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Making fair financial decisions Guidance for decision-makers

3rd edition, January 2015

Introduction

With major reductions in public spending, public authorities in Britain are being required to make difficult financial decisions. This guide sets out what is expected of you as a decision-maker or leader of a public authority responsible for delivering key services at a national, regional and/or local level, in order to make such decisions as fair as possible.

The public sector equality duty (the equality duty) does not prevent you from making difficult decisions such as reorganisations and relocations, redundancies, and service reductions, nor does it stop you from making decisions which may affect one group more than another group. The equality duty enables you to demonstrate that you are making financial decisions in a fair, transparent and accountable way, considering the needs and the rights of different members of your community. This is achieved through assessing the impact that changes to policies, procedures and practices could have on people with different protected characteristics.

Assessing the impact on equality of proposed changes to policies, procedures and practices is not just something that the law requires, it is a positive opportunity for you as a public authority leader to ensure you make better decisions based on robust evidence.

What the law requires

Under the equality duty (set out in the Equality Act 2010), public authorities must have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation as well as to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not.

The protected characteristics covered by the equality duty are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnerships, but only in respect of eliminating unlawful discrimination.

The law requires that public authorities demonstrate that they have had 'due regard' to the aims of the equality duty in their decision-making. Assessing the potential impact on equality of proposed changes to policies, procedures and practices is one of the key ways in which public authorities can demonstrate that they have had 'due regard'.

It is also important to note that public authorities subject to the equality duty are also likely to be subject to the Human Rights Act 1998. We would therefore recommend that public authorities consider the potential impact their decisions could have on human rights.

Aim of this guide

This guide aims to assist decision-makers in ensuring that:

- The process they follow to assess the impact on equality of financial proposals is robust, and
- The impact that financial proposals could have on people with protected characteristics is thoroughly considered before any decisions are arrived at.

We have also produced detailed guidance for those responsible for assessing the impact on equality of their policies, which is available on our website at www.equalityhumanrights.com

The benefits of assessing the impact on equality

By law, your assessments of impact on equality must:

- Contain enough information to enable a public authority to demonstrate it has had 'due regard' to the aims of the equality duty in its decision-making
- Consider ways of mitigating or avoiding any adverse impacts.

Such assessments do not have to take the form of a document called an equality impact assessment. If you choose not to develop a document of this type, then some alternative approach which systematically assesses any adverse impacts of a change in policy, procedure or practice will be required.

Assessing impact on equality is not an end in itself and it should be tailored to, and be proportionate to, the decision that is being made.

Whether it is proportionate for an authority to conduct an assessment of the impact on equality of a financial decision or not depends on its relevance to the authority's particular function and its likely impact on people with protected characteristics.

We recommend that you document your assessment of the impact on equality when developing financial proposals. This will help you to:

- **Ensure you have a written record of the equality considerations** you have taken into account.
- **Ensure that your decision includes a consideration of the actions that would help to avoid or mitigate any impacts on particular protected characteristics.** Individual decisions should also be informed by the wider context of decisions in your own and other relevant public authorities, so that people with particular protected characteristics are not unduly affected by the cumulative effects of different decisions.

- **Make your decisions based on evidence:** a decision which is informed by relevant local and national information about equality is a better quality decision. Assessments of impact on equality provide a clear and systematic way to collect, assess and put forward relevant evidence.

- **Make the decision-making process more transparent:** a process which involves those likely to be affected by the policy, and which is based on evidence, is much more open and transparent. This should also help you secure better public understanding of the difficult decisions you will be making in the coming months.

- **Comply with the law:** a written record can be used to demonstrate that due regard has been had. Failure to meet the equality duty may result in authorities being exposed to costly, time-consuming and reputation-damaging legal challenges.

When should your assessments be carried out?

Assessments of the impact on equality must be carried out at a **formative stage** so that the assessment is an integral part of the development of a proposed policy, not a later justification of a policy that has already been adopted. Financial proposals which are relevant to equality, such as those likely to impact on equality in your workforce and/or for your community, should always be subject to a thorough assessment. This includes proposals to outsource or procure any of the functions of your organisation. The assessment should form part of the proposal, and you should consider it carefully **before** making your decision.

