

ICCAN Board Meeting

Equalities paper	
Board meeting date:	30 October 2019
Paper author:	Andy Ginever (Finance and Business Manager)
Item No:	2019/10/3
DECISION/APPROVAL - YES	
SEEKING STEER - NO	
UPDATE/FOR INFORMATION -NO	
Purpose of paper / slides:	
To advise Board of ICCAN's responsibilities under the Equality Act 2010	
Outcome sought:	
To obtain Board's approval that ICCAN will have regard to the general duty set out in the Act, and that that it will conduct equality analysis of it work.	
Timetable:	
To be implemented as soon as possible.	
Budget/Resource Implications:	
N/A	

EQUALITY ACT 2010

1. The Equality Act 2010 replaced previous separate pieces of legislation in relation to equalities, and introduced a general equality duty on public authorities. It places specific duties on public authorities specifically named in Schedule 19 to the Act (and accompanying secondary legislation); however, the Independent Commission on Civil Aviation Noise is not a named body and therefore only the general duty on the organisation exists – the specific duties are therefore not considered further in this paper. Whilst the public sector equality duty (PSED) encompasses both, in this paper it refers just to the general duty.

2. The PSED is set out in section 149 of the 2010 Act, and requires a public authority in the exercise of its functions to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under [the 2010 Act];
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.’ (tackle prejudice and promote understanding)

3. Board will wish to note that, while a ‘public authority’ is defined by the 2010 Act as ‘a person specified in Schedule 19’ to the 2010 Act – the duty set out in section 149 applies to public authorities listed, (as mentioned above, the Independent Commission on Civil Aviation Noise is not one) and persons exercising public functions in the exercise of those functions.

4. This means that whilst the Independent Commission on Civil Aviation Noise is not a public authority for the purposes of the 2010 Act, it must still comply with the PSED in so far as it is exercising its public functions. This applies therefore to the Independent Commission on Civil Aviation Noise in the exercise of its public functions.

5. The equality duty requires public bodies such as the Independent Commission on Aviation Noise to have due regard to the need to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010;
- advance equality of opportunity between people who share a protected characteristic and people who do not share it;
- foster good relations between people who share a protected characteristic and people who do not share it.

The protected characteristics covered by the equality duty are:

- age
- disability
- gender reassignment
- marriage and civil partnership (but only in respect of eliminating unlawful discrimination)
- pregnancy and maternity
- race—this includes ethnic or national origins, colour or nationality
- religion or belief—this includes lack of belief
- sex
- sexual orientation

6. Whilst the legislation is not prescriptive about the approach public authorities (or those otherwise exercising public functions) should take to the PSED, it is clear that the duty is a duty to have regard to the need to achieve certain ends rather than a duty to achieve a particular outcome. It is essential therefore that public authorities have regard to these matters when devising their recommendations and making decisions and are able to show that they have. The Equalities and Human Rights Commission (EHRC) has issued guidance to public sector authorities, to explain how such authorities can meet the requirements of the 2010 Act, and it is the intention that the Independent Commission on Civil Aviation follows this guidance in its application of the PSED.

7. The guidance states that ‘the broad aim of the public sector equality duty is to integrate consideration of equality and good relations in the day-to-day business of public authorities ... It requires equality considerations to be reflected in the design of policies and delivery of services ... and for these to be kept under review’.

The guidance suggests, among other things, that public bodies should conduct an ‘equality analysis’ of its work – and act on the outcomes of that analysis – in order to fulfil its obligations under the 2010 Act.

The analysis should be proportionate to the size of the organisation and scope of the policy, and should be made available (on the internet and otherwise publicly on request). It is recommended that the Independent Commission on Civil Aviation Noise undertakes an Equality Analysis in the development of its work and considerations in order to meet the duty in respect of the exercise of its functions.

Recommendations

8. Board is invited to agree, therefore, that:

- a) It will have regard to the general duty set out in the Equality Act 2010 in carrying out its functions;
- b) The Independent Commission on Civil Aviation Noise will conduct an equality analysis of its work including the manner in which we engage, consult and communicate with the general public, and act upon its results;
- c) The analysis, and the agreed policy from this paper, be published on the website and made otherwise freely available on request.