

Scottish Social Services Council

Equality & Diversity

Internal Audit Report No: 2021/01

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LEVEL OF ASSURANCE

Requires Improvement

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Level of Assurance

In addition to the grading of individual recommendations in the action plan, audit findings are assessed and graded on an overall basis to denote the level of assurance that can be taken from the report. Risk and materiality levels are considered in the assessment and grading process as well as the general quality of the procedures in place.

Gradings are defined as follows:

Good	System meets control objectives.
Satisfactory	System meets control objectives with some weaknesses present.
Requires improvement	System has weaknesses that could prevent it achieving control objectives.
Unacceptable	System cannot meet control objectives.

Action Grades

Priority 1	Issue subjecting the organisation to material risk and which requires to be brought to the attention of management and the Audit and Assurance Committee.
Priority 2	Issue subjecting the organisation to significant risk and which should be addressed by management.
Priority 3	Matters subjecting the organisation to minor risk or which, if addressed, will enhance efficiency and effectiveness.



Management Summary

Overall Level of Assurance

Requires Improvement

System has weaknesses that could prevent it achieving control objectives.

Risk Assessment

This review focused on the controls in place to mitigate the following risks on the Scottish Social Service Council (SSSC) Strategic Risk Register:

- The SSSC fail to meet corporate governance, external scrutiny and legal obligations (Current risk rating - Moderate)
- The SSSC fail to develop and support SSSC staff appropriately to ensure we have a motivated and skilled workforce to achieve our strategic outcomes (Current risk rating - High)

Background

As part of the Internal Audit programme at SSSC for 2020/21 we carried out a review of the arrangements in place to deliver the duties relating to equality and diversity. This was identified by the Executive Management Team as an area where risk can arise and where Internal Audit can assist in providing assurances to the Council and the Chief Executive that the related control environment is operating effectively, ensuring risk is maintained at an acceptable level. This position was endorsed by the April 2020 meeting of the Audit and Assurance Committee.

The public sector equality duty, which is set out in the Equality Act 2010 (Specific Duties) (Scotland), came into force in April 2011. This is often referred to as the 'General Duty' and requires Scottish public bodies to have 'due regard' to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. The duty to eliminate discrimination in the area of employment, also covers marriage and civil partnership.

Background (Continued)

The Equality Act also gives Scottish Ministers the power to impose specific equality duties through regulations. These duties require Scottish public bodies to:

- report on mainstreaming the equality duty;
- publish equality outcomes and report progress;
- assess and review policies and practices;
- gather and use employee information;
- publish information on board diversity and succession planning;
- publish gender pay gap information;
- publish statements on equal pay;
- consider award criteria and conditions in relation to public procurement; and
- publish required information in a manner that is accessible.

Scope, Objectives and Overall Findings

The scope of this audit was to carry out a review of the systems and procedures in place to integrate equality into the day-to-day working activities of the SSSC, which allow the organisation to meet the legislative and regulatory requirements of the Equalities Act and to examine future plans to enhance existing arrangements.

The table below notes the objective for this review and records the results:

Objective	Findings				
		1	2	3	Action is already in progress
The specific objective of this audit was to obtain reasonable assurance that:					
1. SSSC is taking reasonable steps to ensure compliance with its legal duties within the Equalities Act.	Satisfactory	0	0	1	✓
2. Plans, policies, procedures and structures are in place to meet its equality duties.	Requires improvement	0	0	1	✓
3. Monitoring and reporting of the SSSC mainstreaming activities is in place.	Good	0	0	0	
4. Governance arrangements are in place to ensure that SSSC is meeting its requirements within Section 149 of the Equality Act on an ongoing basis.	Requires improvement	0	1	1	
Overall Level of Assurance	Requires improvement	0	1	3	
System has weaknesses that could prevent it achieving control objectives.					

Audit Approach

We assessed whether these objectives have been met by meeting with the CEO and other key staff responsible for equalities mainstreaming and comparing the current approach to equalities mainstreaming against the good practice guidance issued by the Equality and Human Rights Commission (EHRC). The review was primarily of the systems and procedures in place although compliance testing was carried out where appropriate.