If you are presented with a proposal that has not been assessed for its impact on equality, you should question whether this enables you to consider fully the proposed changes and its likely impact. Decisions not to assess the impact on equality should be fully documented, along with the reasons and the evidence used to come to this conclusion. This is important as authorities may need to rely on this documentation if the decision is challenged.

It is also important to remember that the potential impact is not just about numbers. Evidence of a serious impact on a small number of individuals is just as important as something that will impact on many people.

What should I be looking for in my assessments?

Assessments of impact on equality need to be based on relevant information and enable the decision-maker to understand the equality implications of a decision and any alternative options or proposals.

As with everything, proportionality is a key principle. Assessing the impact on equality of a major financial proposal is likely to need significantly more effort and resources dedicated to ensuring effective engagement, than a simple assessment of a proposal to save money by changing staff travel arrangements.

There is no prescribed format for assessing the impact on equality, but the following questions and answers provide guidance to assist you in determining whether you consider that an assessment is robust enough to rely on:

- **Is the purpose of the financial proposal clearly set out?**

A robust assessment will set out the reasons for the change; how this change can impact on protected groups, as well as whom it is intended to benefit; and the intended outcome. You should also think about how individual financial proposals might relate to one another. This is because a series of changes to different policies or services could have a severe impact on particular protected characteristics.

Joint working with your public authority partners will also help you to consider thoroughly the impact of your joint decisions on the people you collectively serve.

Example: A local authority takes separate decisions to limit the eligibility criteria for community care services; increase charges for respite services; scale back its accessible housing programme; and cut concessionary travel. Each separate decision may have a significant effect on the lives of disabled residents, and the cumulative impact of these decisions may be considerable. This combined impact would not be apparent if the decisions were considered in isolation.

• **Has the assessment considered available evidence?**

Public authorities should consider the information and research already available locally and nationally. The assessment of impact on equality should be underpinned by up-to-date and reliable information about the different protected groups that the proposal is likely to have an impact on. A lack of information is not a sufficient reason to conclude that there is no impact.

• **Have those likely to be affected by the proposal been engaged?**

Engagement is crucial to assessing the impact on equality. There is no explicit requirement to engage people under the equality duty, but it will help you to improve the equality information that you use to understand the possible impact on your policy on different protected characteristics. No-one can give you a better insight into how proposed changes will have an impact on, for example, disabled people, than disabled people themselves.

• **Have potential positive and negative impacts been identified?**

It is not enough to state simply that a policy will impact on everyone equally; there should be a more in-depth consideration of available evidence to see if particular protected characteristics are more likely to be affected than others. Equal treatment does not always produce equal outcomes; sometimes authorities will have to take particular steps for certain groups to address an existing disadvantage or to meet differing needs.

• **What course of action does the assessment suggest that I take? Is it justifiable?**

The assessment should clearly identify the option(s) chosen, and their potential impacts, and document the reasons for this decision. There are four possible outcomes of an assessment of the impact on equality, and more than one may apply to a single proposal:

Outcome 1: No major change required when the assessment has not identified any potential for discrimination or adverse impact and all opportunities to advance equality have been taken.

Outcome 2: Adjustments to remove barriers identified by the assessment or to better advance equality. Are you satisfied that the proposed adjustments will remove the barriers identified?

Outcome 3: Continue despite having identified some potential for adverse impacts or missed opportunities to advance equality. In this case, the justification should be included in the assessment and should be in line with the duty to have 'due regard'. For the most important relevant policies, compelling reasons will be needed. You should consider whether there are sufficient plans to reduce the negative impact and/or plans to monitor the actual impact, as discussed below.

Outcome 4: Stop and rethink when an assessment shows actual or potential unlawful discrimination.

• **Are there plans to alleviate any negative impacts?**

Where the assessment indicates a potential negative impact, consideration should be given to means of reducing or mitigating this impact. This will in practice be supported by the development of an action plan to reduce impacts. This should identify the responsibility for delivering each action and the associated timescales for implementation. Considering what action you could take to avoid any negative impact is crucial, to reduce the likelihood that the difficult decisions you will have to take in the near future do not create or perpetuate inequality.

