
Report To:	Inverclyde Integration Joint Board	Date:	20 March 2023
Report By:	Kate Rocks Chief Officer; Inverclyde Health & Social Care Partnership	Report No:	IJB/14/2023/CG
Contact Officer:	Craig Given; Head of Finance, Planning and Resources Inverclyde Health & Social Care Partnership	Contact No:	01475 715381
Subject:	Public Sector Equalities Duty and Compliance		

1.0 PURPOSE AND SUMMARY

- 1.1 For Decision For Information/Noting
- 1.2 The purpose of this report is to update Inverclyde Integration Joint Board on its compliance with the Public Sector Equality Duty. The report also includes a proposed improvement plan to improve future practice and performance and the quality of compliance with the Public Sector Equality Duty.
- 1.3 The Equalities and Human Rights Commission (EHRC) has advised Inverclyde IJB that it considers it to have failed to comply with its Public Sector Equality Duties under the Equality Act 2010 and associated Regulations.
- 1.4 In particular the EHRC is of the view that the IJB has failed to:
1. Produce and publish an equalities mainstreaming report every two years;
 2. Develop and publish Equality Outcomes every four years;
 3. Produce and report on these Equality Outcomes every two years;
 4. Undertake and publish Equality Impact Assessments of all policies and practices, including one for the Strategic Plan; and
 5. Develop and implement a functioning Equality Impact Assessment (EIA) system which includes a quality assurance process
- 1.5 The HSCP understands the seriousness the failures highlighted by the EHRC and have investigated their causes. A number of actions, including an Improvement Plan, are now being progressed by officers.
- 1.6 A meeting has been arranged with the EHRC and they will be advised of, and regularly updated on, the Improvement Plan and the focus now being given to this area of work. A report will be

submitted to the IJB in September 2023 with an update on progress towards improving the IJB's practice in relation to equality.

2.0 RECOMENDATIONS

2.1 It is recommended that the Inverclyde Integration Joint Board:

1. Notes the content of this report and the comments received from the Equality and Human Rights Commission;
2. Approves the Improvement Plan set out at Appendix 1 of this report; and
3. Notes that a further report will be presented to the September 2023 meeting of the Integration Joint Board with an update on progress in implementing the Improvement Plan.

Kate Rocks
Chief Officer
Inverclyde Health and Social Care Partnership

3.0 LEGISLATION

3.1 The Equality Act 2010 and Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 hold public bodies accountable for advancing equality and protecting people with protected characteristics rights within Scottish society. Integration Joint Boards, the local governing bodies that have devolved responsibility for the planning and monitoring of community health and social care services in their area of Scotland, were added to the public bodies listed in the Equality Act (general and specific duties) in June 2015.

3.2 There are 9 protected characteristics which makes it against the law to discriminate against someone because of; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

The Fairer Scotland Duty requires Integration Joint Boards to actively consider (pay due regard) how they can reduce inequalities of outcome caused by socio-economic disadvantage.

3.3 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.

3.4 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.

3.5 Some aspects of the equality duties continue to be reported through the two employing organisations that make up Inverclyde HSCP. The information on employee diversity information, equal pay statements and equality outcomes can be found on the Inverclyde Council and NHS Greater Glasgow and Clyde websites

3.6 The Equality and Human Rights Commission (EHRC) is the regulator for the Public Sector Equality Duty.

4.0 CURRENT POSITION

4.1 The EHRC undertook a review of all Scottish IJBs' compliance with their equality duties in 2022. They have advised that they currently consider Inverclyde IJB to be non-compliant with its duties under the Equality Act 2010 and associated Regulations due to its failure to:

1. Produce and publish an equalities mainstreaming report every two years;
2. Develop and publish Equality Outcomes every four years;
3. Produce and report on these Equality Outcomes every two years;
4. Undertake and publish Equality Impact Assessments of all policies and practices, including one for the Strategic Plan; and
5. Develop and implement a functioning Equality Impact Assessment (EIA) system which includes a quality assurance process

4.2 It should be noted that a number of other IJBs across Scotland have also been assessed as being non-compliant.

4.3 The EHRC have requested that the IJB:

1. Publish a mainstreaming report, set of equalities outcomes and equality outcomes progress report in a manner accessible to the public; and
2. Review its policies and practices in relation to EIAs, and develop and agree a functioning EIA system. This should include how the IJB will meet the specific duty to EIA proposed new or revised policies and practices and keep them under review.