Summary of Main Findings

Strengths

- From our review of documentation, we consider that the SSSC does generally comply with equalities legislation and regulations;
- The SSSC publishes the mainstreaming and Gender Pay Gap reporting in line with the requirements of the Act and this is also detailed within its statutory reporting for the Scottish Sector Workforce Report and also the Mental Health Officer (MHO) in Scotland Report;
- The SSSC meets the requirements set out within Section 149 of the Equality Act;
- There is a process in place for assessing equality and diversity impacts within the SSSC, through the use of standard Equality Impact Assessments (EQIAs);
- The completion of EQIAs are now a mandatory requirement in relation to the completion (or updating) of all SSSC policies and procedures;
- The role of the Equalities Working Group (EWG) is being expanded to improve awareness and training around equalities issues across the organisation;
- During our review, we identified that the SSSC is actively progressing work to further improve and refine its equalities policy framework and associated processes; and
- Our review confirms that the SSSC has a desire to comply with its legal obligations and can also demonstrate that the organisation actively embraces the core concepts of equality and diversity in its working practices.

Weaknesses

- The leadership of the EWG lacks senior management input;
- The SSSC does not currently have an up to date Equality and Diversity Policy in place;
- There is no formal SSSC specific guidance in place and there is no training available for staff on how to complete an EQIA;
- The SSSC does not have complete records on the protected characteristics for all of the current staffing complement;
- There is no regular survey of staff to ensure that all equalities related information which is held is accurate and up to date; and
- The SSSC does not gather complete information on equalities, including those with protected characteristics (as defined by the Equalities Act 2010), for those individuals registered to work in the social services sector in Scotland.

Acknowledgements

We would like to take this opportunity to thank the staff at SSSC who helped us during our review.

Main Findings and Action Plan

Objective 1 - SSSC is taking reasonable steps to ensure compliance with its legal duties within the Equalities Act

As a public body, the SSSC is required to comply with the 2010 Equalities Act and specifically the requirements within section 149. Our audit confirms that in order to achieve compliance with these requirements the SSSC has implemented a number of policies and procedures with equalities implications which underpin the required equalities requirements in key areas such as HR, recruitment, and procurement as required within the Act. This includes the use of EQIAs to assess the equality and diversity impacts when business decisions are taken. The SSSC also take the opportunity to collect data on staff during its recruitment process in order to capture data for the organisation in relation to protected characteristics.

The audit also confirmed that that all business decisions taken by the Executive Management Team (EMT) and the SSSC Council are subject to an equality assessment as part of their decision-making process. SSSC's process to manage its policies and procedures has been recently updated and now requires the completion of an EQIA for all new and updated policies and procedures. Completed EQIAs are also made publicly available through the SSSC's website. The SSSC procurement policy and approach was reviewed as part of this review and we can confirm that it is fully compliant with the relevant aspects of equalities legislation.

The SSSC also have an accessibility statement to allow as many people as possible to view the webpage and will also make all documents available in braille if required. As well as policies in place to embed the equality requirements and their compliance within the SSSC the EWG was established in 2012 to:

- Support the mainstreaming of equalities within the SSSC;
- Provide evidence which contributes towards the SSSC equality outcomes;
- Promote and support good practice in equalities throughout the SSSC; and
- Assist the SSSC to meet its responsibilities in relation to legislation (primarily the development of mainstreaming and outcomes reports as required by the EHRC).

Equality and Diversity

Objective 1 - SSSC is taking reasonable steps to ensure compliance with its legal duties within the Equalities Act (Continued)

The EWG includes representatives from departments across the SSSC, as well as representation from the Care Inspectorate. Key activities of the EWG are the monitoring of ongoing delivery of the Equality Outcomes Action Plan 2017-21; raising awareness of the equality agenda; and encouraging consistent application of equality outcomes within SSSC. The EWG is currently updating its Terms of Reference to accurately reflect the equalities focus within the SSSC going forward.

Overall, there is an adequate effective operational framework in place within SSSC to consider equality and diversity issues, with the EWG playing a key role in continuing to champion and raise awareness around the equalities agenda. However, it is our view that these arrangements are weakened by the absence of an EMT representative on the EWG.

Observation	Risk	Recommendation	Management Response
The membership of the EWG does not currently contain any members of the SSSC EMT.	Without this level of visible senior management support and input it may diminish the impact of the Group to effectively deliver training, awareness or any improvements in the equality process and its application across SSSC in order to ensure full compliance with all aspects of the 2010 Equalities Act.	R1 As part of the ongoing review of the EWG terms of reference, consideration should be given to the introduction of a member of the EMT to act as the executive lead for Equality and Diversity and to chair future meetings of the EWG.	<p>Yes agreed. This has been completed with the Director of D&I now chairing the group.</p> <p>To be actioned by: Chief Executive</p> <p>No later than: 30 June 2020</p>
			<p>Grade 3</p>

Equality and Diversity

Objective 2 - Plans, policies, procedures and structures are in place to meet its equality duties.

