

COUNCIL		
Report Title	Local Democracy Review	
Key Decision	n/a	Item No.
Ward	All	
Contributors	Head of Law	
Class	Part 1	Date: 18 July 2018

1. Summary

This report proposes the establishment of a Democracy Review Working Group to provide recommendations to Council about how the Council could enhance openness and transparency, further developing public involvement in Council decisions and promoting effective decision-making. It suggests terms of reference for the Working Group, its composition, a methodology for its work and an indicative timetable for its report. It asks the Council to appoint the Working Group with immediate effect and that it should cease to exist at the next Council Annual General Meeting unless the Council agrees then that it should continue beyond that date.

2. Purpose

The purpose of this report is to put in place a mechanism by which the Council can explore the possibilities for developing their openness and transparency, increasing public involvement in, and improving the effectiveness of, Council decision making. This would be consistent with the newly elected Mayor's commitment to review the Council's decision-making processes so that local people can be more involved in them. The establishment of a Local Democracy Review will begin work to make that pledge a reality. A decision to establish the Working Group now would allow this work to commence without delay, with a view to a full report to Council as early as possible in 2019 with any resultant changes to be implemented for the next municipal year or as soon as practicable thereafter.

3. Recommendations

- 3.1 To establish a Democracy Review Working Group with the composition and terms of reference set out in this report at section 5 and 6;
- 3.2 Subject to agreement to Recommendation 3.1, to agree that in conducting its work the Working Group should use the methodology set out in

paragraph 7 of this report, with discretion to use such other research methods it considers appropriate.

- 3.3 To agree that if the recommendations of the Working Group would entail changes to the practices of the Council that would require constitutional change, such changes should be referred to the Council's Constitution Working Party.
- 3.4 That a report containing the recommendations of the Working Group and the comments of the Constitution Working Party should be presented to the Council as early as possible in 2019 with a view to their implementation in the next municipal year or as soon as possible thereafter.

4. Background

- 4.1 The Council's governance arrangements were put in place in 2002 when Lewisham was one of the first authorities in the country to elect a directly elected Mayor. Since then, though there have been changes made to reflect legislation, as well as the taking on of additional Local Government responsibilities, there has not been a holistic review of the way in which the Council operates since then. The Council has also reduced considerably in size following massive Government cuts of £165 million to Council budgets over the past 8 years. With the election of a new Mayor and Council in 2018, all of whom are committed to democracy, openness and transparency, the time is ripe for a review as to how Council might promote more effective decision-making.
- 4.2 In addition, throughout the last 16 years, the borough has changed. Lewisham's population has increased significantly from 250,000 people in 2001 to over 310,000 today; over the next 10 years the population is forecast to grow to nearly 350,000. Whilst the number of households across the borough have increased, so too have housing pressures, with homelessness a major crisis. The number of households living in temporary housing has increased from 1,200 in 2013 to almost 1,950 in 2018. Since 2001, the private rental sector has also doubled in size; it now consists of more than 30,000 homes and makes up more than 25% of households in the borough. The need now for more homes and those that are genuinely affordable has become acute. The borough is also much more diverse today than in 2001 with approximately 46% of our residents coming from Black, Asian and minority ethnic households, rising to 76% for the school population. Such dynamic change affecting our borough drives us to look for ever more innovative ways to affect people's engagement and influence on our democratic processes.

- 4.3 Given these two factors, it is proposed that the Council explore how the decision making of the Council might be refreshed to become more effective, involve local people more and inspire confidence in the Council's decisions among the community.
- 4.4 To conduct this work will take a concerted effort and so it is proposed that a Democracy Review Working Party be established to give impetus to it.

5 Terms of reference

It is proposed that a Democracy Review Working Group be established with the following terms of reference:-

“To make recommendations to Council about how the Mayor and Council could enhance their openness and transparency, further developing public involvement in Council decisions and promoting effective decision making.”

6 Membership

It is proposed that the Democracy Review Working Group should consist of 8 members of the Council.

7. Methodology

- 7.1 In view of the extent of the work involved to complete a meaningful review within a tight timescale, it is proposed that key elements of the Working Group's methodology be agreed at this early stage. The purpose of doing so is not to inhibit the working of the Working Group, but to ensure that preliminary work can begin as soon as possible at its first meeting.
- 7.2 It is also proposed that the Working Group should be free to deploy any other investigative methods it considers appropriate so long as the use of any such additional methods does not adversely affect the timing of the Working Group's final report.
- 7.3 The proposed methodology is as follows:-
- a) A review of the Council's current arrangements to involve residents.
 - b) A review of the methods used by other authorities to involve residents.
 - c) A review of methods used by other authorities to promote openness and transparency in Council decision-making.
 - d) Consultation with Overview and Scrutiny members about how to develop councillor participation in the scrutiny process

- e) Engagement with the Local Assemblies programme to explore best practice and the role of Assemblies in engaging with residents.
- f) Engage the public, especially members of the public who are less likely to be aware or able to participate in the review, and other stakeholders through the implementation of a communications and engagement plan to be agreed by the Working Group, including web based consultation.
- g) Receive evidence from stakeholders with an interest related to the subject of the review, keeping a record of submissions.
- h) Consult the Mayor and Cabinet on any recommendations made and formulate recommendations for full Council, which incorporate advice on all relevant implications (including equalities, environmental, service, financial, legal and any other relevant matters).

8. Indicative timescales

It is proposed that the Working Group be established with immediate effect, that preparatory work take place over the summer months and that the review be publicly launched in September 2018. An evidence gathering period would follow between September and December with a report to Council as soon as possible thereafter, possibly in February 2019, with implementation of any changes as soon as practicable after that.

9. Legal implications

- 9.1 The Council has the power to establish the Democracy Working Group as proposed, and it is a non-executive function to do so. The Working Group will not have formal decision-making powers save to make recommendations to Council. Any changes to the Council's constitution which may be required as a result of the Council's decision about the recommendations of the Working Group will be the subject of a further report to Council.
- 9.2 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 9.3 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
 - eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by 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.

- 9.4 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation, or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed in the paragraph above.
- 9.5 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 9.6 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11, which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:
- <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>
- <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>
- 9.7 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
- [The essential guide to the public sector equality duty](#)
 - [Meeting the equality duty in policy and decision-making](#)
 - [Engagement and the equality duty: A guide for public authorities](#)
 - [Objectives and the equality duty. A guide for public authorities](#)
 - [Equality Information and the Equality Duty: A Guide for Public Authorities](#)
- 9.8 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties, and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

10. Financial implications

An allocation of £10,000 has been earmarked from corporate resources to cover any necessary expenses associated with this review.

11. Equalities implications

The establishment of the Working Group would be designed to try to identify ways in which the diverse people of Lewisham, including those with protected characteristics, can be involved more in Council processes. In carrying out their work, the Working Group will have to be mindful of the Council's public sector equality duty as set out in Para 9.2 et seq. and advice will be given on any specific recommendations at the appropriate time.

12. Environmental implications

There are none arising from this report, though there may be some arising from any suggestions made by the Working Group if established. Advice would be given at the relevant time.