



REPORT TO: HEALTH AND SOCIAL CARE INTEGRATION JOINT BOARD –
26TH OCTOBER 2022

REPORT ON: IMPLEMENTATION OF THE PUBLIC SECTOR EQUALITY DUTY

REPORT BY: CHIEF OFFICER

REPORT NO: DIJB71-2022

1.0 PURPOSE OF REPORT

- 1.1 To inform the Integration Joint Board of the outcome of audit activity undertaken by the Equality and Human Rights Commission with regard to compliance with the Public Sector Equality Duty, actions taken in response to findings and planned improvements to be undertaken.

2.0 RECOMMENDATIONS

It is recommended that the Integration Joint Board (IJB):

- 2.1 Note the content of this report.
- 2.2 Note the feedback received from the Equality and Human Rights Commission following their recent IJB compliance audit, including concerns regarding the sufficiency of information contained within IJB integrated impact assessments (section 4.2).
- 2.3 Note the improvements already made to the publication of IJB equality information and, in partnership with Dundee City Council, to the integrated impact assessment process and tools (section 4.2.2, 4.3.1 and 4.3.3).
- 2.4 Note further planned improvement activity in relation to the completion of integrated impact assessments, including learning and development and quality assurance actions (section 4.3.5).
- 3.5 Instruct the Chief Officer to submit a further report updating the IJB on the progress of improvement actions no later than 28 February 2022.

3.0 FINANCIAL IMPLICATIONS

- 3.1 None.

4.0 MAIN TEXT

4.1 BACKGROUND

- 4.1.1 The Public Sector Equality Duty (PSED), created under sections 149 to 157 and schedules 18 and 19 of the Equality Act 2010, requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out activities. IJBs became subject to the PSED when they were established in 2016. 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. Non-statutory guidance on the PSED has been published to provide information about what public authorities

should do to meet the duty (<https://www.equalityhumanrights.com/en/advice-and-guidance/guidance-scottish-public-authorities>).

4.1.2 The general equality duty requires public authorities, in the exercise of their functions, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct.
- Advance equality of opportunity between people who share a relevant protected characteristic and those who do not.
 - Remove or minimise disadvantage suffered by people due to their protected characteristics.
 - Take steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people.
 - Encourage people with certain protected characteristics to participate in public life or in other activities where their participation is disproportionately low.
- Foster good relations between people who have a protected characteristic and those who do not.

4.1.3 In addition to the general duty, specific duties were created by secondary legislation in the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 (as subsequently amended by Amendment Regulations in 2015 and in 2016). The purpose of the specific duties in Scotland is to help public authorities in their performance of the general equality duty. In summary the Specific Duties that are relevant to IJBs are:

- Report on mainstreaming the equality duty (at least every two years);
- Publish equality outcomes and revise these (at least every four years) and report progress (at least every two years);
- Assess and review policies and practices; and,
- Publish in a manner that is accessible.

Other Specific Duties relate to employment matters (employee information, gender pay gap and equal pay) and procurement which are not relevant to IJBs as they do not employ staff or undertake procurement activities. IJBs are also exempt from the specific duties that relate to board diversity.

4.2 PUBLIC SECTOR EQUALITY DUTY COMPLIANCE

4.2.1 In the first half of 2022 the Equality and Human Rights Commission (EHRC), the independent national body for the promotion and enforcement of equality and non-discrimination laws in England, Scotland and Wales, commissioned an audit of the extent to which IJBs across Scotland have been meeting their equality duties, specifically the PSED. It is understood that the audit focused on searching publicly available web-based information for each IJB. The outcome of the audit for individual IJBs, including any concerns regarding potential compliance issues, was shared with individual IJB Chief Officers in June 2022.

4.2.2 In their initial correspondence the EHRC noted potential concerns regarding Dundee IJB's compliance in relation to the duty to publish equality outcomes and report progress and the duty to assess and review the equality impact of policies and practices. Further correspondence between the Chief Officer and the EHRC confirmed that Dundee IJB has, since its establishment in 2016, complied with the requirement to publish equality outcomes and report progress including the statutory timescales for publication and reporting. This correspondence did highlight improvement that could be made to ensure that outcomes and progress reports were easier for members of the public to locate on the Dundee Health and Social Care Partnership website and through search engines (such as Google). All of the relevant

information has now been collated onto a single new section of the Partnership website, 'Equality Matters in Dundee Health and Social Care Partnership' (<https://www.dundeehscp.com/equality-matters-dundee-health-and-social-care-partnership>), making it easier for all stakeholders to locate.