Example: A University decides to close down its childcare facility to save money, particularly given that it is currently being under-used. It identifies that doing so will have a negative impact on women and individuals from different racial groups, both staff and students.

In order to mitigate such impacts, the University designs an action plan to ensure relevant information on childcare facilities in the area is disseminated to staff and students in a timely manner. This will help to improve partnership working with the local authority and to ensure that sufficient and affordable childcare remains accessible to its students and staff.

• **Are there plans to monitor the actual impact of the proposal?**

Although assessments of impact on equality will help to anticipate a proposal's likely effect on different communities and groups, in reality the full impact of a decision will only be known once it is introduced. It is therefore important to set out arrangements for reviewing the actual impact of the proposals once they have been implemented.

What happens if you don't properly assess the impact on equality of relevant decisions?

If you have not carried out an assessment of impact on equality of the proposal, or have not done so thoroughly, you risk leaving yourself open to legal challenges, which are both costly and time-consuming. Legal cases have shown what can happen when authorities do not consider their equality duties when making decisions.

Example: A court overturned a decision by Haringey Council to consent to a large-scale building redevelopment in Wards Corner in Tottenham, on the basis that the council had not considered the impact of the proposal on different racial groups before granting planning permission.

However, the result can often be far more fundamental than a legal challenge. If people feel that an authority is acting high-handedly or without properly involving its service users or employees, or listening to their concerns, they are likely to become disillusioned with you.

Above all, authorities which fail to carry out robust assessments of the impact on equality risk making poor and unfair decisions that could discriminate against people with particular protected characteristics and perpetuate or worsen inequality.

As part of its regulatory role to ensure compliance with the equality duty, the Commission monitors financial decisions with a view to ensuring that these are taken in compliance with the equality duty and have taken into account the need to mitigate negative impacts, where possible.

Appendix 5

Policy and Equalities Analysis

Policy and equality analysis of 2020-21 budget savings

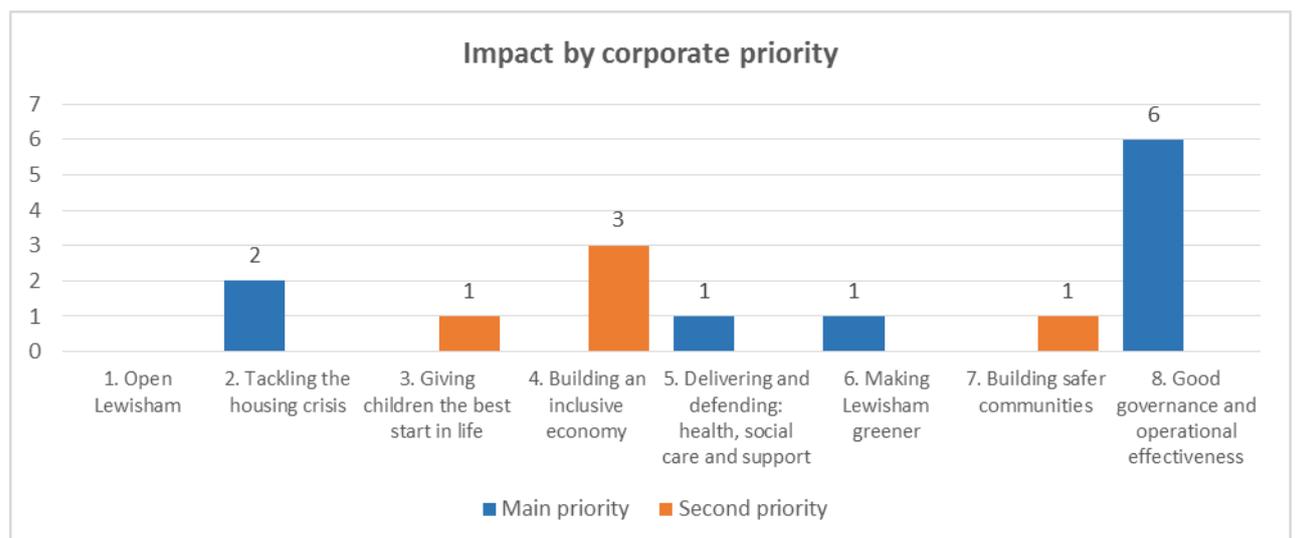
This paper provides an overall assessment of policy and equality impacts of 2020-21 budget savings proposals. In total, ten savings proposals have been considered for this paper. A summary of key points are set out under the headings below.

