

<b>To: Youth and Equalities Committee</b>		<b>Subject: Current and Future Equalities and Human Rights Strategic Priorities for North Lanarkshire Council - Update Report</b>
<b>From: Head of Education (Skills and Lifelong Learning)</b>		
<b>Date: 6 April 2016</b>	<b>Ref: LMCM/AC/EW</b>	

## 1. Introduction

The purpose of this report is firstly to update the Youth and Equalities Committee on current and future Equalities and Human Rights strategic priorities in terms of the work plan which is overseen by the Corporate Equalities Working Group (CEWG) and secondly, to advise regarding areas of development requiring committee consideration.

## 2. Background

### 2.1 Corporate Equalities Working Group

The Council, as a public body, requires to take action to improve the lives of people who experience disadvantage and inequality as set out in a number of pieces of legislation and regulation, including; the Equality Act 2010 with its associated Public Sector Equality Duties and the Human Rights Act 1998.

The Council's Corporate Equality Working Group was set up to support the Council in developing and promoting its approach to this work and to ensure compliance.

## 3. Considerations

### 3.1 Progress Update

#### 3.1.1 Reporting on the Public Sector Equality Duties (PSED)

The Council requires, under the terms of the PSED, to publish a report every two years detailing how the organisation is mainstreaming equality into day to day business. The last mainstreaming report was published in April 2015. The Council's reporting of progress in relation to its equality outcomes was cited as an example of good practice within the Equality and Human Rights Measuring Up? Report 4 (practice).

In preparation for formal reporting in April 2017 there are two additional requirements, these are outlined in the next section of this report.

#### Review equality outcomes

The Council published its first set of equality outcomes, in line with the Public Sector Equality Duties, in April 2013. These outcomes require to be reviewed prior to the next reporting period in 2017. The review must involve of people with protected characteristics.

**Action - the CEWG is putting in place a Council wide work plan for 2016/17 to gather the review information and undertake the necessary engagement as part of an evaluation of the original outcomes set.**

#### Extension to statements on equal pay

To date the Council has specified its policy on equal pay and occupational segregation (grades and occupations) in respect of its employees.

By April 2017 Council must also include its policy on equal pay and occupational segregation (grades and occupations) for disabled employees and those who are not and employees who fall within a minority ethnic group and those who do not.

**Action – the CEWG will work closely with Head of HR to ensure arrangements are made in preparation for publication of information in April 2017.**

### **3.1.2 COSLA – United Nations Convention on the Rights of People with Disabilities (UNCRPD – Scottish Local Government Delivery Plan**

The United Nations Convention on the Rights of People with Disabilities (UNCRPD – Scottish Local Government Delivery Plan, sets out the contribution local government should make to supporting the rights of disabled people in Scotland. The delivery plan focuses on the period 2015/16 – 2018/19.

The delivery plan takes a human rights based approach to equality for disabled people. At the heart of the plan lie two important action points for local authorities which are as follows:-

- the role of the local authority is to create an enabling environment to support disabled people to participate in society and live independently, with control, freedom, choice and dignity, and to do this; and
- local authorities must work in co-production with disabled people, as key stakeholders in supporting them to get the best outcomes for their communities.

Set out in the plan are 30 action points for COSLA and Local Authorities covering a number of areas of service provision including:-

- local democracy, equalities and community planning;
- employment , employability and education;
- communities, transport and building capacity; and
- healthcare, social care and social security.

**Action – A full report about this delivery plan and its implications for the Council will be submitted a future meeting of the Youth and Equalities Committee.**

### **3.1.3 British Sign Language (Scotland) Act**

The British Sign Language (Scotland) Act was given Royal Assent on 22 October 2015. Its aim is to promote the use of British Sign Language, and includes a requirement for the Scottish Government to produce a National Action Plan setting out how it will improve access to information in British Sign Language. Following the publication of the National Action Plan, the Council, and all other listed authorities are required to publish an authority action plan within a year. The plan must set out:-

- measures the Council will take in relation to the use of BSL in connection with carrying out its functions; and

- timescales within which the required measures will be taken.

