Northamptonshire Rights & Equality Council

Equality Duties Audit: Public Authorities in Northamptonshire[1] relating to the publication of information and setting Equality Objectives

1. Executive Summary

In 2011 Parliament approved the Specific Duties that apply to public bodies in order to meet *minimum* legal requirements to discharge their duties under the Equality Act 2010. At the time these were published it was acknowledged that they were significantly weaker specific duties than had previous applied prior to the Equality Act 2010 coming into force. The Government stated that their intention was to make the specific duties less onerous on public bodies, and to make their responsibilities simpler, clearer and more transparent for local communities.

It is therefore extremely disappointing to note that ***all*** the public bodies in Northamptonshire that we examined for compliance with these simplified and less onerous duties, ***did not in our view do so*** – and are therefore probably acting unlawfully by failing to meet the specific duties imposed on them in law.

This is no reflection on the *intentions* of the public bodies concerned; but "good intentions" are not part of the criteria used to assess legal compliance – but may, of course, be used in mitigation.

This audit report also does not go into any great detail on how each agency is dealing with equality and diversity issues "in the round". Indeed it is likely to be the case that there is some good work being undertaken by some, if not all. However, it is not possible, from examining the information published and objectives set (or not set as the case may be), to make any kind of qualitative or quantitative assessment of whether or not these initiatives are having, or will have, any effect whatsoever on reducing ***substantive*** inequalities in Northamptonshire in the future.

Finally, it is of concern to us that in almost all cases (bar one) we are not aware that there has been any **consultation or involvement** in drawing up equality objectives or identifying (from data, where it has been published) ***priority areas for equality interventions*** to address evidence based and identified inequalities. In one case, where data was produced and analysed (which was very encouraging and positive which identified an important area of inequality) this evidence was then completely ignored in drawing up the objective(s) and there has been no opportunity for any intervention to question this decision.

[1] Only some (not all) large public authorities (PA) that are distinctively based in Northamptonshire are included in this audit. National bodies are excluded (such as government agencies). Schools have also been excluded as they are being subject to a separate exercise given the large number of schools in the county.

2. Legal Duties

2.1 The **Specific Duties** placed on public authorities under the Equality act 2010 (published in 2011) state:

> ***2(1) Each public authority listed in either Schedule to these Regulations must publish information to demonstrate its compliance with the duty imposed by section 149(1) of the Act.***
> 2(2) A public authority listed in **Schedule 1** to these Regulations must publish the information—
> (a) not later than **31st January 2012**; and
> (b) subsequently at intervals of not greater than one year beginning with the date of last publication.
> 2(3) A public authority listed in **Schedule 2** to these Regulations must publish the information—
> **(a) not later than 6th April 2012;** and
> (b) subsequently at intervals of not greater than one year beginning with the date of last publication.
> 2(4) The information a public authority publishes in compliance with paragraph (1) must include, in particular, information relating to persons who share a relevant protected characteristic who are—
> (a) its employees;
> (b) other persons affected by its policies and practices.
> 2(5) Paragraph (4)(a) does not apply to a public authority with fewer than 150 employees.
>
> **3(1) Each public authority listed in either Schedule to these Regulations must prepare and publish one or more objectives** it thinks it should achieve to do any of the things mentioned in paragraphs (a) to (c) of subsection (1) of section 149 of the Act.
> 3(2) **The objectives must be published—**
> **(a) not later than 6th April 2012;** and
> (b) subsequently at intervals of not greater than four years beginning with the date of last publication.
> 3(3) **An objective published by a public authority in compliance with paragraph (1) must be specific and measurable.**

2.2Section 149 of the Equality Act (the **general Public Sector Duty**) states:

> (1) A public authority must, in the exercise of its functions, have due regard to the need to—
> (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
> (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
> (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
> (2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

(5)Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

(a) tackle prejudice, and

(b) promote understanding.

(6)Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

(7)The relevant protected characteristics are—

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation

3. The Audit process

3.1 In conducting this audit we looked for evidence, in particular, that :

(a) **the information and objectives have been published by the dates specified in the duty,**

(b) **it has been easy to find this information on a public body's web-site** (usually thorough searching for the terms "equality", "equality information" and/or "equality objectives"),

(c) it provides clear information/data on the key **services** they provide to the public (as well as their employees/staff)

(d) **that it is easy to identify (from this information) if there is disadvantage in the way this service is provided by looking at some key outcomes by all or most of the protected characteristics covered by the legislation**. If information is not presented in respect of some of the protected characteristics there is acknowledgement of this and a commitment to examining ways in the future this information can be provided.

(e) if objectives have been published, are they are **specific and measurable (SMART)?**

4. Final Assessment

If, following our examination of the evidence against the above criteria (above), we believe that the public authority has failed to meet is statutory obligations this has been identified in the audit. NOTE: this means that the public authority concerned is ***probably*** acting ***unlawfully*** (but only the courts can ultimately rule on this matter).

