Beyond a duty: the local government agenda for equalities

Background paper for delegates

Local authorities and other public agencies have an important role to play in furthering the equalities agenda. Traditionally moral arguments have been put forward to justify actions to further equality and combat discrimination, drawing on the British sense of fair play (CEHR 2007). While these remain important, there is increasingly strong evidence that promoting equality can bring social and economic benefit, boosting economic participation and promoting strong and cohesive communities. Entrenched disadvantage, inequality and discrimination act as barriers to local areas - and the North West region as a whole – preventing them from reaching their economic and social potential (CEHR 2007; NWRA 2005).

As the roles of local authorities continue to evolve they are increasingly recognised as playing a central role in providing community leadership and shaping their local areas to meet the needs of their citizens. Representative and inclusive local authorities are better able to serve their communities effectively. Local authorities also remain key providers and commissioners of services, and in many areas are major employers; however as the IDeA note “prevailing assumptions and practices can set up barriers that prevent fair access to services and equal employment opportunities” (IDeA 2007). It is in this context that local authorities have an important role to play in promoting equality and diversity in their geographical area, through all of the functions they perform.

Research carried out by the NWRA and Centre for Local Policy Studies has found that while there is significant good practice in the North West, it is patchy and the region lags behind other parts of the country such as London and the West Midlands.

This background paper will give some more detail on the legal context for local government’s duties in relation to equalities, before going on to consider the new role of the Commission for Equalities and Human Rights. It will also consider moving beyond a duty through mainstreaming and incorporating equality and diversity into all aspects of local authority work: as community leaders, service providers and guardians of the vulnerable, employers and in their procurement function.

The legal context: Equalities Duties

The Race Relations and Sex Equality Acts of the 1970s changed the context within with local authorities operated, both as service providers and as employers. For many local authorities their approach to equalities was
characterised by a focus on women and ethnic minorities, and often the approach to each was separate, becoming a specialist skill, rather than mainstreamed (ODPM 2003). This marked a passive approach to equalities, whereby the burden lay with individuals to challenge public authorities if they were discriminated against.

The 21st century approach has changed this, so that organisations must take proactive measures to prevent inequality and discrimination in the first place. This is embodied in the race, gender and disability duties placed upon public authorities such as local authorities. At their core, these duties require public bodies to pay 'due regard' to the need to eliminate unlawful discrimination and promote equality of opportunity (Spencer and Fredman 2006).

The race equality duty was the first to come into force in 2002, following the recommendations of the Macpherson Report. It was followed in November 2006 by the disability duty, and in April 2007 by the gender duty. These three separate duties all have similar aims, but contain different specific features. For example the race duty requires the promotion of good relations between different groups, while the gender equality duty requires the establishment of strategic objectives to promote gender equality. They also operate on different three yearly cycles. This may prove confusing for already over burdened local authorities.

The rationale of the duties is to embed equality considerations throughout the work of the public sector, bringing about culture change so equalities are brought from the periphery to the mainstream. This covers all aspects of public sector activity (from schools and hospitals to local authorities) applying to policy-making, decision-making, service provision, procurement and as employers.

While these duties mark an important statement of intent on the part of the Government, they are not without their critics. The recent Equalities Review criticised the race equality duty for being too weak in the extent to which it requires action to be taken, and there was also concern that the focus was too much on bureaucratic processes rather than tangible outcomes for service users and employees, with the desired outcomes remaining vague (CEHR 2007; Spencer and Fredman 2006). There is further concern about how compliance and progress is monitored and measured.

The Department for Communities and Local Government (CLG) is currently consulting on whether to move towards a single duty that covers all three areas rather than three separate duties. This may also make it easier to address the needs of people facing multiple discrimination. The same consultation is also considering whether the duties should be extended to cover age, sexuality and religion. The consultation is open until 4th September 2007 (CLG 2007).

The new Commission for Equalities and Human Rights (CEHR)

The CEHR will play a similar role to the separate Commissions that went before it, providing codes of practice and guidance on equality and diversity. It will also
promote compliance and enforce duties, and has a new power to assess public bodies’ compliance with general duties, producing reports with recommendations where they don’t. The bringing together of the separate Commissions is expected to give the new CEHR the ability to tackle multiple discrimination more effectively.