Impact by corporate priority

The chart below shows the impact of budget savings by corporate priority. Specifically, the charts shows the number of proposals where the impact is on the main priority or the second priority. The chart reveals that priority 8: 'good governance and operational effectiveness' has the bulk of savings proposals assigned to it, following by priority 2: 'tackling the housing crisis'. The only other priorities with savings proposals assigned to them are priority 5: 'delivering and defending: health, social care and support' and priority 6: 'making Lewisham greener', with one savings proposal each.

Of those proposals that will also impact on a second priority, 'building an inclusive economy' has three savings proposals assigned to it, whilst 'giving children the best start in life' and 'building safer communities' have one savings proposal each assigned to them.

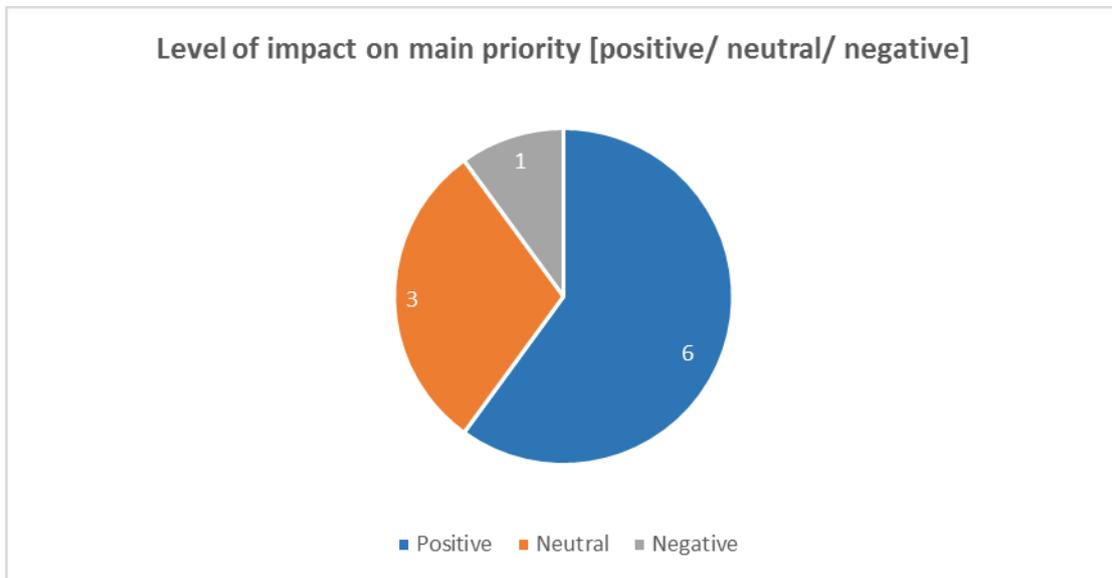
'Open Lewisham' is the only corporate priority against which no savings proposals have been assigned.



Level of impact on main priority [positive/ neutral/ negative]

