

# Scottish Borders Health and Social Care Partnership Strategic Planning Group

7 February 2024

## Compliance with the Equality Duty update

Report by Wendy Henderson, SBHSCP Equality and Human Rights  
Lead



### 1. PURPOSE AND SUMMARY

- 1.1. To appraise the Strategic Planning Group of actions taken and progress being made to ensure that the Scottish Borders Health and Social Care Partnership and the Integration Joint Board can evidence compliance with the Equality Duty as outlined in the Equality Act 2010 and the Scottish Specific Public Sector Equality Duties to Review and Assess Policies and Practice.
- 1.2. To seek the support of the Strategic Planning Group in ensuring that Integration Joint Board continues to evidence its compliance with the aforementioned duty.

### 2. RECOMMENDATIONS

#### 2.1. The Scottish Borders Health and Social Care Strategic Planning Group is asked to:-

- a) Note the actions taken to date
- b) Note the continuous improvement in both the undertaking of Equality and Human Rights Impact Assessments.
- c) Note that the Joint Executive Team agreed in December 2023 to ensure that all future reports presented to the Joint Executive Team are accompanied by a robust Equality and Human Rights Impact Assessment, to further support the embedding of an equality and human rights culture across delegated services.
- d) Continue to reject any report not accompanied by an Equality and Human Rights Impact Assessment.
- e) Consider the Equality and Human Rights Impact Assessment findings at the same time as considering the recommendations contained within reports submitted to the Strategic Planning Group for decision-making.
- f) Note the recommendations contained within the impact assessment with an expectation that progress against these recommendations will be forwarded to the Partnership's Equality and Human Rights Lead for presentation in future Partnership Equality and Human Rights Mainstreaming Reports
- g) Note the plans to embed Children's Rights into the Equality and Human Rights Impact Assessment Process after reviewing the Child Rights and Wellbeing Impact Assessment (CRWIA) Guidance [Children's Rights and Wellbeing Impact Assessment guidance - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/childrens-rights-and-wellbeing-impact-assessment-guidance/pages/1.aspx)

### 3. ALIGNMENT TO STRATEGIC OBJECTIVES AND WAYS OF WORKING

- 3.1. It is expected that the proposal will impact on the Health and Social Care Strategic Framework Objectives and Ways of Working below:

Alignment to our strategic objectives					
Rising to the workforce challenge	Improving access	Focusing on early intervention and prevention	Supporting unpaid carers	Improving our efficiency and effectiveness	Reducing poverty and inequalities
x	x	x	x	x	x

Alignment to our ways of working					
People at the heart of everything we do, and inclusive co-productive and fair	Good agile teamwork and ways of working – Team Borders approach	Delivering quality, sustainable, seamless services	Dignity and respect	Care and compassion	Openness, honesty and responsibility
x	x	x	x	x	x

### 4. INTEGRATION JOINT BOARD DIRECTION

- 4.1. A Direction is not required

## 5. BACKGROUND

- 5.1. On Friday 10<sup>th</sup> June 2022, the Scottish Parliament's Regulator of the Public Sector, the Equality and Human Rights Commission (the Commission) wrote to the Scottish Borders IJB's Chief Officer to advise that they had recently considered the extent to which IJBs had been meeting their equality duties<sup>1</sup>.
- 5.2. In the letter the Commission advised that an examination of the Scottish Borders Health and Social Care IJB's website found that:
  - The IJB had failed to report on the mainstreaming of the equality duty
  - The IJB had failed to develop and publish a set of equality outcomes for the period 2021 to 2025
- 5.3. In a separate letter, the Commission advised that the Integration Joint Board had failed to comply with the duty to review and assess policies and practices.
- 5.4. The following is an extract from the letter sent by the Commission:

*"Having been found to have failed to meet this duty, Scottish Borders HSCP must now ensure that a system is in place for carrying out, using and publishing impact assessment for all relevant current, and proposed new and revised policies and practices, including the developing strategic plan and the strategic commissioning plan".*

## 6. PROGRESS TO DATE

- 6.1. February 2022, the Partnership identify an Equality and Human Rights Lead.
- 6.2. April 2022, the Equality and Human Rights Lead establishes the Partnership's Equality and Human Rights Foundation Group.
- 6.3. In response to a request from the Commission an internal audit of compliance with the duty to review and assess policies and practices was undertaken for the period April 2020 to August 2022 is undertaken.
- 6.4. Of the 83 reports presented to the Integration Joint Board 3 had links to the associated impact embedded into the papers.
- 6.5. 12 stated that an impact assessment had been undertaken, however, these were not included with the papers and not available at the time the IJB considered the report.
- 6.6. The findings of the Commission's audit, the internal audit and the steps to be taken were presented to both the Strategic Planning Group and the Integration Joint Board.
- 6.7. In December 2022, the Partnership's Equality and Human Rights Lead, jointly with Glasgow City Health and Social Care Partnership's Equality Lead working jointly with the Commission establish a national network of Partnership Equality and Human Rights Lead Officers. See 6.13 below for an update regarding this group.

