N

REGIONAL BOARD REPORT

Subject: Equality Act 2010 (Specific Duties) (Scotland) Amendment Regulations 2016	**Purpose:** **For Approval** ☐ **For Discussion** ☐ **For Information** ☒
Prepared by: David Killean	**Date:** 15 February 2017

Purpose: To inform the Board on how the statutory reporting of equality monitoring impacts on them.

Executive Summary:

The attached letter from the Scottish Government explains the requirement to report equality monitoring of Board members within the mainstreaming report as set out in the specific Scottish public duties related to the Equality Act 2010.

Monitoring is required for gender only. It acknowledges that reporting on other protected characteristics may not be secure (as it may identify individuals). It will undertake further work in this area.

It also asks the Board to report on the action it is taking to increase the diversity of its membership.

Recommendation: To note the contents of the letter.

Previous Committee Approvals:

For publication ☒	**For publication with redactions** ☐	**Not for publication** ☐

Signed:

Author **Principal**

Local Government and Communities Directorate
Equality.

αβχδεφγηι

Board Chairs, Chief Executives and Equality

αβχ

31 January 2017

The Equality Act 2010 (Specific Duties) (Scotland) Amendment Regulations 2016

I am writing to provide you with an update on the implementation of the Equality Act (Specific Duties) (Scotland) Amendment Regulations 2016 which came into force on 18 March 2016.

Scottish Ministers are committed to achieving greater diversity on the Boards of public authorities, so that Boards are more reflective of the populations they serve, understand the needs of their stakeholders and benefit from fresh perspectives and new ideas. Ultimately, more diverse Boards should result in better governance, decision-making and performance.

Background

To assist with this ambition, the Scottish Government made amendments to the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012. These regulations focus on outcomes and encourage the integration of equality considerations in the core business of public authorities. They set a supporting framework for the public sector equality duty, based on data collection and evaluation, transparency and accountability. In this way they help authorities to better perform the duty, which requires us to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations.

The amendments to these regulations require Scottish Ministers, from time to time, to gather information on the relevant protected characteristics of Board members of a listed authority, and to provide this information to the listed authority in question. In turn, listed authorities must use this information to better perform the public sector equality duty.

Diversity Data Collection

The collection and collation of diversity data requires careful consideration and we have appreciated the contribution made by authorities to date towards developing an appropriate and workable approach. During the process of testing the Scottish Government's data collection platform for the gathering of diversity information, we identified a need to look again at the process and carry out further engagement work with you, in order to ensure that listed authorities are confident that the process is robust, fully secure and will work for your organisations.

The Scottish Government therefore plans, over the course of 2017, to undertake further work with listed authorities on the process for gathering Board diversity data and the mechanism for providing information to Boards.

Board Diversity Information: Listed Authorities' 2017 Mainstreaming Reports

In the light of the above, information on the protected characteristics of Board members will not be provided to you before the publication of your 2017 Mainstreaming Report. As such, the following information on Board diversity is what will be required in these reports:

- the number of men and women who have been members of your Board during the period covered by the report, and

- the action your authority proposes to take in the future to promote greater diversity of Board membership. As this is the first time you are reporting on this area of work it is expected that the information you give will be a sign-posting of future activity. However, where activity is already underway to improve the diversity of the Board, authorities may find this provides an opportunity to highlight these developments To assist you, examples of the type of information that could be included in your mainstreaming report are included in new guidance on Board succession planning, and a toolkit of resources, which is available here: http://www.gov.scot/Topics/Government/public-bodies/BoardChairs

The existing reporting requirements contained in the regulations are not affected. In particular, this does not affect the implementation of the amendment to the regulations that lower the threshold for listed public authorities to publish their gender pay gap and statements on equal pay and occupational segregation, from those with more than 150 employees to those with more than 20 employees.

Next Steps

We know that there is good progress being made in relation to improving the diversity of Boards and this is being driven by your commitment to action in this area. We hope that you will continue to take forward work in relation to succession planning, including outreach to, and development of, potential Board members with a diverse range of characteristics, knowledge, skills and experience.

In relation to developing the process for gathering Board diversity data, we will write to you separately about the next steps and the timing of this work. Please contact me at eileen.flanagan@gov.scot or tel: 0131 244 5209 if you require any further information or clarification on this correspondence or on any wider aspects of the regulations or the data collection process.

Yours faithfully

Eileen Flanagan
Equality, Human Rights and Third Sector Division