The CEHR is expected to forge close links with public sector inspectorates (such as the Healthcare Commission and Audit Commission), enabling inspectorates to monitor equality and diversity, so they can inform CEHR when there is cause for concern.

**Going beyond a duty: Mainstreaming equality and diversity**

Commitment to diversity must move beyond process driven activity to be firmly focused on improving outcomes. For this to happen it must be mainstreamed throughout policy and service planning, delivery and evaluation. After the event bolt-ons will not be sufficient to catalyse change. All council employees should be trained and aware of these issues, not just a small number of ‘equalities professionals’. As the NWRA (2005) point out, successful mainstreaming requires:

- **Leadership** and political commitment
- **Integration** of equalities concerns into all aspects of work, including training for employees
- **Appropriate data** to inform policy development and delivery
- **Policy appraisal and impact assessment** with ongoing monitoring, evaluation, audit and review
- **Networking, consultation and partnership**.

Equality and diversity cuts across all areas of local authority work, from community leadership to service provision and procurement and their role as employers:

1. **Local authorities as community leaders**

The recent local government white paper (CLG 2006) reinforced the role of local authorities as community leaders, making local authorities responsible for ‘place shaping’ and building on the power of wellbeing conferred in the Local Government Act 2000. This places tackling inequality and exclusion and promoting quality of life and cohesive communities at the heart of what local government does.

The current legal framework presents opportunities for local authorities to mainstream equalities into all aspects of their strategic work, in particular the sustainable community strategy. The legal duty to promote good relations between different communities and groups only applies to race at the moment, but there is no reason why the principles of the duty can’t be transferable to other groups experiencing exclusion (LGA 2004). Effective consultation with
communities in drawing up documents like the community strategy can reinforce its contribution to community cohesion.

Furthermore, local authorities have a wider role to play as the fulcrum of democracy at the local level. They have the opportunity to play a wider leadership role on equality and diversity, through their partnerships with other parts of the public sector, as well as their engagement with parts of the private and voluntary sectors.

2. Local authorities as service providers

Local authorities remain significant providers of public services, as well as commissioners of services. They have a vital role in ensuring people have equal access to services, and that those services are sensitive to differing needs. The broad direction of travel in public services is towards greater personalisation, which is likely to be beneficial for equality and diversity, enabling public authorities to be more responsive to the individual and their needs, rather than relying on established presumptions and practices. Each local authority will face different challenges, as the make up of no two populations will be the same. Through consultation and building a firm evidence base authorities can build a much better picture of the needs of their communities. An outward looking and transparent culture can ensure users know what they can expect.

The Equality Standard for Local Government has provided a voluntary, self assessed scheme, which local authorities can use as a framework for improving their performance in equalities both in terms of service provision and as employers. The standard is aimed at assisting mainstreaming, and 90% of local authorities in England now use it.

3. Local authorities as employers

In many areas local authorities are important local employers, and their equalities duties apply here too. By leading from the front local authorities can set an example of best practice for other local employers to follow, ensuring equal employment opportunities and embracing flexible working.

Capacity building and training of employees is also important to ensure they are able to mainstream and deliver on the equalities duties through the work of the council.

4. Procurement

There is a lack of clarity regarding whether and how equalities duties apply to local government procurement, however as the current duties apply to the functions of public authorities, this includes procurement (CLG 2007). However some, for example the Equalities Review, have suggested greater clarity could be achieved through a specific duty in relation to procurement. This idea has
been rejected by the CLG, which has instead proposed greater practical guidance (CLG 2007).

Procurement presents an opportunity for local government to spread good practice, through the requirements it places on those it contracts with, both in terms of their employment practices and the services they deliver on behalf of local authorities. It also requires a greater understanding of equality and diversity among council employees in order to monitor contracts, thus helping to mainstream equalities through the local authority too. However, mainstreaming is not a quick fix to the problem. It requires cultural change and leadership in order to be effective.

References
http://www.coventry.ac.uk/researchnet/external/content/1/c4/02/79/v1164380908/user/communitycohesionactionguide.pdf
NWRA (2005) *Action for Equality:*

This event is delivered in partnership with the North West Regional Assembly and the North West Improvement Network: