

**South Ayrshire Council**

**Report by Chief Executive  
to Audit and Governance Panel  
of 7 September 2022**

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**Subject: Equalities**

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**1. Purpose**

- 1.1 The purpose of this report is to request that the Panel considers a proposal for the way forward when dealing with equalities matters.

**2. Recommendation**

**2.1 It is recommended that the Panel:**

- 2.1.1 notes the contents of this report and requests that the Equality and Diversity Forum bring forward proposed improvements to Cabinet; and**
- 2.1.2 requests that the role and remit of the Equality and Diversity Forum is updated to reflect the Council's obligations under the Fairer Scotland Duty.**

**3. Background**

- 3.1 As part of discussion of the item relating to Delivering Good Governance – 2021/22 Assessment at the Audit and Governance Panel of 22 June 2022, Members commented :

‘a training programme being required for Elected Members and officers in relation to equalities to develop understanding as this was a matter that was ever growing and ever expanding; and the Chief Executive outlined that she would investigate if this Panel was the appropriate mechanism to consider this matter and would establish a way forward for dealing with equalities; and advised that training for Elected Members on this subject was scheduled for the following week which she encouraged Members to attend as this was a very important matter’

and requested that the Chief Executive submit a proposal to the appropriate Panel for the way forward when dealing with equalities matters.

- 3.2 During discussion of the item relating to South Ayrshire Charitable Trust at Council on 29 June 2022, Members also requested that the Chief Executive produce a report on the options available in relation to Equality Impact Assessments.

- 3.3 The Equality Act 2020 came into force in April 2021 introducing a new Public Sector Equality Duty (PSED) (often referred to as the 'general duty') that requires the Council in the exercise of their functions to have 'due regard' to the need to:
1. Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct;
  2. Advance equality of opportunity between those who share a protected characteristic and those who do not; and
  3. Foster good relations between those who share a protected characteristic and those who do not.
- 3.4 Supplementary legislation was introduced by the Scottish Government in 2012 (the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012). This legislation was introduced with the purpose of enabling better performance of the PSED contained in s149 (1) of the Equality Act 2010.
- 3.5 The Fairer Scotland Duty, (FSD) Part 1 of the Equality Act 2010, places a legal responsibility on the Council to actively consider ('pay due regard' to) how they can reduce inequalities of outcome caused by socio-economic disadvantage when making strategic decisions.
- 3.6 Further background information and roles and responsibilities of Members and officers in respect of the legislative requirements is attached at [Appendix 1](#).
- 3.7 The Council established an Equality and Diversity Forum in 2010 comprising Elected Members, stakeholders/ voluntary organisations and Council officers. A network of Equality Champions offer local support and information to their Directorates.
- 3.8 Training on equalities and diversity is provided to staff through a mandatory course on COAST and a recent training session was delivered to Elected Members.
- 3.9 Reports submitted to Cabinet and Council include a section on Equalities and officers require to insert one of the following statements dependent on the significance of the equality impacts and the requirement for mitigating actions:
- a. 'The proposals in this report have been assessed through the Equality Impact Assessment Scoping process and there are no significant positive or negative equality impacts of agreeing the recommendations, therefore an EIA is not required.

A copy of the Equalities Scoping Assessment is available as Appendix XXX

**Or**

- b. 'An Equalities Impact Assessment has been carried out on the proposals contained in this report which identifies potential positive and negative equality impacts and any required mitigating actions. The EIA is attached as Appendix XXX.

3.10 Draft Equality Scoping and Equality Impact Assessments are shared with the Equalities Team as part of the report clearance process.

3.11 Once Council/ Cabinet has taken their decision on a proposal, a copy of the Equality Impact Assessment Scoping Document or Full Equality Impact Assessment must be published on the Council's website as this is a statutory requirement.

#### **4. Proposals**

4.1 Members are asked to consider the arrangements currently in place and ask the Equality and Diversity Forum to review these arrangements and make recommendations for improvement to Cabinet.

