer guidance on how to rural proof. However much of this is more applicable to national policy development.

The OSC is conscious that the way rural proofing is carried out needs to work for the Council and reflect the services it provides along with the challenges faced by residents living in rural communities. It is not intended to be onerous or overly bureaucratic.

It is therefore recommended that rural proofing is carried out in accordance with the main challenges faced by rural residents in Copeland and local priorities. Rural proofing in Copeland is considering:

- **Transport and access to amenities**
- **Affordable housing**
- **Socio economic factors**

⁴ Source: Cumbria Atlas: ONS Mid-Year Population Estimates

The OSC recommends that in the course of policy, project and strategy development, it can be demonstrated that these rural issues and their impact, have been considered and recognised.

It is proposed that these specific areas are incorporated into the Equality Impact Assessment.

6. ALTERNATIVE OPTIONS TO BE CONSIDERED

The Executive could choose not to rename the Equality Impact Assessment as the Community Impact Assessment.

The OSC has recommended that a local priority of rural proofing is embedded in the EIA process. This is not a protected characteristic. Therefore the Executive should be aware that this is not a legal requirement (unlike the protected characteristics) but that it can be recognised as a local priority.

7. CONCLUSION

The External OSC is recommending to the Executive that the Council continues its commitment to carrying out an impact assessment against policies, strategies and projects and it becomes known as a 'Community Impact Assessment'.

It further recommends that the Council includes in this assessment local priorities including impacts on the Borough's rural communities.

The OSC felt that rural proofing was a justified local priority and an obligation to carry this out would support the decision making process and the implementation of the Council Plan.

8. STATUTORY OFFICER COMMENTS

8.1 The Monitoring Officer's comments at 16 March 2011 were that all legal issues have been referred to in the body of the report.

8.2 The section 151 Officers does not have any comments on the report.

9. HOW WILL THE PROPOSALS BE PROJECT MANAGED AND HOW ARE THE RISKS GOING TO BE MANAGED?

7.1 Subject to Executive agreeing the External OSC's recommendation, this would be referred to officers to implement and manage.

List of Background documents:

Minutes of the External OSC – 14 October 2010

Consultation Paper – "Equality Act 2010: The public sector Equality Duty – promoting equality through transparency", Government Equalities Office (August 2010)

Protected characteristics: definitions

Age

Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).

Disability

A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

Gender reassignment

The process of transitioning from one gender to another.

Marriage and civil partnership

Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters.

Pregnancy and maternity

Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

Race

Refers to the protected characteristic of Race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

Religion and belief

Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

Sex

A man or a woman.

Sexual orientation

Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes

Equality Impact Screening

Complete this Initial Screening when assessing the Impacts of this Strategy/Policy/Project. This is essential so the council can demonstrate it has considered equality issues currently covered by legislation, council specific issues and characteristics now included under the Equality Act 2010.

Consultation & Community Engagement- Please list all stakeholders who have been involved in determining the Service Plan.

| Name | Organisation |
|------|--------------|
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Do the objectives in the service plan have an impact on the following?

| Equality Impact Screening | Describe impact of objectives | Is the impact positive or negative? |
|------------------------------|-------------------------------|-------------------------------------|
| Disability | | P |
| Race | | P |
| Sex/Gender | | n |
| Age | | n |
| Sexual Orientation | | P |
| Gender reassignment | | P |
| Pregnancy and maternity | | P |
| Religion or belief | | P |
| Marriage & civil partnership | | P |
| Human Rights | | P |
| Socio Economic inclusion | | P |
| Health inequalities | | P |
| Rurality | | P |

If you consider there is either no impact or no negative impact, please give reasons:

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.....

.....

A Full Equality Impact Assessment & Action Plan are necessary to provide the evidence to support the Service Plan, this will detail how we will monitor and mitigate possible Negative impacts whilst supporting Positive impacts.

Please contact the Equalities Officer if you require assistance with any of the above.

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Copeland Borough Council
Equality Impact Assessment
Form

(Name of Project/Policy or Strategy)

April 2011

Full Equality Impact Assessment

Name of the strategy/service/policy/project

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Looking back at the Initial Screening Document, which groups were identified as being disadvantaged by the strategy/service/policy/project?

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Summarise the likely negative impacts for each group

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What previous or planned consultation on this area has taken place? (List consultees)

Summarise the likely positive impacts for each group

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Are there any gaps in the consultation and how will they be addressed?

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To be completed when all consultation has been carried out

Who was consulted and/or what research material was used?

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What changes will be made to the strategy/service/policy/project as a result of the consultation/research?

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Equality Impact Assessment Action Plan

| Issue | Action Required | Lead Officer | Milestones | Comments |
|-------|-----------------|--------------|------------|----------|
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| | | | | |

Date completed:

Signed by Head of Service:

Signed by Equalities Officer:

Rural Populations in Copeland

| Settlement | Population |
|--------------------|------------|
| Arlecdon | 1517 |
| Beckermest | 2921 |
| Bootle | 1280 |
| Cleator Moor South | 2741 |
| Distington | 3981 |
| Egremont North | 4293 |
| Egremont South | 3634 |
| Ennerdale | 983 |
| Frizington | 2593 |
| Gosforth | 1420 |
| Haverigg | 602 |
| Holborn Hill | 2471 |
| Millom Without | 1481 |
| Moresby | 1321 |
| Newtown | 3503 |
| Seascale | 2717 |

Appendix 3

| Settlement | Population |
|------------|------------|
| St Bees | 1690 |

Source: Cumbria Atlas, ONS Mid-Year Population Estimates (Please note these figures include service centres which are classed as rural)

*Rural is defined by the Defra 2004 Rural and Urban Area Classification for England and Wales and is based on settlement type and sparsity. The wards that are not listed here are classified as urban wards.