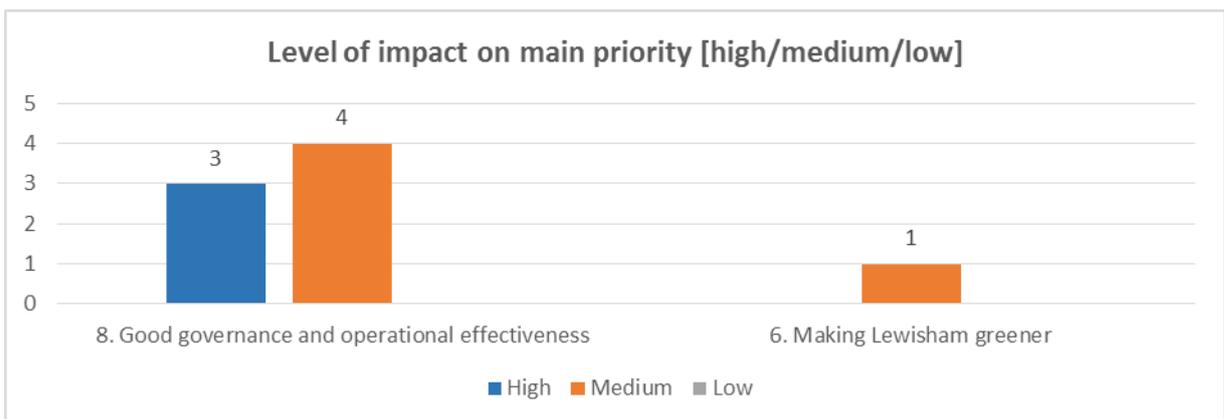
The chart below shows the impact that savings proposals will have on the main priorities, using the designation 'positive', 'neutral' or 'negative'. The chart shows that of the ten savings proposals considered as part of this analysis, it is judged that six are likely to have a 'positive' impact on the

corporate priorities, three are likely to have a 'neutral' impact and one is likely to have a 'negative' impact. The proposal identified as likely to have a 'negative' impact is the reduction in the frequency of residential street sweeping from the current once a week to once a fortnight.



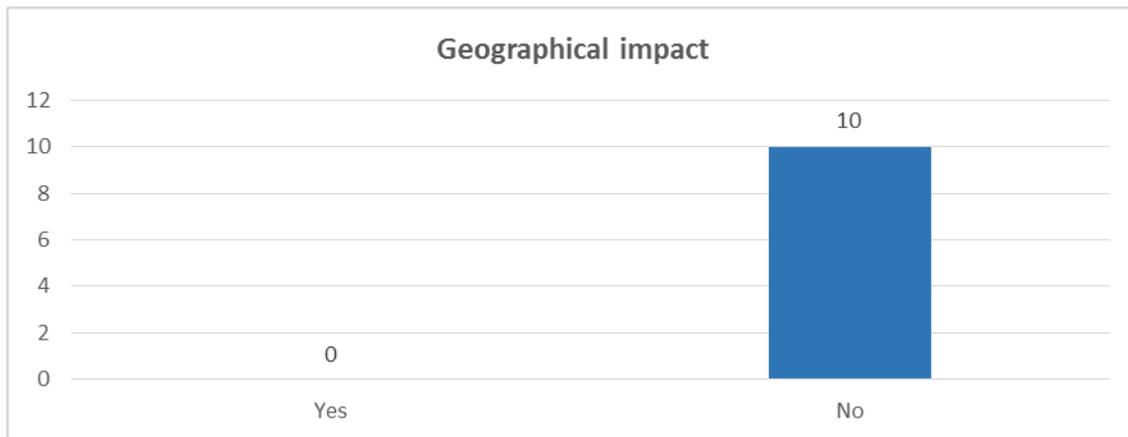
Level of impact on main priority [high/ medium/ low]

The chart below shows the impact that savings proposals will have on the main priority using the 'high', 'medium' or 'low' measure. The chart shows that where information for this assessment was provided, seven savings proposals are shown as having a 'high' or 'medium' impact on 'good governance and operational effectiveness' and one proposal is shown as having a 'medium' impact on 'making Lewisham greener'.



Geographical impact

The chart below shows the geographic impact of savings proposals. In simple terms the chart shows that none of the savings proposals considered in this analysis will have a specific ward impact.