4.4 The EHRC have advised that, rather than consider enforcement action at this stage, they will work with the IJB to support it to improve practice and performance in relation to equality.

4.5 The HSCP Senior Management Team have reviewed the correspondence received from the EHRC from June 2022 and in December 2023 and have investigated the issues raised by the EHRC. The Chief Officer and Heads of Service are in agreement that a number of factors including, a lack of internal resource; inability to recruit suitable equality officers; and the ongoing impact of the Covid-19 pandemic, have resulted in this area of work not being progressed and subsequent failures highlighted by the EHRC.

5.0 REMEDIAL ACTION

- 5.1 The HSCP understands and appreciates the seriousness of this issue and have taken a number of immediate actions to remedy the points raised by the EHRC. The remit and accountability for all equalities work has now been transferred to the Head of Finance, Planning and Resources and a Planning Officer (Equalities) is currently in recruitment to ensure a clear focus going forward. An Improvement Plan has been developed with clear timescales and responsibilities. (Appendix 1).
- 5.2 Following approval of the Improvement Plan by the IJB, the plan will be shared with the EHRC, and regular updates will be provided to both the IJB and EHRC on progress towards improving the quality of the IJB's performance with the Public Sector Equality Duty.

6.0 IMPLICATIONS

- 6.1 The table below shows whether risks and implications apply if the recommendation(s) is(are) agreed:

SUBJECT	YES	NO	N/A
Financial			X
Legal/Risk	X		
Human Resources		X	
Strategic Plan Priorities	X		
Equalities	X		
Clinical or Care Governance		X	
National Wellbeing Outcomes	X		
Children & Young People's Rights & Wellbeing			X
Environmental & Sustainability			X
Data Protection			X

6.2 Finance

There are no financial implications arising from this report.

One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report	Virement From	Other Comments
N/A					

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (If Applicable)	Other Comments
N/A					

6.3 Legal/Risk

The EHRC has various enforcement powers available to it in terms of the Equality Act 2010. This includes the power to issue a formal compliance notice under Section 32 of the Equality Act 2010

should the Council fail to take the necessary steps towards compliance as requested in their correspondence.

6.4 Human Resources

A NHS Band 7 (temporary post) is currently in recruitment.

6.5 Strategic Plan Priorities

This report will help to deliver all six Big Actions set out in the Strategic Plan.

6.6 Equalities

(a) Equalities

This report has been considered under the Corporate Equalities Impact Assessment (EqIA) process with the following outcome:

	YES – Assessed as relevant and an EqIA is required. The Equality Impact Assessment for the refreshed Strategic Plan can be accessed here
x	NO – This report does not introduce a new policy, function or strategy or recommend a substantive change to an existing policy, function or strategy. Therefore, assessed as not relevant and no EqIA is required. Provide any other relevant reasons why an EqIA is not necessary/screening statement.

(b) Equality Outcomes

How does this report address our Equality Outcomes?
Our Strategic Plan sets out how the HSCP will support our community.

Equalities Outcome	Implications
People, including individuals from the above protected characteristic groups, can access HSCP services.	New equalities outcomes will be developed in line with the legislation
Discrimination faced by people covered by the protected characteristics across HSCP services is reduced if not eliminated.	New equalities outcomes will be developed in line with the legislation
People with protected characteristics feel safe within their communities.	New equalities outcomes will be developed in line with the legislation
People with protected characteristics feel included in the planning and developing of services.	New equalities outcomes will be developed in line with the legislation
HSCP staff understand the needs of people with different protected characteristic and promote diversity in the work that they do.	New equalities outcomes will be developed in line with the legislation

Opportunities to support Learning Disability service users experiencing gender based violence are maximised.	New equalities outcomes will be developed in line with the legislation
Positive attitudes towards the resettled refugee community in Inverclyde are promoted.	New equalities outcomes will be developed in line with the legislation

6.7 Clinical or Care Governance

There are no clinical or care governance implications arising from this report.