In order to develop the National Action plan the Government has set up a national advisory group with representation from across public and third sector organisations (including BSL users). CMT is advised that the Council's Development Officer (Equalities) has been selected to represent the Scottish Council's Equalities Network on this advisory group and will provide regular feedback on progress to the CEWG.

**Action – A full report about the British Sign Language (Scotland) Act and its implications for the Council will be submitted to a future meeting of the Youth and Equalities Committee.**

### **3.1.4 Race Equality Framework for Scotland 2016 - 2030**

In March 2016, the Scottish Government launched The Race Equality Framework for Scotland which sets out how they aim to progress advancing race equality, tackling racism and addressing the barriers that prevent people from minority ethnic communities from realising their potential.

The framework will take a long term partnership based approach involving all sections of society including: the Scottish Parliament, Public Sector bodies and agencies established networks and forums, voluntary sector equality bodies and communities.

Based around 5 themes, the Framework sets out goals and outcomes together with potential solutions to help achieve these goals and outcomes. The Framework themes, which are close to the Council's own Business Plan priorities, are:-

- community cohesion and safety;
- participation and representation;
- education and lifelong learning;
- employability, employment and income; and
- health and home.

A summary of the Vision and Goals of the Framework is included in Appendix 1 of this report.

**Action – A full report about the Race Equality Framework for Scotland 2016 2030, and its implications for the Council will be prepared by the CEWG following the information event (date to be confirmed) co-ordinated by the Scottish Government Equality Unit covering how the Framework will be taken forward. Outcomes for the Council will be established as part of the review process for the Council's Equality outcomes (as referred to earlier in this report in paragraph 2.1.1).**

## **4 Corporate Considerations**

### **4.1 A Risk based Approach to Equalities – Corporate Governance and the Current and Future Role of the Corporate Equalities Working Group**

The CEWG along with the Risk and Insurance Manager recently considered the likelihood and risk to the Council of equality legislation and in particular the requirements of the Public Sector Equalities Duties.

The considerations not surprisingly found that the overarching risk posed by equality legislation is that the Council fails to comply with its legislative requirements. Should this occur, financial loss, reputational damage and increased scrutiny both internal and external would be an inevitable result.

The key control which the Council has in place is the Corporate Equalities Working Group. The work of this cross council network of officers minimises the likelihood of any risk becoming an issue. However, this group can only be effective if it is fit for purpose. This requires active participation from all services and key partners and strong corporate governance now fulfilled by the establishment of a Youth and Equalities Committee.

**Action - Committee is asked to note the risk assessment which is attached to this report as appendix 2, and the inclusion of equality actions, specifically linked to the assessment, within the Council's business plan. The endorsement by the Youth and Equalities Committee to the importance of the equality duties being reinforced in every aspect of Council business represents a strengthening of the Council's approval and brings equalities and human rights closer to communities via elected members.**

#### **4.2 Review of the Equality Impact Assessment Process for the Council**

The existing process for carrying out equality impact assessments has been in place since 2012. Equality impact assessments are a necessary and effective way of ensuring that the way the Council does its business is fair and equitable and that the local authority can demonstrate how it is paying due regard to the equality duties. The duty to carry out equality impact assessments is a specific duty of the PSED. Equality impact assessments which are completed poorly, or not at all, can leave the Council open to legal challenge e.g. has been illustrated in a number of cases, one of which can be accessed via the following link:-

<http://www2.warwick.ac.uk/fac/soc/law/research/centres/chrp/projects/spendingcuts/resources/database/legal/#Educationcut>

In order to assess the quality and consistency of equality impact assessments undertaken by services specifically within the budget savings exercise and more generally in the assessment of policies published on the Council web site. The CEWG will carry out a review of the Council's EqIA process.