- 4.2.3 Further correspondence between the Chief Officer and EHRC also sought to provide further context and evidence regarding how Dundee IJB implements their duty to assess and review the equality impact of policies and practices, including providing examples of assessment undertaken through the Dundee City Council integrated impact assessment process (which Dundee IJB utilises to discharge the PSED). Throughout this correspondence the EHRC has maintained their position that the information contained within the published integrated impact assessments “...appear to set out the results of a screening process. None of the examples provided include a full equality impact assessment.”
- 4.2.4 The EHRC has confirmed to all IJBs that their intention at this stage is to work with them to improve practice in relation to equality rather than to pursue enforcement action. Through meetings with the collective group of Chief Officers from across Scotland the EHRC has discussed the support and resources they can provide, as well as the commitment required from IJBs to ensure that best practice is in place and duties are fully met. The EHRC has provided two development sessions to IJBs; the first, focused on the development and publication of equality outcomes, took place on 22 September 2022 and was attended by the Chief Finance Officer and Service Manager, Strategy and Performance, the second session focused on equality impact assessments will take place on 3 November 2022. The EHRC has indicated that it will undertake further compliance checks across IJBs in early 2023.

4.3 PLANNED IMPROVEMENTS

- 4.3.1 As described at section 4.2.2, improvements have already been made to the way in which published equality information is made accessible to members of the public and other stakeholders. Officers from the Partnership will continue to review and improve the 'Equality Matters in Dundee Health and Social Care Partnership' in response to feedback from stakeholders. This page is now being updated with integrated impact assessments submitted to the IJB following each meeting of the Board. Making integrated impact assessments available as separate documents (rather than as part of an overall pack of papers) should enhance accessibility and improve compliance with the PSED.
- 4.3.2 Although Dundee IJB has complied with the specific duties in relation to equality outcomes and progress reporting, the recent workshop provided by the EHRC has provided information and advice for further reflection. This includes developing outcomes that are specific, measurable, achievable, realistic and trackable, as well as reflecting the specific functions of the IJB. The workshop included helpful discussions regarding the PSED that is placed on IJBs and how this relates to local operational delivery arrangements (where the PSED is discharged through Dundee City Council and NHS Tayside as the operational partners within the Dundee Health and Social Care Partnership). The IJB must develop, agree and publish both a progress report and new equality outcomes by April 2023; this provides a timely opportunity to incorporate learning and best practice shared at the workshop.
- 4.3.3 Since 2016, Dundee IJB has adopted the same process and format for completion of Integrated Impact Assessments (IIAs) (covering both the PSED and Fairness duties) as Dundee City Council. Whilst the IIA template has increasingly been utilised for relevant reports it is accepted that the quality of content in completed IIAs can be variable, with some being more comprehensively completed than others. This was reflected in the IJB's current set of Equality Outcomes and associated improvement actions:

Equality Outcome 2 – We will make our plans with the people that the plans will affect. We will make sure that we listen to everyone who wants to give their view. We will encourage and support people to tell us their views.

- *We will carry out Equality and Fairness impact assessments on all new or revised plans, policies, services and strategies presented to the Integration Joint Board.*

- *We will find ways to improve the quality of our impact assessments.*

4.3.4 Over the last 12 months officers from the Partnership have been working with Dundee City Council to review the IIA process, tools and accompanying learning and development resources. Some key areas of work have been:

- End-to-end review of the IIA process to identify strengths and areas for improvement.
- Development of a new IIA process that has a distinct screening stage and assessment stage, each with accompanying tools.
- Development of an on-line tool for screening to ensure that all reports that require completion of an IIA have this in place before proceeding to the IJB and that electronic records of this are kept.
- Development of an on-line tool for impact assessment, this includes modifications to the existing format to ensure that impacts and mitigating actions are populated separately for each protected characteristic and that has built-in requirements for quality assurance and sign-off by senior managers.
- Workshops for report writers across the workforce to introduce them to the new process and tools, including signposting to resources that will enable them to complete good quality impact assessments.

