

## PFCC Decision Report

**Report reference number:** 094-20

**Classification:** Not protectively marked

**Title of report:** Public Sector Equality Duty (PSED) Annual Report 2019/20

**Area of county / stakeholders affected:** Countywide

**Report by:**

Pippa Brent-Isherwood (Chief Executive and Monitoring Officer)

**Date of report:** 24 July 2020

**Enquiries to:**

Pippa Brent-Isherwood (Chief Executive and Monitoring Officer)

### 1. Purpose of the report

The purpose of this report is to gain approval for publication of the Public Sector Equality Duty (PSED) Annual Report 2019/20 attached at Appendix 1 and, in so doing, ensure the Commissioner's compliance with their statutory duty under the Equality Act 2010.

### 2. Recommendations

That the Public Sector Equality Duty (PSED) Annual Report 2019/20 attached at Appendix 1 is approved for publication.

### 3. Benefits of the proposal

The Equality Act 2010 (Specific Duties) Regulations 2011 (which came into force on 10 September 2011) require public bodies to publish relevant, proportionate information demonstrating compliance with the equality duty at least annually. Publishing the Annual Report attached at Appendix 1 is a clear means by which the Commissioner can discharge this duty.

#### 4. Background and proposal

The PFCC and the PFCCFRA are both subject to the Equality Act 2010 as employers, service providers and commissioners. The public sector equality duty (PSED) set out in section 149 of the Act stipulates that public authorities must, in the exercise of their functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

These are often referred to as the three aims of the general equality duty. In order to fulfil the equality duty, public bodies must ensure:

- Knowledge – Those who exercise the public body's functions need to be aware and conscious of the requirements of the equality duty. Having general regard to the issue of overarching issue of equality does not constitute compliance.
- Timeliness – The equality duty must be complied with *before* and *at the time* that a particular policy is under consideration, as well as at the time a decision is taken and acted upon, i.e. in the development of policy options; in making a final decision, and in the implementation of this. It cannot be satisfied by justifying a decision after it has been taken.
- Real consideration – Consideration of the three aims of the equality duty must form an integral part of the decision-making process.
- Sufficient information – The decision maker must consider what information they have and what further information may be needed in order to give proper consideration of the equality duty.
- No delegation – Public bodies are responsible for ensuring that any third parties which exercise functions on their behalf are capable of complying with the equality duty; are required to comply with it, and that they do so in practice. It is a duty that cannot be delegated.
- Review – Public bodies must have regard to the aims of the equality duty not only when a policy is developed and decided upon, but also when it is implemented and reviewed. The equality duty is a continuing duty, and decision makers should review policies and decisions if circumstances change.

In line with the associated guidance, the proposed Annual Report attached at Appendix 1 includes:

- Commentary regarding policies and programmes that have been put in place to promote equality;
- Formal and informal feedback received from residents and service users with different protected characteristics and how this has been responded to, and
- How the PFCC has responded to national reports and research that identify concerns about equality matters.

The proposed report also sets out how the PFCC has furthered equality, diversity and inclusions matters through their commissioning and grant-giving activity, and how such considerations have been reflected in the procurement processes undertaken.

## **5. Alternative options considered and rejected**

As set out above, the publishing of information demonstrating the Commissioner's compliance with the equality duty is a statutory requirement. As such, the Commissioner may choose not to publish the Annual Report attached at Appendix 1, or an amended version of it, but would need to identify an alternative means of demonstrating their compliance which will be made publicly available.

## **6. Strategic Plans**

Through the Police and Crime Plan 2016 - 2020 and Fire and Rescue Plan 2019 – 2024 the Commissioner has set a clear vision for both the force and the service. Working with, alongside and for diverse local communities are also key themes within both plans. The Commissioner, through their scrutiny programme, has worked hard with both the force and the service to embed these themes within their change programmes. This has included helping to attract and maintain more diverse workforces that better reflect the communities they serve, improving the services provided and, as a result, increasing the confidence those diverse communities have in the force and the service.

## **7. Operational implications**

While there are no direct operational implications for Essex Police or the Essex County Fire and Rescue Service arising from this report, the Commissioner's approach to equality, diversity and inclusion matters, as described in the Annual Report attached at Appendix 1, supports and strengthens their drive to become more diverse organisations capable of better delivering against their obligations within the Equality Act.

## **8. Financial implications**

There are no financial implications arising directly from this report.