4.2 Members are also asked to request that the role and remit of the Equality and Diversity Forum is updated to reflect the Fairer Scotland Duty

#### **5. Legal and Procurement Implications**

5.1 There are no legal implications arising from this report.

5.2 There are no procurement implications arising from this report.

#### **6. Financial Implications**

6.1 Not applicable.

#### **7. Human Resources Implications**

7.1 Not applicable.

#### **8. Risk**

##### ***8.1 Risk Implications of Adopting the Recommendations***

8.1.1 There are no risks associated with adopting the recommendations.

##### ***8.2 Risk Implications of Rejecting the Recommendations***

8.2.1 There are no risks associated with rejecting the recommendations.

#### **9. Equalities**

9.1 The proposals in this report allow scrutiny of performance. The report does not involve proposals for policies, strategies, procedures, processes, financial decisions and activities (including service delivery), both new and at review, that affect the Council's communities and employees, therefore an equality impact assessment is not required.

#### **10. Sustainable Development Implications**

10.1 ***Considering Strategic Environmental Assessment (SEA)*** - This report does not propose or seek approval for a plan, policy, programme or strategy or document otherwise described which could be considered to constitute a plan, programme, policy or strategy.

## **11. Options Appraisal**

11.1 An options appraisal has not been carried out in relation to the subject matter of this report.

## **12. Link to Council Plan**

12.1 The matters referred to in this report contribute to Commitments 1 and 2 of the Council Plan: Fair and Effective Leadership/ Leadership that promotes fairness; and Closing the Gap/ Reduce poverty and disadvantage.

## **13. Results of Consultation**

13.1 There has been no public consultation on the contents of this report.

13.2 Consultation has taken place with Councillor Alec Clark, Portfolio Holder for Tourism and Rural Affairs, and the contents of this report reflect any feedback provided.

**Background Papers**     [Audit and Governance Panel – 22 June 2022 – Draft Minutes](#)  
(item 10, page 7)

[Report to Leadership Panel of 22 August 2017 - Equality and Diversity Forum Role and Remit Update](#)

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### Background

The Equality Act 2010 came into force in April 2011 introducing a new Public Sector Equality Duty (PSED) (often referred to as the 'general duty') that requires the Council in the exercise of their functions to have 'due regard' to the need to:

1. Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct
2. Advance equality of opportunity between those who share a protected characteristic and those who do not; and
3. Foster good relations between those who share a protected characteristic and those who do not.

### Protected Characteristics

The legislation requires that people are not discriminated against, harassed or victimised on the grounds of their 'Protected Characteristic'. The nine Protected Characteristics are:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race – including ethnic or national origin, nationality and Gypsy/Travellers
- religion or belief (including lack of belief)
- sex
- sexual orientation

Supplementary legislation was introduced by the Scottish Government in 2012 (the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012). This legislation was introduced with the purpose of enabling better performance of the PSED contained in s149 (1) of the Equality Act 2010. This supplementary legislation requires Local Authorities to be proactive in meeting the 'general duty' and including the duty to equality impact assess (EIA) all:

- policies
- strategies
- procedures
- processes
- financial decisions (this includes proposals to outsource or procure any of the functions of an organisation)
- the full range of functions, and
- activities (including service delivery)

**both new and at review**, that affect the Council's communities and employees i.e. potentially anything the Council does. It is important to note that the impact and relevance of a policy does not just depend on the number of those people and groups who are affected, but also by the significance of the effect on them.

To meet the duty to give 'due regard' to the equality duty, an equality impact assessment should be undertaken at the **start** of proposed activities, procedures and processes etc. being planned, developed and reviewed. The EIA process also ensures that any unintended actual or potential



## **Roles and Responsibilities**

It is the responsibility of officers to provide as full information on potential positive and negative equality impacts to Elected Members as necessary, to ensure that they can meet their statutory responsibility, to give due regard to equality and diversity within the decision making process.

All proposals being submitted for approval by Panel or Full Council should have one of the following signed off by Service Leads.

- a. a completed equalities scoping document (which details the rationale for not proceeding to completion of an EIA), or
- b. a full equality impact assessment (EIA)

Executive Managers/Service Leads will then satisfy themselves that Panel reports include adequate access to the accompanying Scoping Document or EIA.

It is the responsibility of Elected Members to satisfy themselves that the information provided within Equalities Scoping Documents or Full Equality Impact Assessments are sufficiently robust and given appropriate weighting in decision-making processes, in order to ensure appropriate consideration is given to the potential equality impacts of the proposals before them for approval, and to act on the findings of the impact assessments.