6.8 National Wellbeing Outcomes

How does this report support delivery of the National Wellbeing Outcomes?

National Wellbeing Outcome	Implications
People are able to look after and improve their own health and wellbeing and live in good health for longer.	None
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	Disability is covered under the protected characteristics
People who use health and social care services have positive experiences of those services, and have their dignity respected.	None
Health and social care services are centred on helping to maintain or improve the quality of life of people who use those services.	None
Health and social care services contribute to reducing health inequalities.	Socioeconomic status is covered under Fairer Scotland Duty
People who provide unpaid care are supported to look after their own health and wellbeing, including reducing any negative impact of their caring role on their own health and wellbeing.	None
People using health and social care services are safe from harm.	None
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.	None
Resources are used effectively in the provision of health and social care services.	None

6.9 Children and Young People

Has a Children's Rights and Wellbeing Impact Assessment been carried out?

	YES – Assessed as relevant and a CRWIA is required.
x	NO – Assessed as not relevant as this report does not involve a new policy, function or strategy or recommends a substantive change to an existing policy, function or strategy which will have an impact on children's rights.

6.10 Environmental/Sustainability

Summarise any environmental / climate change impacts which relate to this report.

Has a Strategic Environmental Assessment been carried out?

	YES – assessed as relevant and a Strategic Environmental Assessment is required.
x	NO – This report does not propose or seek approval for a plan, policy, programme, strategy or document which is like to have significant environmental effects, if implemented.

6.11 Data Protection

Has a Data Protection Impact Assessment been carried out?

	YES – This report involves data processing which may result in a high risk to the rights and freedoms of individuals.
x	NO – Assessed as not relevant as this report does not involve data processing which may result in a high risk to the rights and freedoms of individuals.

7.0 DIRECTIONS

7.1 Direction Required to Council, Health Board or Both	Direction to:	
	1. No Direction Required	x
	2. Inverclyde Council	
	3. NHS Greater Glasgow & Clyde (GG&C)	
	4. Inverclyde Council and NHS GG&C	

8.0 CONSULTATION

8.1 The report has been prepared by the Chief Officer of Inverclyde Health and Social Care Partnership (HSCP) after due consideration with relevant senior officers in the HSCP.

9.0 BACKGROUND PAPERS

9.1 None.

Inverclyde Health & Social Care Partnership Improvement Plan – Equalities (2023)

The public sector equality duty is referred to as the 'general equality duty' which is part of the Equality Act (2010). The general equality duty applies to Inverclyde Integration Joint Board (IJB), which has a legal obligation to pay due regard to meet the need to;

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

The HSCP also has the responsibility to produce an Equality and Diversity Mainstreaming report every **two years** and an Equality and Diversity Mainstream Report and Outcomes every **four years**.

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.
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- 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

The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 lists specific duties which apply to Inverclyde Integration Joint Board.

1. Produce and publish an equalities mainstreaming report every two years
2. Develop and publish Equality Outcomes every four years
3. Produce and report on these Equality Outcomes every two years
4. Undertake and publish Equality Impact Assessments of all policies and practices, including one for the Strategic Plan
5. Develop and implement a functioning Equality Impact Assessment (EIA) system which includes a quality assurance process.

Improvement Action 1 – Ensure Leadership and organisational commitment to Equalities, Diversity and Inclusion

Local Action(s)	How will we know/Measure?	Responsible Officer /	Target Date	Progress Commentary and RAG Status
Establish an Equalities Group at Service Manager level chaired by a Head of Service to oversee all Equalities work.	<ul style="list-style-type: none"> Group established and meets quarterly Agenda developed 	Chief Officer/Heads of Service	April 2023	
Identify resources and recruit to a Planning Officer with responsibility for embedding equalities across the HSCP.	<ul style="list-style-type: none"> Planning Officer in post and delivering to work plan 	Head of Finance, Planning and Resources/Service Manager Planning and Performance	May 2023	
Develop a meaningful equality training programme for IJB Board members to ensure awareness and understanding of their role in equality duties.	<ul style="list-style-type: none"> Training programme developed and delivered No. of attendees. Pre and post training awareness levels 	Chief Officer	September 2023	
Establish a peer Equalities network (Champions) from across all HSCP service areas (team leader level) and support with appropriate training and development to carry out their role within services.	<ul style="list-style-type: none"> Training programme developed and delivered Improved awareness / knowledge and communications across the HSCP 	Heads of Services/ Service Manager Planning and Performance	June 2023	
Review HSCP website and ensure all equalities information is accessible.	<ul style="list-style-type: none"> Audit of Information on HSCP website is available and easy to access 	Service Manager Planning and Performance/Service Manager Business Support and Advice Services	July 2023	