The results are summarised below (Appendix 1)

Appendix 1: The Equality Duties Audit Assessment

Codes for table:

1 = Has some information (with reference to EqA requirements) been published by the Public Authority (PA) as is required by the due date (in all cases this was January 31st 2012)?
2 = Does information published contain data on the **services** provided by the PB?
3 = Does the published service data cover ***all*** protected characteristics?
4 = If not all protected characteristics are covered, is there a commitment to collect this information in the future?
5 = Is it possible from the **service** data to identify disadvantage by some protected characteristics
6 = Is the PA meeting the requirements of the specific duties (overall assessment) in respect of the provision of information (services)?
7 = Has the PA published some equality objectives in respect of services by April 1st 2012?
8 = Are these service objectives specific and measurable (SMART)?
9 = Is the PA meeting the requirements of the specific duties (overall assessment) in respect of publication of (specific and measurable) objectives?

Name of PA	1	2	3	4	5	6	7	8	9	NOTES/Comments/Observations
Borough Council of Wellingborough	X	X	X	X	X	X	√	X	X	No evidence of any staff or services data could be found on web-site. Have objectives (and action plan) but they is not SMART.
Corby Borough Council	√ *	X	X		X	X	X	X	X	* Just staff data published. Has an Equality policy, but it has not been reviewed or revised as far as could be ascertained.
Daventry District Council	√ *	X	X	?	X	X	√ *	X	X	* only staff data. Collects data on sexuality and religion/belief (staff). Only corporate objectives (not equality specific) published. Has Corporate Equality Scheme but it is not SMART
East Northants District Council	√	X	X	X	X	X	X	X	X	Only staff data found. Has community profile but no service data. Could not find any specific/SMART equality objectives. Has a Single Equality Scheme but it has not been refreshed or reviewed since 2010.
Kettering Borough Council	X	X	X	X	X	X	X	X	X	Could not find any current information or objectives on the web-site
Kettering General Hospital Foundation NHS Trust	X	X	X	X	X	X	√	X	X	Could only find Equality Strategy 2010-11 which did not contain information nor contain SMART objectives
NHS MK and Northamptonshire (now MK, Corby and Nene Commission 3 separate entities)	√	X*	X	X	X*	X	√	X	X	*Useful area profiles by most equality variables which could be built upon to potentially develop good data to inform health commissioning priorities and to develop SMART objectives – but not there yet. Good workforce monitoring information, but this was not drawn upon to develop SMART objectives by equality variables.
Northampton Borough Council	√	X	X	√	X	X	√	X	X	Has a good document called "Our Approaches to Equalities". Information on staff produced and comparative profile information for UK, Borough and County. Has corporate objectives, but not SMART
Northampton College	√	X	X	X	X	X	√	X	X	Information published is only a profile of staff and students. Does not help to identify areas of inequality or over/under-representation in respect of students, but has tried to benchmark college staff data against local community data to limited extent. Has established broad aims and objectives but they are not SMART nor related to data published.

Name of PA	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**NOTES/Comments/Observations**
Northampton General Hospital NHS Trust	√	X	X	√	X	X	√	X	X	Good workforce data produced but does not inform any SMART objectives. No service/patient data produced. Has Single Equality Strategy 2010-15 and corporate equality objectives, but they are not SMART.
Northamptonshire County Council	√	√	X	√	√	√	X	X	X	Has produced some good information/data on both staff and for some key services (education, social care, fire and rescue). Has an Equality Strategy (2011-14) but could not find any SMART or explicit Equality Objectives published on web-site.
Northamptonshire Healthcare NHS Foundation Trust	√	√ *	X	√	X	X	√	X	X	*Only information on service **complaints** published. Good info in respect of employees but not services (to patients/community). Has published equality objectives but not SMART
Northamptonshire Police	√	√ *	X	X	√ *	√	√	X	X	* Only information on Complaints and stop and search (Race) published in respect of services. Good staff data published. Data on sexuality and religion/belief for both staff and services is collected. Has set equality objectives but they are not SMART; they also appears to ignore evidence from the information published on stop and search and have not set an objective on this important issue which appears perverse.
Northants Probation Trust	√	√	X *	X	√	√	√	X	X	*For staff only. Good information published on both staff and services. Has set equality objectives, but they are not SMART nor relate back to data published.
South Northamptonshire Council	√ *	X	X	√	X	X	√ *	X	X	*Contained in revised (Jan 2012) Equality & Diversity policy. No data on services. Objectives set but not SMART.
Tresham College	X	X	X	X	X	X	X		X	Could not find anything on website that met the specific duties
University of Northampton	√	X*	X	X	X	X	√*	X	X	* Only student profile published. Reasonable info in respect of staff but not services (to students). Only ***draft*** objectives published and they are not SMART, nor do student objectives relate back to any evidence/ information published.