## **9. Legal implications**

The Equality Act 2010 replaced all previous equality legislation in England, Scotland and Wales with a single Act. The majority of the Act came into force on 1 October 2010. The public sector equality duty set out in section 149 of the Act (which came into force on 5 April 2011) replaced the three previous public sector equality duties (for race, disability and gender) and stipulates that public authorities must, in the exercise of their functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it – which involves having due regard, in particular, to the need to:
  - Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
  - Take steps to meet the needs of people who share a relevant protected characteristic that are different from the needs of people who do not share it, and

- Encourage people who share a relevant protected characteristic to participate in public life or any other activity in which participation by such persons is disproportionately low.

This may require reasonable adjustments to be applied.

- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it – Which involves having due regard, in particular, to the need to tackle prejudice and promote understanding between people who share a protected characteristic and others.

The protected characteristics are:

- Age (including children and young people)
- Disability
- Gender reassignment
- Marriage and civil partnership (though only in respect of the requirement to have due regard to the need to eliminate discrimination)
- Pregnancy and maternity
- Race (including ethnic or national origins, colour or nationality)
- Religion and belief (including lack of belief)
- Sex
- Sexual orientation

It should be noted that equality information should not be published if doing so would breach the Data Protection Act or General Data Protection Regulation. In particular, it must be ensured that no individual can be identified from any published equality information without their express consent. It is accepted that small organisations (such as the PFCC's office) will not be able to disaggregate information for every protected characteristic due to sensitivities around collection and / or low numbers in the cohort.

## **10. Staffing implications**

The proposed Annual Report attached at Appendix 1 details the training and development that has been provided to the PFCC's staff in order that they can best support the Commissioner in discharging their statutory duties relating to equality, diversity and inclusion.

## **11. Equality and Diversity implications**

The proposed Annual Report attached at Appendix 1 describes how, during the 2019/20 financial year, the PFCC has discharged the public sector equality duty set out in the Equality Act 2010.

## **12. Risks**

Failure to comply with the Equality Act 2010 (and with the public sector equality duty contained within it) could result in challenge to the Commissioner through the courts and / or Employment Tribunal, and / or enforcement action by the Equality and Human Rights Commission (EHRC), which is the statutory body responsible for assessing compliance with and enforcing the Equality Duty. The EHRC has powers to undertake assessments under section 31 of the Equality Act 2006, in order to ascertain whether a public body has complied with the equality duty or not. It can issue compliance notices to public bodies that it believes have failed to comply, requiring them to provide information about the

steps they will take to comply, and can apply to the courts for an order requiring compliance. The general equality duty can also be enforced by Judicial Review, by either the EHRC or any individual or group of people with an interest. However the specific duties set out in the regulations cannot be enforced by Judicial Review.

Failure to achieve the three aims within the Equality Act would also increase the risk of the Commissioner being unable to realise their vision for the county contained within the Fire and Rescue Plan 2019 - 2024 and Police and Crime Plan 2016 – 2020.

**13. Governance Boards**

The Annual Report has been considered by the PFCC’s Senior Management Team (SMT) prior to publication.

**14. Background papers**

Appendix 1 – Public Sector Equality Duty (PSED) Annual Report 2019/20

**Report Approval**

The report will be signed off by the OPFCC Chief Executive and Treasurer prior to review and sign off by the PFCC / DPFCC.

Chief Executive / M.O. Sign: 

Print: P. Brent-Isherwood

Date: 24 July 2020

Chief Finance Officer / Treasurer Sign: 

Print: Elizabeth Helm

Date: 27 July 2020

**Publication**

Is the report for publication? YES  X  
NO

**If ‘NO’, please give reasons for non-publication** *(Where relevant, cite the security classification of the document(s). State ‘None’ if applicable)*

.....  
.....N/A.....

If the report is not for publication, the Chief Executive will decide if and how the public can be informed of the decision.

**Redaction**

If the report is for publication, is redaction required:

|                       |     |                                     |                 |     |                                     |
|-----------------------|-----|-------------------------------------|-----------------|-----|-------------------------------------|
| 1. Of Decision Sheet? | YES | <input type="checkbox"/>            | 2. Of Appendix? | YES | <input type="checkbox"/>            |
|                       | NO  | <input checked="" type="checkbox"/> |                 | NO  | <input checked="" type="checkbox"/> |

If 'YES', please provide details of required redaction:

.....  
.....N/A.....

Date redaction carried out: .....

**Treasurer / Chief Executive Sign Off – for Redactions only**

If redaction is required, the Treasurer or Chief Executive is to sign off that redaction has been completed.

**Sign:** .....

**Print:** .....

**Chief Executive/Treasurer**

**Date signed:** .....

**Decision and Final Sign Off**

I agree the recommendations to this report:

**Sign:** 

**Print:** Jane Gardner

**Deputy PFCC**

**Date signed: 31 July 2020**

I do not agree the recommendations to this report because:

.....  
**Sign:** .....

**Print:** .....

**PFCC/Deputy PFCC**

**Date signed:** .....