The SSSC current Equality and Diversity Policy formally sets out the aims and objectives for the organisation to meet its legal duties around equality and diversity; raise awareness of these issues; and describe a monitoring framework to ensure ongoing compliance across the SSSC, but the policy was last updated in 2009. We were advised that an Equality and Diversity Policy is currently being drafted which will encompass all equalities, not just HR issues, and that this updated and expanded policy will be submitted for Council approval in August 2020.

Our audit confirmed that although the current policy predates the implementation of the 2010 Equalities Act, there is a requirement to consider equalities issues when any activity or policy changes occur and to complete an EQIA to assess the impact. Completed EQIAs are submitted to the Performance and Improvement Department. This allows ongoing monitoring of the completion of EQIAs across all parts of the SSSC. In addition, the recently introduced SSSC policy process, for new and updated policies, introduced the mandatory completion of an EQIA. There is specific guidance in place for EQIA completion with advice, guidance, and support also available from the Performance Improvement Department.

While our review did confirm that in general terms the SSSC complies with its legal duties in relation to the Act, the absence of an up to date Equality and Diversity Policy does weaken the effectiveness of the current controls in place.

Equality and Diversity

Objective 2 - Plans, policies, procedures and structures are in place to meet its equality duties. (Continued)

As part of our audit review we tested the following completed EQIAs to ensure that they complied with both SSSC requirements and best practice as defined by the EHRC:

- Information Materials;
- Providing public information on SSSC conduct hearings;
- Registrants and employers use and understand the Codes of Practice
- Dignity at work Policy;
- Drugs and Alcohol policy;
- Pay award 2019-20
- SSSC Corporate Webpage; and
- Step into Leadership.

On reviewing these completed EQIAs a degree of inconsistency in completion of the EQIA documentation was evident. There is no tailored, SSSC specific guidance in place on how to complete an EQIA. The latest guidance, issued in 2018, refers staff to the generic Equalities and Human Rights Commission (EHRC) guidance. Our testing also identified that three different forms have been used to undertake EQIA completion since 2014. This lack of consistency in approach weakens the overall effectiveness of this process.

A key role for the EWG is to be the key source of expertise and support in the completion of the EQIAs across SSSC. It is the intention that the Group should provide support in the completion of EQIAs at their draft stage, increasing the awareness of staff and managers in completing an EQIA and ensuring a degree of consistency in their completion.

The most recently introduced EQIA form contains a more detailed assessment of the equality impacts and we can confirm that this is aligned with the best practice as defined by the EHRC. Our review of the most recently completed EQIAs does show a much more detailed analysis and evaluation of the equality impacts. However, it is apparent that not all EQIAs currently in place have been completed to this standard. Support is available for those completing the EQIAs from the EWG as part of their enhanced role. However, there is no formal training in place at present for the completion of an EQIA within the SSSC.

Performance and Improvement Department log all completed EQIAs and this tracking, together with the mandatory requirement for all new procedures and policies to have an associated EQIA completed, will ensure that current policies and procedures being updated will complete EQI's in line with best practice as defined by the EHRC. However, the absence of SSSC specific guidance and formal training in this area does weaken the effectiveness of the overall controls in place.

Equality and Diversity

Objective 2 - Plans, policies, procedures and structures are in place to meet its equality duties.

The most recently introduced issued EQIA form contains a more detailed assessment of the equality impacts and we can confirm that this is aligned with the best practice as defined by the EHRC. Our review of the most recently completed EQIAs demonstrates a much more detailed analysis and evaluation of the equality impacts than previous EQIA documents examined. However, it is apparent that not all EQIAs, which are currently in place, have been completed to this standard. Support is available for those completing the EQIAs from the EWG as part of their enhanced role. However, there is no formal training in place at present for the completion of an EQIA within the SSSC.