#### **4.3 Protocol for Reasonable Adjustments**

Providing reasonable adjustments for disabled employees is a requirement of the Equality Act 2010. Just as important as understanding what reasonable adjustments are, is knowing when the requirement to make them comes into play. To ensure consistency of approach the CEWG is developing a protocol for providing reasonable adjustments. This protocol will standardise the approach and provide both managers and employees with a recorded agreement of adjustments made and will be contained within the employees HR file. This process will:

- support disabled employees to stay in and, more importantly, at work by ensuring that any policy, practice or other criterion hindering their ability to get on and do their job with dignity is alleviated, where reasonably possible, and there is continuity of approach;
- reduce unnecessary absence by getting appropriate agreed adjustments in place thus keeping employees at work;
- support managers by providing a consistent standard approach to negotiating reasonable adjustments that are agreed with the employee and in so doing retain skilled and experienced staff, thereby, increasing their commitment to the Council as an employer; and

- raise the reputation of the Council as an exemplar employer by contributing towards the Council's continued accreditation of the Positive about Disabled People - Double Tick symbol.

#### 4.4 Gender Based Violence (GBV)

In North Lanarkshire in 2014-15 there were 3,963 reported incidents of domestic abuse amounting to 1,173 incidents per 100,000 of the population. Statistically between 1 in 3 and 1 in 5 women will experience some form of domestic abuse in the course of their lifetime.

Applying the above ratios, 75% of NLC's workforce are women, there is therefore the potential that a significant number of the council's employees could have direct experience of some form of domestic abuse, past or present.

Domestic abuse is not just a private matter, it can impact greatly on an individual's working life. Regardless of the fact that it takes place outside of the workplace, the employment implications for employees who experience abuse are significant. Statistics show that GBV can have a detrimental impact on health and well-being, which may affect attendance, performance and productivity. The Scottish Government estimate that domestic abuse alone costs the public finances £2.3 billion each year.

Research carried out by the Equality and Human Rights Commission shows that:

- 56% of abused women arrive late for work at least 5 times a month;
- 28% leave early at least 5 days a month;
- 53% miss at least 3 days of work a month;
- Once a person leaves an abusive partner they are especially vulnerable at work, as it may be the only place they can be located or harmed; and
- 75% of domestic abuse victims are targeted at work - from harassing phone calls and abusive partners arriving at the office unannounced, to physical assaults.

It is also important to recognise that for some the workplace can be a safe haven and provide a route to safety. A steady income is often key to a survivor's economic independence and their opportunities to escape from an abusive relationship. However people experiencing domestic abuse are often subject to disciplinary action and lose their jobs because their behaviour, being absent or late for example, is not attributed to the root cause.

As a major employer and a provider of public services the Council has a number of responsibilities and obligations that GBV impacts upon including:-

- duty of care;
- Equality and Human Rights Legislation;
- Health and Safety legislation; and
- Child and adult protection.

In line with other Local Authorities and partners approaches the CEWG recommends the production of gender based violence guidance for managers. Set within the context of existing Council employment policies, this guidance would aim to deliver the following outcomes:-

- protecting employees by ensuring managers understand the dynamics of gender based violence and their responsibilities and can therefore respond effectively to an employee's particular situation;
- supporting managers by giving them a framework to work with when supporting a vulnerable employee and ensuring the safety of others; and

- protecting the Council from potential litigation or adverse publicity should it be shown that it failed to protect an employee.

**Action – The CEWG will prepare Gender Based Violence Guidance for Managers.**

#### **4.5 Employee Equality Forum development**

In 2014 CMT approved the development of a new Employee Forum that would represent all protected characteristics defined in the Equality Act 2010. The forum replaced the former Employee Disability Forum and Black and Minority Ethnic Employees forum.

