

CABINET

28 SEPTEMBER 2010

REPORT OF THE CABINET MEMBER FOR CRIME, JUSTICE AND COMMUNITIES

Title: Single Equality Scheme Update	For Decision
<p>Summary:</p> <p>This report seeks Cabinet authorisation for the Council's first Single Equality Scheme (SES). The SES will bring together the three existing equality schemes (Race, Gender and Disability) and extend them to cover a range of other equality issues which reflect 'protected characteristics' identified in the new Equality Act 2010.</p> <p>The Scheme has been developed through a process of internal consultation and with relevant equalities groups in the borough.</p> <p>Whilst the SES brings the Council's planned activities together, it is expected that objectives, actions to be taken and results will be developed and reported as part of the Council's core business planning and though established performance review processes across the Council.</p> <p>Once approved, the Single Equality Scheme will enable the Council to continue to meet its legal duties relating to equality and diversity. As it is implemented over the next three years, the SES will enable the Council to continue to deliver further real improvements in equality for people living and working in the borough and in so doing help the authority to maintain level 5 of the Equality Standard for Local Government (and its equivalent under the new revised Equalities Framework).</p> <p>It is further proposed to develop a Single Equality Scheme for the Local Strategic Partnership within the next financial year that will encompass the work of all statutory partners.</p> <p>Wards Affected: All</p>	
<p>Recommendation(s)</p> <p>The Cabinet is recommended to agree:</p> <ul style="list-style-type: none">(i) the Single Equality Scheme as summarised in section 2 and set out in Appendix A(ii) to authorise officers to work with statutory partners to develop a Single Equality Scheme for the Local Strategic Partnership	
<p>Reason(s)</p> <p>To assist the Council in achieving both its legislative duties and its community priorities, in particular "Fair and Respectful"</p>	

Comments of the Chief Financial Officer		
The costs associated with the implementation of the Single Equality Scheme will be met from within existing budgets.		
Comments of the Legal Partner		
The Equality Act 2010 is a consolidating piece of legislation which also extends discrimination law protection in certain areas. The primary purpose of the Act is to codify the complicated and numerous array of Acts and Regulations, which formed the basis of anti-discrimination law in the United Kingdom. This was, primarily, the Equal Pay Act 1970, the Sex Discrimination Act 1975, the Race Relations Act 1976, the Disability Discrimination Act 1995 and three major statutory instruments protecting discrimination in employment on grounds of religion or belief, sexual orientation and age. The Act also places a new single equality duty on public authorities. The provision of the Act and the scheme proposed to implement it is covered in the body of the report. The Act will come into force in stages with the main provisions coming into force on 1 October 2010.		
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1 Background

- 1.1 The Equality Act received Royal Assent on 8 April 2010. The Act is the most significant piece of equality legislation for many years. It is designed to simplify, streamline and strengthen the law, giving individuals greater protection from unfair discrimination and make it easier for public bodies and companies to understand their responsibilities. Nine major pieces of legislation and around 100 other measures have been replaced by this single Act. It will also set a new standard for those who provide public services to treat everyone with dignity and respect.
- 1.2 Most of the provisions of the Equality Act will come into force on 1st October 2010. The so-called integrated 'public sector equality duty' and socio-economic duty provisions are still subject to further consideration and consultation.
- 1.3 The Council is regarded as a high achiever in promoting equality and diversity in the borough. In April 2009, the Council was conveyed the highest level (Level 5) under the Equality Standard for Local Government (ESLG). It is expected that the Council will maintain that status under the new Equalities Framework for Local Government.
- 1.4 The Council is already required to consider how it will ensure it treats people of different races, disabled people, men and women fairly and equally.