Observation	Risk	Recommendation	Management Response
There is no formal SSSC specific guidance in place and there is no training available for staff on how to complete an EQIA; how to identify and fully assess the equalities and diversity impact; and how to devise suitable responses to ensure the requirements of the Equalities Act 2010 are fully met.	There is a risk that lack of knowledge around how to complete the EQIA documentation correctly may impact on the ability to consistently comply with all aspects of the Equalities Act 2010.	R2 The SSSC should develop and implement specific, step by step guidance, and associated training, for all staff on how to complete an EQIA.	<p>In addition to generic equalities training already complete the Equalities working group will roll out new guidance for those who complete EIA.</p> <p>To be actioned by: Director of Strategy & Performance</p> <p>No later than: 31 August 2020</p>
			<p>Grade 3</p>

Equality and Diversity

Objective 3 - Monitoring and reporting of the SSSC mainstreaming activities is in place

From discussion with those interviewed, and review of relevant documentation, we assessed how the SSSC meets its reporting requirements as described within the Equality Act 2010. A summary of our findings is outlined below:

1. Requirement - Duty to report progress on mainstreaming the equality duty

In place - The SSSC most recent Equality Mainstreaming report was issued in April 2019. An audit evaluation of this report concluded that not only has the SSSC complied with the timescales for publication, but the report also contains all the details required by this duty. The audit concluded that the SSSC does comply with the requirements of this duty.

2. Requirement - Duty to publish equality outcomes and report progress

In place - The SSSCs Equality Mainstreaming Report issued in April 2019 sets out the Equality Outcomes agreed in the previous report, together with details on the progress made in meeting these objectives. The SSSC Mainstreaming Report, issued in April 2019, was evaluated and found to comply with the requirements of this duty.

3. Requirement - Duty to assess and review policies and practices

In place - The SSSC has recently introduced a new approach for managing and reviewing policies and procedures. All policies and procedures are now required to compete an EQIA to assess the impact on equalities issues. All policies are now held by the compliance team enabling them to be reviewed and updated in line with the agreed review timescales. With this new approach in place the audit concluded that the SSSC does comply with the requirements of this duty.

4. Requirement - Duty to publish gender pay gap information

In place - The SSSC has included its Gender Pay Analysis Report and Action Plan within its 2019 Mainstreaming Report issued in April 2019, based on staff data as of 31 January 2019. Section 6.6 within the reports states:

“Our gender pay gap as of 31 January 2019 using median figures is 23.9%. This means that women working at the SSSC earn, on average, 76.1% of the average wage of men working. This has shown a positive move from 2015 when our median pay gap was 29.5% and is currently higher than both the Scottish average (15% in 2018) and the UK average (17.9% in 2018).”

Therefore, the audit concluded that the SSSC does comply with the requirements of this duty.

Equality and Diversity

Objective 3 - Monitoring and reporting of the SSSC mainstreaming activities is in place (Continued)

5. Requirement - Duty to publish statements on equal pay, etc.

In place - Our evaluation confirmed that the SSSC's Equalities Mainstreaming Report, published in April 2019, contains all the information required by this duty. This report was based on staff data as at 31 January 2019. Therefore, we can conclude that the SSSC does comply with the requirements of this duty.

6. Requirement - Duty to consider award criteria and conditions in relation to public procurement

In place - The SSSC's Procurement Strategy section 4 states that:

"In line with the Equality Act 2010 and the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012, we consider equality throughout our tender processes and comply with legislation. Suppliers must not unlawfully discriminate against any person within the meaning of the Equality Act 2010 in its activities relating to contracting with the Care Inspectorate and SSSC. This is included in our standard terms and conditions. Also included in our tender documentation and our standard terms and conditions is a requirement that suppliers comply with the Employment Relations Act 1999 (Blacklists) Regulations 2010 which address blacklisting activities."

Our audit concludes that the SSSC does comply with the requirements of this duty.

7. Requirement - Duty to consider other matters

In place - The SSSC has a statutory requirement to publish the following reports:

- Scottish Sector Workforce Report; and
- MHO Report.

A review of these reports, which were last published in 2018, also confirmed that the equalities aspect in relation to the protected characteristics are captured in these reports. The audit concluded that the SSSC is currently complying with this requirement.

Equality and Diversity

Objective 4 - Governance arrangements are in place to ensure that SSSC is meeting its requirements within Section 149 of the Equality Act on an ongoing basis. (Continued)

1. Requirement - Duty to gather and use employee information

In place - The SSSC gathers this information during its recruitment process through the completion of Equal Opportunities forms and uses the information not only to develop its equalities policy and processes but also for inclusion within the workforce data included in sections 6.1 - 6.5 of the 2019 Mainstreaming Report.