The key purpose of the forum is to make an effective contribution towards promoting equality and supporting the development of equality policies and practices in employment. Since its first meeting in June 2015 much has already been achieved in developing a positive and dynamic forum, for example:-

- the forum has 39 signed up members from across all services representing all characteristics;
- 2 meetings of the forum have taken place with a small cohort of members involved in the planning of activities;
- planned and facilitated an event to commemorate Black History Month;
- developed on-line discussions groups and electronic information;
- participated in the budget consultation in December 2015;
- contributed to the review of the following policies:
  - ♦ Recruitment Policy
  - ♦ Whistleblowing Policy
  - ♦ Acceptable use of ICT Policy
  - ♦ Training and Development Policy
  - ♦ Special Leave Policy

**Action - To promote the EEF as an important asset for the Council, the CEWG is recommending that the EEF is given the opportunity to make a presentation to the Youth and Equalities Committee.**

#### **5. Recommendations**

The Youth and Equalities Committee is asked to:

- (i) note the additions to the PSED reporting duties in 2017 and the requirement to:
  - review the Council's equality outcomes set out in 2013 and
  - extend the equal pay policy statement to include occupational segregation (grades and occupations) for disabled employees and those who are not and employees who fall within a minority ethnic group and those who do not;
- (ii) approve the preparation of reports for presentation to Committee on:
  - COSLA – United Nations Convention on the Rights of People with Disabilities (UNCRPD) – Scottish Local Government Delivery Plan and
  - British Sign Language (Scotland) Act
  - Race Equality Framework for Scotland 2016 – 2030;
- (iii) note the risk assessment attached as Appendix 1;

- (iv) note the following work to be undertaken by the CEWG:
- a review of the Council's approach to carrying out equality impact assessments
  - develop a protocol for providing reasonable adjustments to support both disabled employees and managers; and
  - develop Gender Based Violence Guidance for Managers; and
- (v) afford the Employee Equality Forum the opportunity to discuss its work with the Committee.



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Department for  
Equalities and Human Rights

# **Race Equality Framework for Scotland 2016-2030**

# **Race Equality Framework for Scotland**

## **Summary of Visions and Goals**

### **Overarching Work**

#### **Vision for 2030:**

**Our Vision for a fairer Scotland is that by 2030 Scotland is a place where people are healthier, happier and treated with respect, and where opportunities, wealth and power are spread more equally.**

**The Race Equality Framework aims to ensure that this vision is achieved equally for people from all ethnicities, helping to build a Scotland where we all share a common sense of purpose and belonging**

#### **Key Goals:**

1. An accountable approach to support and drive forward the implementation of the Race Equality Framework is established
2. Strategic work within Scotland's public sector better addresses race equality, including through more effective practice linked to the Scottish Specific Public Sector Equality Duties
3. Scotland's public sector has improved capacity to tackle racial inequality and meet the needs of minority ethnic people
4. Policy processes in Scotland are based on a robust range of data on ethnicity
5. Scotland's minority ethnic voluntary sector is stronger, more effective and sustainable

### **Community cohesion and safety**

#### **Vision for 2030:**

**We build good race relations and community cohesion across all communities, and all minority ethnic individuals feel safe, protected and included, and experience less racism**

#### **Key goals:**

6. There is greater cohesion between all communities in Scotland
7. Access to justice and safety for minority ethnic individuals is improved and the effectiveness of the justice process in dealing with racism is reviewed
8. Scotland's police workforce is better able to tackle racism and promote equality and community cohesion in the delivery of police services
9. Police Scotland's workforce better reflects the diversity of its communities

## **Participation and representation**

### **Vision for 2030:**

**Minority ethnic participation and representation is valued, effective, fair and proportionate at all levels of political, community and public life**

### **Key goals:**

10. Increase participation and representation of minority ethnic individuals in governance and influence in decision making at local and national level
11. Minority ethnic people have a fair and proportionate influence on Community Planning
12. Informal community action within minority ethnic communities is better understood and valued
13. Promote inclusiveness and participation by making better connections between minority ethnic communities, organisations and institutions involved in heritage, culture, sports and media

