

SENT BY EMAIL TO: christopher.myers@borders.scot.nhs.uk

Christopher Myers
Chief Officer
Scottish Borders Integration Joint Board

Lynn Welsh
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Friday 10 June 2020

Dear Mr Myers

Scottish Borders Integration Joint Board's compliance with the Public Sector Equality Duty

As you know, the Commission is the regulator for the Public Sector Equality Duty. I am writing to you in respect of Scottish Borders Integration Joint Board's compliance with the duty and in particular the requirements of the specific duties.

You will be aware from your discussion with Ian MacAllister, Paula Richardson and Glen Deakin from the Scottish Government that the Commission has recently considered the extent to which IJBs have been meeting their equality duties. For ease, I've set out the specific duties that we have focused on in Annexe A.

Public Sector Equality Duty compliance

In relation to your organisation, our examination of your website indicates that:

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- You have not published a mainstreaming report since 2016. Such reports must be published at intervals of not more than 2 years.
- You have not published a set of equality outcomes since 2016. These must be published at intervals of not more than 4 years.
- You have not published a report on your progress on achieving your equality outcomes. You must publish a report on progress made at intervals of not more than 2 years.
- You have published only 2 equality impact assessments of your practices and policies. That is unlikely to cover all of your practices and policies.
- In particular, you have not published an equality impact assessment of your strategic commissioning plan.

If you believe that any of the above is incorrect please direct me to where the published documents are available.

It appears to us from the above information that Scottish Borders Integration Joint Board has failed to comply with the following public sector equality duties:

1. Duty to report on mainstreaming the equality duty
2. Duty to publish equality outcomes and report progress
3. Duty to assess and review the equality impact of policies and practices

Improvement work

The Commission could take enforcement action at this stage. However, as you will know from your meeting with Ian MacAllister and his colleagues, we would rather work with you to improve practice in relation to equality across the IJB sector. We see this as the most effective way to drive up performance and achieve real change for the people that you serve.

I look forward to meeting you and your fellow Chief Officers at your business meeting on 1 July 2022. We are keen to hear from you and to discuss in more detail the support and resources the Commission can provide to you and the commitment we will need from your organisation to ensure best practice in meeting the duties. I hope we can agree a collaborative approach with you. To

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help with our discussion I would be grateful if you could consider where you think the Commission could most effectively help you to improve the quality of compliance with the PSED.

In the meantime, I would be happy to discuss any of these issues if you would find it helpful.

Yours sincerely,



Lynn Welsh
Head of Regulation

Annexe A

General equality duty

Section 149 of the Equality Act 2010 sets out the requirements of the public sector equality duty (general duty). It requires public authorities, in the exercise of their functions, to 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 people who share a relevant protected characteristic and those who do not, and
- (c) foster good relations between people who share a relevant protected characteristic and those who do not.

Specific equality duties

The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 place duties (specific duties) on listed public authorities. An Integration Joint Board is a listed public authority in terms of those regulations.

Regulation 3 – the duty to report progress on mainstreaming the equality duty – requires listed authorities to publish a report on the progress it has made to make the equality duty integral to the exercise of its functions. Such reports must be published at intervals of not more than 2 years.

Regulation 4 – the duty to publish equality outcomes and report progress – requires listed authorities to publish a set of equality outcomes which it considers will enable it to better perform the equality duty. Such sets must be published at intervals of not more than 4 years and a report must be published on the progress made at intervals of not more than 2 years.

Regulation 5 – the duty to assess and review policies and practices - requires listed authorities, where and to the extent necessary to fulfil the equality duty, to:

- (1) assess the impact of applying a proposed new or revised policy or practice against the needs mentioned in the general duty,
- (2) consider relevant evidence relating to people who share a protected characteristic
- (3) take into account the results of their assessment in developing the policy or practice
- (4) publish within a reasonable period the results of any assessment, and

- (5) review, and where necessary, revise any policy or practice that it applies in the exercise of its functions to ensure that in exercising those functions it complies with the equality duty.