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<sup>1</sup> Letter available from Monday 20 June 2022 Scottish Borders Health and Social Care IJB Audit Committee papers: <https://scottishborders.moderngov.co.uk/ieListDocuments.aspx?CId=336&MIId=6359&Ver=4>

- 6.8. December 2022, a paper outlining the actions to be taken to give the Integration Joint Board assurance that the duty to review and assess policies and practices is presented to the Partnership's Strategic Planning Group. All recommendations, including the adoption of an Equality and Human Rights approach and associated documentation are adopted.
- 6.9. December 2022, the Strategic Planning Group agree to reject any papers presented to them which are not accompanied by an Equality and Human Rights Impact Assessment.
- 6.10. March 2023, the Integration Joint Board approve the coproduced Equality Outcomes, the Equality Outcomes and Mainstreaming Framework 2023 to 2025 and the Mainstreaming Report 2018 to 2022.
- 6.11. The Equality and Human Rights Foundation Group reformats into the Strategic Planning Group's Equality and Human Rights subgroup. Membership and Terms of Reference agreed. Membership drawn from networks and partnerships whose members reflect the protected characteristics and/or communities who experience inequality and those with lived experience.
- 6.12. A directory of key stakeholders is being continually added to as a way of supporting officers engage with and involve the relevant communities in the equality and human rights impact assessment process.
- 6.13. In June 2023, the Commission sends an email to Equality Leads to advise that after their post March 2023 audit of Partnership websites they can confirm that 95% of Partnerships are now compliant with the Equality Duty an increase from the previous audit when 7% of Partnerships were compliant.
- 6.14. Confirmation that Scottish Borders Health and Social Care Partnership had taken the corrective actions required and have systems in place to evidence compliance with the following duties:
  1. Report on mainstreaming the equality duty
  2. Publish equality outcomes and report on progress
  3. Review and assess policies and practices
- 6.15. In the same email correspondence the Commission advised: *"in the next stage of this public sector equality duty and equality improvement process we will continue to work with you (Partnership Leads) through engagement with the Equality Officers Peer Support Group. If you are not already part of the group, you can get more information by contacting Afton (Glasgow City IJB) or Wendy (Scottish Borders IJB)"*
- 6.16. This group continues to be the go-to group for both the Commission and various Scottish Government Sections with equality and human rights related portfolios.
- 6.17. A series of Equality and Human Rights Impact Assessment Introductory Awareness Sessions have been delivered at request by the Partnership's Equality and Human Rights Lead. This to introduce staff working across delegated services to the process adopted by the SPG and IJB, the paperwork and the supporting guidance.
- 6.18. To date 6 awareness sessions have been delivered with a total of 58 staff in attendance.
- 6.19. Individual coaching and mentoring continue to be provided by the Equality and Human Rights Lead to support staff when undertaking an equality and human rights impact assessment.
- 6.20. A Scottish Borders Health and Social Care Partnership's Equality and Human Rights Officer Group has been established. Membership includes lead officers from both NHS Borders and Scottish

Borders Council, Equality and Human Rights Service Specialists and Equality Outcomes Lead Officers. The Terms of Reference is currently in development.

## 7. JOURNEY OF CONTINUOUS IMPROVEMENT – PROGRESS TO DATE

- 7.1. Staff becoming aware of the requirement to undertake an impact assessment at the beginning of the review of an existing police or practice or the development of a new proposal/way of working.
- 7.2. Greater understanding that Stage 1 of the impact assessment process is not the end of the journey but the beginning of the process and one that influences and informs Stage 2.
- 7.3. This can be evidenced by the number of reports accompanied by an impact assessment to the Strategic Planning Group.
- 7.4. August 2023 - three of the reports presented to the Strategic Planning Group were not accompanied by an equality and human rights impact assessment
- 7.5. November 2023 – one report presented, and it was accompanied by an equality and human rights impact assessment.
- 7.6. At the same meeting the CSWO Report was presented a greater emphasis on how this report links to the Partnership's Equality Outcomes could have been made and used as evidence in future Equality Mainstreaming Reports.
- 7.7. In December 2023 two of the three reports presented to the Strategic Planning Group had an accompanying impact assessment.
- 7.8. The one that did not, does require one although the author of the report stated that it did not as it related to staff evidencing that there is still work to be done regarding awareness and understanding.
- 7.9. The following table details the number of equality and human rights impact assessments completed or underway that the Partnership's Equality and Human Rights Lead is aware of:

Active Impact Assessments	Lead Officer
Tweedbank Care Village	Lynn Medley
Hawick Care Provision	Lynn Medley
Integrated Workforce Plan	Wendy Henderson
Compliance with the Equality Duty	Wendy Henderson
Gala Resource Centre	Simon Burt
Redesign of Learning Disability Day Support Services	Susan Henderson
Finance Plan	Hazel Robertson
Community Integration Groups	Irene Thomson
Creating Hope	Fiona Doig/Claire McElroy
Primary Care Improvement Plan (PCIP) Bundle Proposal	Cathy Wilson
Women and Children's Service Workforce Review	Kirsteen Guthrie
Financial Savings: Deletion of Post	Caroline Cochrane
LDS Coming Home Project	Simon Burt
Hospital at Home	Cathy Wilson
ADP Strategy	Fiona Doig

Teviot Day Support Review	Clare Richards
Social Prescribing	Wendy Henderson
Eildon Day Support Review	Clare Richards
Meeting Centres	Bryan Davies
Dementia Strategy	Christine Proudfoot
Commissioning Review	Bryan Davies
Improving the Cancer Journey	Laura Gibson
Oral Health Plan	Morag Muir
Carers Strategy	John Harwood
Advocacy Plan	Julie Waddell
Local Area Coordinators	Julie Waddell
Jedburgh Day Support	Susan Henderson
Medication Management	Elaine Firth

## 8. JOURNEY OF CONTINUOUS IMPROVEMENT – E&HRIA NEXT STEPS

- 8.1 Continuing to raise awareness of the difference between generic consultation and involvement events designed to capture the views of those experiencing inequality related to the policy/practice being reviewed or the service being designed.
- 8.2 Development of a resource library to support officers identify inequality, this to support involvement of people with the relevant protected characteristics and/or communities who experience inequality and those with lived experience.
- 8.3 Development of an accessible equality and human rights on-line resource for staff which will include access to the resource library, guidance materials, proformas and examples of best practice.
- 8.4 Development of an accessible external equality and human rights webpage for the Partnership.
- 8.5 Publication of equality and human rights impact assessments in line with the requirements of the Equality Duty.
- 8.6 Supporting the delivery of involvement events which deliver efficiencies in approach and effective outcomes to support the equality and human right impact assessment process.
- 8.7 Quality audit of assessments undertaken.
- 8.8 Development of a management system to capture and report progress against the equality and human rights impact assessment recommendations.
- 8.9 Working collaboratively with the Children and Young Peoples Partnership to embed Children's Rights into the Partnership's equality and human rights impact assessment proformas and supporting guidance materials.

## 9. LEGAL CONTEXT

- 9.1. The public sector equality duty was created by the Equality Act 2010 and replaces the previous race, disability and gender equalities. Coming into force in April 2011, the new Act replaced the previous equality strands with 9 protected characteristics. These are:

1. Age
  2. Disability (e.g., physical, mental health, learning difficulty)
  3. Gender Reassignment
  4. Pregnancy and Maternity
  5. Race
  6. Religion and belief (including on belief)
  7. Sex (Gender)
  8. Sexual Orientation
  9. Marriage and Civil Partnership (discrimination only)
- 9.2. The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 came into force on the 27 of May 2012 and were amended in 2015 to bring additional listed authorities within their scope. This included the Scottish Borders Health and Social Care Partnership
- 9.3. The Scottish Specific Public Sector Equality Duties 2012 (SSPSED) requires the Partnership as a listed authority to:
4. Report on mainstreaming the equality duty
  5. Publish equality outcomes and report on progress
  6. Review and assess policies and practices
  7. Gather and use employee information
  8. Publish gender pay gap information
  9. Publish information on equal pay etc
  10. Embed in procurement processes
  11. Publish in an accessible manner
  12. Consider matters as prescribed by Scottish Ministers
- 9.4. In 2018, the Fairer Scotland Duty (Part 1 of the Equality Act 2010 and formally known as the socio-economic duty) was brought into legislation. This duty requires the IJB to actively consider ('pay due regard' to) how the IJB can reduce inequalities of outcome, including the systematic failure of the health care system to address the adverse outcomes caused by socio-economic disadvantage, when making strategic decisions.
- 9.5. To enable the Integration Joint Board to evidence compliance with the Fairer Scotland Duties, the equality and human rights impact assessment documentation, approved by the Health and Social Care Partnership's Strategic Planning Group in December 2022 incorporates the requirements of the Fairer Scotland Act 2018 and the Equality and Human Rights Commission's Equality Measurement Framework.
- 9.6. United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill is the Scottish Government's approach to ensuring that children and young people are involved in decision making across the Scottish Health and Social Care Partnership's delegated services. This in line with Article 12 of the United Nations Convention on the Rights of the Child.

## 10. IMPACTS

### Community Health and Wellbeing Outcomes

It is expected that the proposal will impact on the National Health and Wellbeing Outcomes below:

N	Outcome description	Increase / Decrease / No impact
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1	People are able to look after and improve their own health and wellbeing and live in good health for longer.	Increase
2	People, including those with disabilities or long term conditions, or who are frail, are able to live, as far as reasonably practicable, independently and at home or in a homely setting in their community.	Increase
3	People who use health and social care services have positive experiences of those services, and have their dignity respected.	Increase
4	Health and social care services are centred on helping to maintain or improve the quality of life of people who use those services.	Increase
5	Health and social care services contribute to reducing health inequalities.	Increase
6	People who provide unpaid care are supported to look after their own health and wellbeing, including to reduce any negative impact of their caring role on their own health and well-being.	Increase
7	People who use health and social care services are safe from harm.	Increase
8	People who work in health and social care services feel engaged with the work they do and are supported to continuously improve the information, support, care and treatment they provide.	Increase
9	Resources are used effectively and efficiently in the provision of health and social care services.	Increase

10.1. Compliance with the Equality Duty and other legal requirements is relevant to the outcomes of all frameworks, strategies, policies and practices relating to services which come under the delegated authority of the Integration Joint Board. The recommendations in this report will ensure that equality and human rights are embedded into all future reports, proposals and recommendations ensuring that the Integration Joint Board can evidence how it is tackling inequalities

## Financial impacts

10.2. There are no costs attached to any of the recommendations contained in this report.

## Equality, Human Rights and Fairer Scotland Duty

10.3. This report is directly linked to:

- The public sector general equality duty which requires listed public authorities to pay due regard to the need to eliminate unlawful discrimination, victimisation and harassment; advance equality of opportunity; and foster good relations.
- The Scottish Specific Public Sector Equality Duties
- The Fairer Scotland Duty 2018
- The Equality and Human Rights Commission's Equality and Human Rights Measurement Framework

The Equality and Human Rights Impact Assessment documentation is currently under review and will be amended to include the United Nations Convention on the Rights of the Child. The amendments are being coproduced with a lead officer from the Children and Young Peoples Partnership.

## Legislative considerations



10.4. Adopting the proposed SBHSCP Governance and Performance Framework, Equality Outcomes and Mainstreaming Framework and Integrated Impact Assessment Documentation will support the IJB evidence its compliance with:

- Human Rights Act 1998
- Equality Act 2010
- The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012
- Fairer Scotland Duty 2018
- United Nations Convention on the Rights of the Child

### **Climate Change and Sustainability**

10.6 None identified at this time.

### **Risk and Mitigations**

10.7 Without a strong governance and performance structure the Integration Joint Board may again be at risk again of :

- Non-compliance with the Equality Duty
- Subject to regulatory/enforcement action as a result of the Commission's on-going audit of equality and human rights impact assessments

The actions taken to date and those outlined in the next steps will ensure that the Partnership can evidence continuous improvement in the compliance with the Equality Duty.

## **11. CONSULTATION**

### **Communities consulted**

11.1. The Equality and Human Rights Subgroup

11.2. The Integration Planning and Delivery Principles (listed at <https://www.gov.scot/publications/guidance-principles-planning-delivering-integrated-health-social-care/pages/1/>) and how your proposal/project/action plan/recommendations has taken these into consideration from a consultation perspective.

### **Integration Joint Board Officers consulted**

11.3. The IJB Chief Officer

### **Approved by:**

Chris Myers  
Director - Scottish Borders Health and Social Care Partnership  
Chief Officer - Scottish Borders Health and Social Care IJB

### **Author(s)**

Wendy Henderson, SBHSCP Equality and Human Rights Lead

### **Background Papers:**

**Previous Minute Reference:**

For more information on this report, contact: Wendy Henderson, SCHSCP Equality and Human Rights Lead