The new process and tools were implemented from August 2022. Critically the new approach makes a much clearer distinction between the pre-screening phase of the process, that supports officers to identify whether or not an integrated impact assessment is required for a specific report, and the completion of the full integrated impact assessment. This directly responds to the concerns highlighted by the EHRC in their recent correspondence (see section 4.2.3).

4.3.5 It is recognised that improvements to the IIA process alone, whilst positive and a significant step forward, are not enough to ensure full compliance with the PSED. The EHRC workshop in early November 2022 will be focused on impact assessment and will provide further information and guidance about the actions that can be taken to strengthen the quality and impact of integrated impact assessments, however three initial priorities have been identified:

- Further provision of learning and development inputs to both the workforce and to IJB members.
- Identifying opportunities within the report preparation and pre-agenda process to ensure the presence and quality of integrated impact assessments.
- The development of a proportionate audit process that monitors the quality of IIAs, provides supportive feedback to report writers and informs future learning and development activity and process / tool improvements.

It is intended that this work will be undertaken in partnership with colleagues from Dundee City Council who have a lead for equalities matters. Links will also be made to equalities colleagues in NHS Tayside.

4.3.6 Through the EHRC workshop held in September 2022, a number of IJBs requested that the EHRC consider establishing a national network to support officers leading equalities work on behalf of IJBs. Similar networks are already facilitated for NHS Boards and local authorities. Should such a network be established an appropriate officer from the Partnership will be identified to play an active role. However, it should be noted that the IJB does not have a dedicated equality lead or equalities team that mirrors the resources in place within the

corporate bodies. Equalities work requires the participation and support of a wide range of officers from across the Partnership, both to ensure the IJBs compliance with the PSED and to support Dundee City Council and NHS Tayside compliance in relation to operational matters, employment and procurement.

5.0 POLICY IMPLICATIONS

5.1 This report has been subject to the Pre-IIA Screening Tool and does not make any recommendations for change to strategy, policy, procedures, services or funding and so has not been subject to an Integrated Impact Assessment. An appropriate senior manager has reviewed and agreed with this assessment.

6.0 RISK ASSESSMENT

Risk 1 Description	Failure to comply with the PSED results in enforcement action being pursued by the EHRC.
Risk Category	Governance, Legal
Inherent Risk Level	Likelihood 4 x Impact 4 – Risk scoring 16 (which is an extreme risk level)
Mitigating Actions (including timescales and resources)	<ul style="list-style-type: none"> • Improvements have been made to the way in which the IJB publishes key equality information to ensure that it is accessible to stakeholders, including the public. • Improvements have been made to the IIA process and this process has now been implemented. • Officers have attended EHRC workshop on equality outcomes and will attend planned date in November on impact assessment. • Further training to be offered to people completing impact assessments. • Quality assurance processes to be developed for impact assessments. • Partnership working arrangements in place with both Dundee City Council and NHS Tayside equality leads / groups.
Residual Risk Level	Likelihood 3 x Impact 3 – Risk scoring 9 (which is a high risk)
Planned Risk Level	Likelihood 2 x Impact 3 – Risk scoring 6 (which is a moderate risk)
Approval recommendation	Given the moderate level of the planned risk, the risk is deemed to be manageable.

7.0 CONSULTATIONS

7.1 The Chief Finance Officer, Heads of Service - Health and Community Care and the Clerk were consulted in the preparation of this report.

8.0 DIRECTIONS

8.1 The Integration Joint Board requires a mechanism to action its strategic commissioning plans and this is provided for in sections 26 to 28 of the Public Bodies (Joint Working) (Scotland) Act 2014. This mechanism takes the form of binding directions from the Integration Joint Board to one or both of Dundee City Council and NHS Tayside.

Direction Required to Dundee City Council, NHS Tayside or Both	Direction to:	
	1. No Direction Required	X
	2. Dundee City Council	

	3. NHS Tayside	
	4. Dundee City Council and NHS Tayside	

9.0 BACKGROUND PAPERS

9.1 None.

Vicky Irons
Chief Officer

DATE: 27 September 2022

Kathryn Sharp
Service Manager, Strategy and Performance