- 1.5 The Council has previously had three separate statutory schemes in place, covering, race (different ethnic groups and cultures), gender (men, women and transgender) and disability (disabled people).
- 1.6 The Race Equality Scheme is currently time expired (at the end of 2009). The Disability and Gender Schemes are still current. The proposed SES incorporates and updates all of these schemes.
- 1.7 The Equality Act 2010 now makes the law more explicit and adds extra groups of people who are protected by legislation;
- People of different ages
 - Lesbian, gay and bisexual people.
 - The duty now fully covers people who have changed their sex or are in the process of doing so
- 1.8 The Act provides protection from “prohibited conduct” which includes:
- direct discrimination
 - indirect discrimination
 - harassment
 - victimisation
- 1.9 Also included is ‘combination discrimination’. In other words, people are enabled to bring claims where they have experienced less favourable treatment because of a combination of two protected characteristics e.g. discrimination because an individual is black and disabled.
- 1.10 The following describes the various groups of people who are covered by the new law. These are also called “**protected characteristics**”:
- **Race, religion or belief:** People from black and minority ethnic groups and people with different religions and beliefs
 - **Disability:** Disabled people
 - **Age:** A person belonging to a particular age group, e.g. young and old people
 - **Sex:** Gender, ie being a Man or a Women
 - **Sexual Orientation:** ie lesbian, gay and bisexual people
 - **Gender Reassignment:** People who have changed their sex or are in the process of doing so
 - **Pregnancy and maternity:** Women having a baby, and women just after they have had a baby.
 - **Marriage and civil partnership:** People who have or share the common characteristics of being married or of being a civil partner (but this is not covered by the Public Sector Equality Duty – see 1.13 below)
- 1.11 The Act confers a ‘**general duty**’ on public bodies to have due regard to the need to:
- **Eliminate** conduct which is prohibited under 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

1.12 The Act also:

- **Extends** the existing **race, gender and disability duties** to cover all main protected characteristics (NB excluding marriage and civil partnerships)
- Enables the introduction of **specific duties relating to public sector procurement**.
- Makes further regulations outlawing **unjustifiable age discrimination** by those providing goods, facilities and services
- Strengthens the law to protect people who are **associated with a protected person** e.g.: a carer of a disabled person
- Prohibits discrimination on grounds of pregnancy / maternity in **schools** (i.e. pupils)
- Makes terms in **contracts**, collective agreements or rules unenforceable or void if they result in discrimination
- Removes the prohibition on registering **civil partnerships in religious premises**
- Extends permission for political parties to use **women-only shortlists** for election candidates to 2030
- Requires **political parties** to publish information on the diversity of candidates

1.13 For public authorities such as Councils there is a '**Single Equality Duty**', which requires public bodies to plan for the diverse needs of their workforce and the communities they serve. While this duty does not require the Council to produce a **Single Equality Scheme** (SES), the Council is seeking to follow best practice elsewhere in bringing together its approach to equalities in a common framework (ie the Scheme).

1.14 The Equality Act includes a new duty for public bodies to consider **socio-economic disadvantage** when, for example, deciding priorities and setting objectives. That is, it should consider the effect that proposals will have on people with different incomes. The Conservative Party previously indicated that they did not intend to bring this part of the Act into force: nevertheless it is proposed to include consideration of this factor in Barking and Dagenham.

2. The proposal

2.1 The Single Equality Scheme is designed to make a difference to the lives of people in Barking and Dagenham by improving services and opportunities for people from all sections of the community.

2.2 The Council will no longer produce separate plans for its actions relating to race, disability and gender. The Single Equality Scheme will be the Council's unified three year plan (2010 to 2013) which will be regularly reviewed and updated. An annual report will be produced on what has been achieved, and every three years the Council will consult again with local stakeholders to refresh the Scheme's priorities and agree new targets.

2.3 The proposed Single Equality Scheme has **four main objectives**. Two of these relate to how the Council delivers its services (externally facing), with the other two relate to the Council as an organisation (internally facing).

i) **Externally Facing**

Objective 1:

To ensure that best practice in equality is rooted in all aspects of the Council's functions and is supported by a strong evidence base

Objective 2:

To ensure that the work of the Council is informed by effective and inclusive consultation, engagement and communication with users

ii) **Internally Facing**

Objective 3:

To ensure that the promotion of equality and human rights and elimination of discrimination and harassment are embedded in all Council practices through leadership and organisational commitment

Objective 4:

To ensure the development of an effective and diverse workforce that is representative of the communities served by the Council

- 2.4 The four objectives cover all of the protected characteristics. They also address the aspirations contained in the six aims of the Barking and Dagenham Community Plan. The Community Plan's Aim three, "Fair and Respectful" is particularly relevant but there are also obvious and important connections with aim four, "Healthy" and aim five "Prosperous".
- 2.5 The overarching objectives, each with its action plan and associated measures, sets out how we intend to make progress towards those objectives. The proposed full Scheme appears at **Appendix A**.
- 2.6 Information on what progress has been made within the Council previously and what further actions are required have been informed by:
- Guidance from the Equality and Human Rights Commission (EHRC). The EHRC is producing non-statutory guidance to cover all aspects of the Equality Act, to help people understand the Equality Act and how it will affect them.
 - A review of the Council's previous equality schemes
 - Factors identified in the external assessment of the Council against the Equality Standard for Local Government in March 2009
- 2.7 This analysis has assisted officers, in the development of the Scheme, to:
- understand what the most important issues are for the organisation in relation to all of the equality themes
 - demonstrate that the actions proposed are justified, in terms of evidence presented
- 2.8 Whilst the SES brings the Council's planned activities together, it is expected that objectives, actions to be taken and results will be developed and reported as part of the Council's core business planning and through established business processes across the Council. The outcomes will, therefore, be monitored through existing performance management frameworks. Some of these outcomes will be achieved through the work of the Local Strategic Partnership, and will be monitored through its Boards.

- 2.9 It is proposed to work in partnership with other statutory partners to develop a Single Equality Scheme for the Local Strategic Partnership. This will build upon the SES already in existence for NHS Barking and Dagenham, and work underway locally on the Equality Standard for the Police Service. It is anticipated that work to complete a Partnership-wide SES will be completed by September 2011.
- 2.10 Once the scheme is fully approved it is propose to work with Marketing and Communication to publish the scheme, making it available to the widest possible audience. This will include developing an easy read version of the documents. A briefing is being provided for HR and Policy Officers, and further guidance will be issued to all managers through amendments to the Equality Impact Assessment guidance.
- 2.11 The draft SES has been reviewed by each of the Council's Departments. Representatives of Trade Unions have also received copies of the draft, and commented on it at the corporate Equalities Diversity and Inclusion Group.
- 2.12 A round of visits were made to the Equality Fora, with the agreement that all would use the Council's web consultation portal to deliver their responses to the Council.
- 2.13 The main concerns raised within responses to the consultation were:
- the need to be inclusive of everyone
 - the need to avoid use of jargon
 - a number of respondents wanted to receive further information
 - a response from Black, Asian and Minority Ethnic (BAME) Forum has been received and all of their concerns are being addressed

3. Financial Issues

- 3.1 The costs of the Single Equality Scheme, and the development of a similar scheme with the Local Strategic Partnership, will be met from within existing budgets.

4. Legal Issues

- 4.1 The new definitions and scope of unlawful discrimination provided under the Equality Act 2010 must be regarded by the Council as employer in the discharge of the employment relationship as now. The effect of the new public sector duty is that the Council must have due regard to the impact of any decisions on the areas of equality covered by the duty in order for the decision to be a 'reasonable' and therefore lawful one. Compliance with any relevant equality impact assessments in association with decisions are an important way to ensure that the decision maker has before them the equality issues relevant to the decision to be taken. Councillors will wish to be satisfied that appropriate training and awareness of the new or redefined obligations and the Council's new Single Equality Scheme is being cascaded to relevant officers.