Ensure as part of induction all staff undertake the E learning module on equalities on commencing employment.	<ul style="list-style-type: none"> No. of staff completed the module 	Heads of Service	May 2023	
Work with HSCP champions and services to identify all good practice in relation to mainstreaming equalities.	<ul style="list-style-type: none"> Examples of good practice 	Service Manager Planning and Performance	Ongoing/March 2024	
Report to IJB two yearly on all Equalities work (Mainstreaming Report).	<ul style="list-style-type: none"> Mainstreaming Report to IJB and published on website 	Chief Officer	March 2024 Then March 2026	

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Improvement Action 2 - Develop and publish Equality Outcomes every four years

Local Action(s)	How will we know/Measure?	Responsible Officer	Target Date	Progress Commentary and RAG Status
Develop evidence base for Inverclyde HSCPs Equality Outcomes	<ul style="list-style-type: none"> Evidence of Review previous Equality Outcomes/NHS GGC and Inverclyde Council Outcomes/ Review Strategic Needs Assessment 	Service Manager Planning and Performance	June 2023	
Creation of and distribute Equalities questionnaire for staff across Inverclyde HSCP to help inform the Equality Outcomes.	<ul style="list-style-type: none"> Questionnaire develop and return rate 	Service Manager Planning and Performance	May 2023	
Undertake wider community consultation (Involve people with protected characteristics) and engagement to identify key areas for inclusion in Equality Outcomes.	<ul style="list-style-type: none"> No. of community consultations Feedback from engagement 	Service Manager Planning and Performance	September 2023	
Develop a set of Equalities Outcomes based on evidence of need that have clear specific measurable Equality Outcomes.	<ul style="list-style-type: none"> Equality Outcomes developed 	Chief Officer/Service Manager Planning and Performance	November 2023	
Consult on Inverclyde HSCPs Equalities Outcomes. Adhere to the national standards of community engagement and engagement process.	<ul style="list-style-type: none"> Consultation undertaken with IJB and wider community 	Service Manager Planning and Performance	December 2023 IJB approval March 2024)	

Report to IJB on two yearly on progress of Equalities Outcomes	<ul style="list-style-type: none"> • Equalities Outcomes developed and Progress Report to IJB and published on website 	Chief Officer	March 2026	
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Improvement Action 3 - Develop and implement a functioning Equality Impact Assessment (EIA) system which includes a quality assurance process and ensure Equality Impact Assessments of all policies and practices are published

Local Action(s)	How will we know/Measure?	Responsible Officer	Target Date	Progress Commentary and RAG Status
Audit EQIA compliance across HSCP since April 2021.	<ul style="list-style-type: none"> No. of EQIAs completed No. of IJB papers identified where EQIA should have been undertaken Agreement at Equality Group of these should be undertaken retrospectively 	Heads of Service/Service Manager Planning and Performance	June 2023	
Develop a new EQIA process and guidance notes for Inverclyde HSCP including new EQIA form.	<ul style="list-style-type: none"> New HSCP form and guidance produced 	Service Manager Planning and Performance	August 2023	
Deliver training across HSCP services for all staff undertaking EQIAs.	<ul style="list-style-type: none"> No. of training sessions delivered No. of appropriate staff attending 	Service Manager Planning and Performance	Commence Sept 2023/ongoing	
Develop quality assurance process to ensure Head of Service sign off.	<ul style="list-style-type: none"> No of EQIAs submitted 	Chief Officer	September 2023	
Publish all EQIAs on HSCP website.	<ul style="list-style-type: none"> No of EQIAs published on yearly basis 	Service Manager Planning and Performance	With immediate effect	