An evaluation of the Equalities Mainstreaming Report confirms that they contain all the required information. The collection of this data is recognised by management as a critical component in understanding how the SSSC plans to improve and ensure equalities mainstreaming. However, some concerns were expressed around the completeness of this information, and this is acknowledged within the published reports. At present, there are weaknesses in the data gathering of the protected characteristics at the recruitment stage, where completion of the equalities monitoring form is not mandatory. While improvements are being made to the recruitment process to ensure the collection of this information going forward it is apparent that for at least the last 18 months this information has not been consistently collected. Therefore, the SSSC does not currently hold complete equality and diversity information for all of its staff. The audit review has confirmed that the SSSC does comply with the reporting requirements within the Equalities Act 2010. However, the known data quality issues in collecting the necessary data does significantly weaken the effectiveness of the control in this area.

Equality and Diversity

Objective 4 - Governance arrangements are in place to ensure that SSSC is meeting its requirements within Section 149 of the Equality Act on an ongoing basis. (Continued)

Observation	Risk	Recommendation	Management Response	
<p>The SSSC does not have complete records on the protected characteristics for all of the current staffing complement due to historic weaknesses in consistently gathering this data as part of the recruitment process.</p>	<p>The SSSC is not in a position to demonstrate full compliance with section 149 of the Equalities Act 2010.</p>	<p>R3 The SSSC should ensure that all applicants complete the equality monitoring form before any application for employment can be considered.</p>	<p>Completion of the equalities monitoring section will be part of a new online application form, which will require applicants to go through before they submit however legally we cannot ask applicants to answer questions and they can choose 'prefer not to say'</p> <p>To be actioned by: Head of HR</p> <p>No later than: 31 December 2020</p>	
			<p>Grade</p>	<p>2</p>

Equality and Diversity

Objective 4 - Governance arrangements are in place to ensure that SSSC is meeting its requirements within Section 149 of the Equality Act on an ongoing basis. (Continued)

Observation	Risk	Recommendation	Management Response
<p>With the introduction of the self service capability through the Myview HR system, the SSSC has the opportunity to engage with staff to review and update their personal records within the new HR system. By ensuring that this information is regularly updated the SSSC should be able to address some of the current gaps around protected characteristic within the information it gathers and holds on staff.</p>	<p>The SSSC does not have complete records on the protected characteristics for all of its staff and is therefore not in a position to demonstrate full compliance with section 149 of the Equalities Act 2010.</p>	<p>R4 The SSSC should utilise the recent introduction of Myview as the catalyst to request that all staff update their personal details, including relevant Equalities information.</p> <p>The SSSC should monitor the updating of this information and identify the staff who have not complied with this request and issue them with frequent reminders in order to fully complete this task.</p> <p>The higher the completion rate, the more complete the information held by SSSC around protected characteristics will be. Therefore, EMT should receive regular updates on the status of staff completion of personal details on Myview.</p>	<p>HR will request completion of details by staff through various communication channels for existing staff and ensure that the induction process request completion for new starts if not already collected. We cannot mandate completion of questions, as staff can choose 'prefer not to say'. HR will provide information to allow Heads of Service to monitor completion rates and the Equalities Working Group will review completed information annually.</p> <p>To be actioned by: Head of HR</p> <p>No later than: 31 August 2020</p>
			<p>Grade 3</p>

Equality and Diversity

Objective 4 - Governance arrangements are in place to ensure that SSSC is meeting its requirements within Section 149 of the Equality Act on an ongoing basis. (Continued)

The findings and recommendations highlighted above relate to staff directly employed by the SSSC. However, the SSSC, as required by the Regulation of Care (Scotland) Act 2001, also maintains 21 separate registers to regulate social service workers and to promote their education and training. These registers include social care workers, social workers, social work students and early years workers in a range of care services, in residential and day centres, community facilities and in individuals own homes. In addition, a key role for the SSSC is to invest in, and develop, the social service workforce in Scotland.

While the application process and its guidance for those applying for SSSC registration does ask applicants for health-related information, however there is no specific equalities questions asked. The SSSC also issues statutory reports on the social care workforce in the following areas:

- Scottish Sector Workforce Report; and
- MHO Report.

A review the last published reports in 2018, does confirm that there is an equalities analysis section within these reports. This section is based on the returns from external stakeholder bodies.

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