## **Education and lifelong learning**

### **Vision for 2030:**

**Everyone has the opportunity to learn in an inclusive environment without disadvantage in relation to racial inequality or racism**

### **Key goals:**

14. Innovative, inclusive and effective approaches to education (whether through teaching or pupil support) which take account of the individual needs and experiences of pupils in all ethnic groups are embedded throughout Scotland's education system
15. Minority ethnic pupils are provided with careers guidance that helps to improve transition into employment and tackles occupational segregation in relation to race
16. Minority ethnic pupils have confidence in, and are effectively supported by, approaches in schools to prevent and respond to prejudice based bullying and racist behaviour or incidents
17. Scotland's educators are confident and empowered to promote equality, foster good relations and prevent and deal with racism
18. Scotland's education workforce better reflects the diversity of its communities
19. Minority ethnic people experience better outcomes in completing further and higher education, and in transitioning to the labour market after completion

## **Employability, employment and income**

### **Vision for 2030:**

**Minority ethnic people have equal, fair and proportionate access to employment and representation at all levels, grades and occupation types in Scotland's workforce and experience fewer labour market, workplace and income inequalities**

### **Key goals:**

20. Identify and promote practice that works in reducing employment inequalities, discrimination and barriers for minority ethnic people, including in career paths, recruitment, progression and retention
21. Ensure robust policy responses that support race equality in relation to income and poverty
22. Ensure access to appropriate early learning and childcare for minority ethnic families
23. Reduce barriers and provide support for minority ethnic people who are new to the labour market, including school leavers and new migrants
24. Minority ethnic entrepreneurs and business owners have equal access to business and enterprise support
25. *Scotland's public sector workforce is representative of its communities*

## **Health and home**

### **Vision for 2030:**

**Minority ethnic communities in Scotland have equality in physical and mental health as far as is achievable, have effective healthcare appropriate to their needs and experience fewer inequalities in housing and home life**

### **Key goals:**

26. Minority ethnic communities and individuals experience better health and wellbeing outcomes
27. Minority ethnic communities and individuals experience improved access to health and social care services at a local and national level to support their needs
28. Scotland's health and social care workers are better able to tackle racism and promote equality and community cohesion in delivery of health and social care services
29. Scotland's health and social care workforce better reflects the diversity of its communities
30. Minority ethnic communities experience fewer housing inequalities

### A risk based approach to equalities

#### Introduction

The purpose of this Risk Assessment is to identify and evaluate the risks which could arise if the Council's Corporate Equalities Working Group (CEWG) didn't exist.

This risk assessment was carried out with the guidance of the Council's Risk and Insurance Team. Its purpose is to identify risk areas associated with the Public Sector Equality Duties and key controls in place.

The Equality Act 2010 protects individuals from discrimination who have protected characteristics. The Public Sector Equality Duty (PSED), stemming from the Act, places general and specific duties on public bodies to take a proactive approach to delivering equality for those protected characteristics. The general duty requires the Council when carrying out its functions to pay due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Equality Act 2010
- Advance equality of opportunity between people who share a relevant protected characteristic and those who do not
- Foster good relations between people who share a protected characteristic and those who do not.

The Council needs to demonstrate and evidence how it is paying due regard and to do this specific duties have been set out within the PSED regulations.

The specific duties in summary are:

1. publish, every two years, a report on progress with mainstreaming the equality duty into its functions
2. publish, every four years, a set of equality outcomes and report on progress after two years
3. undertake equality impact assessments of new or revised policies and practices, and publish the results
4. gather and publish employee diversity data, including on recruitment, development and retention; and use this information to better perform the equality duty
5. publish, every two years, gender pay gap information (those public authorities that have at least 150 employees)
6. publish, every four years, statements on equal pay that include information on occupational segregation (those public authorities that have at least 150 employees) – starting with gender and, from 2017, also covering disability and race
7. consider equality within award criteria and conditions in relation to public procurement.