5. Other Implications

5.1 Risk Management

The Equality Act 2010 places a number of duties on public authorities. In introducing a Single Equality Scheme the Council is following general best practice, and thus seeking to reduce the risk of non-compliance with its legal duties.

Adoption of the SES will be a means through which the Council can maintain its good reputation in the field of equalities and diversity.

5.2 **Contractual Issues**

Any contract that the Council enters into will reflect a range of principles to ensure that the services provided are tailored to our community. Therefore, it is important to the Council (as is the case) that equality and diversity are reflected in all our procurement procedures and in particular those that impact most on the community.

When the Council procures externally sourced goods, works and services a contractor themselves must not discriminate. The Council's duties include not only ensuring discrimination does not occur, but also actively promoting equal opportunities and good community relations. In order to do this, the Council builds in relevant equality considerations into the procurement process.

Contractors, and potential contractors, will need to be aware of and accommodate the legal duty placed on the Council since it has implications for them also. The Council will take action to ensure that equalities requirements in its contracts are complied with and that there is provision within the action plan to ensure that this is robustly implemented.

5.3 **Staffing Issues**

The Scheme will provide a framework for the Council's employment practices and will assist in achieving the objective of creating a diverse and integrated workforce reflecting the population in the borough.

5.4 **Customer Impact**

By implementing the Single Equality Scheme as proposed it is aimed that the Council will:

- provide increasingly relevant and responsive services to tackle social exclusion, support independent living and develop stronger and more cohesive communities
- improve the accessibility, quality and appropriateness of our services
- improve overall the value-for-money in terms of goods, works and services it purchases for the benefit of people living and working in the borough.

The Council has consulted with the full range of equalities fora in developing this scheme to ensure that the interests of protected characteristics are taken into account in the Scheme.

5.5 **Safeguarding Children**

No specific implications have been identified, but there are linkages between the SES and the Children and Young People's Plan.

5.6 **Health Issues**

No specific implications have been identified. The Council will work in partnership with NHS Barking and Dagenham to develop a SES for the Local Strategic Partnership, which will seek to achieve further progress against equalities objectives through a joined-up approach.

5.7 **Crime and Disorder Issues**

No specific implications have been identified. However, it is noted that cohesive communities promote harmony and a safer borough to live and work in. Effective communications with all communities will positively impact on perceptions of safety within the borough.

5.8 **Property / Asset Issues**

There is a duty on organisations providing services to the public to take reasonable steps in relation to physical features at the premises where the service is provided – for example, this may arise where the feature makes it difficult for a disabled person to access the service. The principles embodied in the SES will also apply to groups such as Community Associations with whom the Council has joint arrangements for the management of community halls in the borough.

6. **Options appraisal**

6.1 There are a number of options open to the Council:

Option 1: Do Nothing. The Council will be required, under the Equality Act, to plan for the diverse needs of its workforce and the communities it serves. If the Council does not in some way update its existing equality schemes for race, gender and disability, it will be difficult for it to demonstrate that it has understood, taken full account of the diverse needs of its workforce and identified actions as appropriate to meet those needs, particularly in respect of the new protected characteristics.

Option 2: Prepare separate Equality Schemes for each of the protected characteristics. This would be extremely labour-intensive and would not achieve the benefits aimed for in the Act, whereby the needs of people who fall into more than one group are considered holistically.

Option 3: Do not proceed until a Partnership-wide Single Equality Scheme is developed. This will take rather longer to prepare, and would not enable the Council to update its approach in relation to gender and race, which requires updating now.

Option 4: Adopt a Single Equality Scheme for the Council, keep it under review and work towards a Scheme for the Partnership by September 2011. This option is proposed as it will enable the Council to meet its current and forthcoming legal obligations, while moving towards a joined-up approach for the Partnership.

7. **Background Papers Used in the Preparation of the Report:**

Equality Act 2010

8. **List of appendices**

Appendix A - Draft Single Equality Scheme