#### Identified risks

The overarching risk posed by this legislation is that the Council does not comply with its requirements. Should this occur, financial loss, reputational damage and increased scrutiny both internal and external to the Council would be an inevitable result.

In order to ensure the Council does comply, it has in place a Corporate Equalities Working Group (CEWG) whose primary objective is to ensure that the requirements are understood

and implemented in a consistent manner, comprehensively across all services and functions of the Council. This aims to:

- Prevent any legal action being taken against the Council due to non-compliance.
- Protect the reputation of the Council.
- Prevent remedial action measures which could divert substantial managerial resources and could also result in substantial unbudgeted costs.

Should the CEWG no longer exist or be effective and no other mechanism is put in place, then it is much more likely that the risks can no longer be adequately controlled. because:

1. A crucial overview function in relation to equality matters is missing.
2. The right people to ensure that equality legislation is embedded through NLC are not involved
3. Work previously undertaken by CEWG is not carried out
4. Reporting and publishing requirements of the specific duties is not undertaken or not completed to the necessary standard.
5. Profile of the equalities agenda is diminished

**The above risks are all identified as high risk.**

For the purpose of rating we considered if the identified risk could occur over the next 5 years.

### **Other Controls**

#### ***Policy and Resources Committee***

Committee receives and approves the mainstreaming report, which includes the details of the Council's work in relation to each aspect of the specific duty, every two years.

***Corporate Management Team*** has ultimate responsibility for ensuring the duties are complied with. An annual report is submitted to the CMT on behalf of the CEWG providing information on issues relating to the duties, including new initiatives that may require approval and any issues of concern that may require the consideration of CMT. It would also be prudent for CMT to review the equalities risk register on an annual basis.

#### **Issues for consideration**

Whilst the Corporate Equalities Working Group serves as a key control function, this can only be effective if it is fit for purpose. This requires that::

- all Council services are represented on the CEWG.
- all Council services actively participate in the life of the group and
- all Council services value and act on the expertise and advice of the group.

At present one Service is not represented and another is absent for all meetings, though in receipt of papers. This in turn increases the likelihood of a risk becoming an issue.

#### **Recent Experience**

The CEWG has developed systems and processes to assist services in their work however it is not always acted on. Below are some examples where risks have or could become issues for the Council.

- Lack of involvement of disabled people during a refurbishment of a front facing public office resulted in the need for costly remedial action being taken to rectify access issues that could have been included at the design stage. This is despite the report

'Promoting Inclusive Design Protocol' being approved at Policy and Resources Committee in March 2012.

- The consequences of not doing Equality Impact Assessments or not doing them properly can leave the council open to legal challenge. Increasingly organisations are using judicial review and equality legislation to challenge decisions made by public bodies and particularly in relation to financial decision making.  
<http://www2.warwick.ac.uk/fac/soc/law/research/centres/chrp/projects/spendingcuts/resources/database/legal/#Educationcut>  
The Corporate Equalities Working Group has concerns about the quality and consistency of some equality impact assessments undertaken by the Council both within the budget savings exercise and in the day to day business as illustrated by the EqlAs published on the Council web site.

### Conclusion

The Corporate Equality Working Group is a key control in ensuring the council delivers on its equality duties. Should this control not be in place and corresponding controls not developed nor implemented the risks to the council are significant. While the likelihood is high, it could be several years before some of the risks become issues. If issues do arise it is also almost certain that there will be scrutiny from and including: elected members; regulatory bodies such as the Equality and Human Rights Commission; media; general public; trade unions; customers and Scottish Government. In addition, there would be financial loss or costs and damage to our reputation.

To ensure that the CEWG works effectively and continues to be a key control it requires membership and participation of all services. In addition the continued endorsement by CMT, of the importance of the equality duties within services is desirable.