Equalities impact assessment

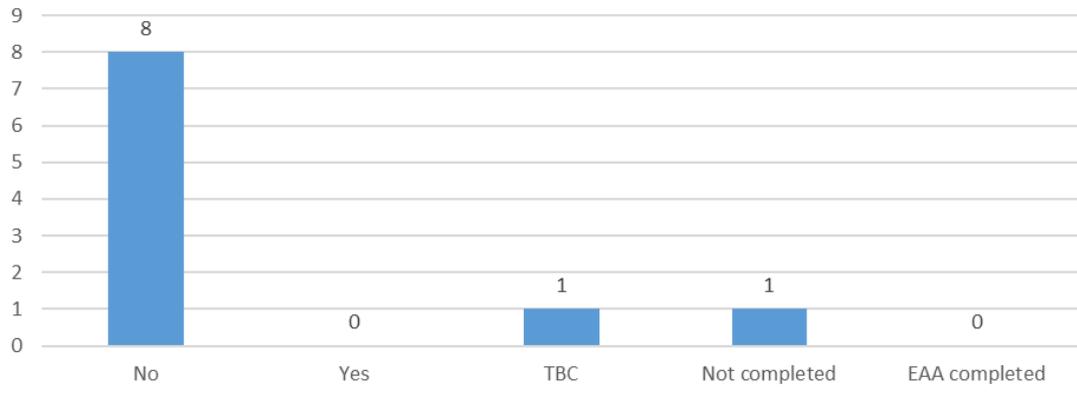
The table below sets out the impact of savings proposals on protected characteristics where these impacts are known. The table reveals that the greater number of savings proposals are not expected to having any impact on protected characteristics (N/A). However, of those that are expected to have a high or medium impact, those protected characteristics that are most likely to be impacted are sex, age, disability and ethnicity. The proposals that have been identified as likely to have a high impact on protected characteristics relate to adults social care demand management and charging.

Impact	Ethnicity	Sex	Age	Disability	Religion / Belief	Pregnancy / Maternity	Marriage & Civil Partnership	Sexual Orientation	Gender Reassignment
High		1	1	1					
Medium	2	2							
Low	1	1	1	1	1	1	1	1	1
N/A	6	5	5	7	8	8	8	8	8

Requirement for a full equality analysis assessment

The chart below shows the number of savings proposals for which a full equality analysis assessment is required. The chart shows that eight savings proposals are not expected to require an equality analysis assessment, whilst one is still to be confirmed. Information on one other was not provided in the savings proforma.

Requirement for a Full Equality Analysis Assessment



APPENDIX 6

Specific Legal Implications

Reference	Description	Savings Yr1/2/Total	Legal implications

Attention is drawn to the legal implications set out in the body of the report which apply in addition to those specifically referred to in this appendix.

APPENDIX 7

2020/21 BUDGET REDUCTIONS - SUMMARY TABLE OF PROPOSALS WITH PROFORMAS

Directorate / Division	Ref	Scrutiny Ctte	Proposal	20/21	21/22	Total	Income	Consultation Req'd?		Full Report Req'd?
				£'000	£'000	£'000		Staff	Public	Key Dec.
Community Services										
Adult Social Care										
	COM1a	HCSC	Managing demand at the point of access to adult social care services	1,000		1,000		N	N	Y
	COM2a	HCSC	Ensuring support plans optimise value for money	500		500		N	N	Y
	COM3a	HCSC	Increase revenue from charging Adult Social Care clients	500		500	Y	N	N	Y
	COM18	HCSC	Funding inflationary increase from within the ASC Grant	2,000		2,000		N	N	N
			Subtotal	4,000		4,000				
Community Services Total				4,000		4,000				
Housing, Regeneration & Environmental Services										
Environment										
	CUS7	SDSC	Reduce sweeping frequency to residential roads to fortnightly.	823		823		Y	Y	Y

Directorate / Division	Ref	Scrutiny Ctte	Proposal	20/21	21/22	Total	Income	Consultation Reqd?		Full Report Reqd?
				£'000	£'000	£'000		Staff	Public	Key Dec.
			Subtotal	823		823				
Housing										
	CUS15	HOUSING	Savings generated through No Recourse to Public Funds service	1,000		1,000		N	N	N
	CUS16	HOUSING	Operational savings in the Private Sector Housing Agency through service improvements	175		175		N	N	N
			Subtotal	1,175		1,175				
Regeneration and Place										
	RES19	CYP	School Patrol Crossing	80		80		Y	Y	Y
	RES20	PAC	Nursery Lettings	100		100	Y	N	N	N
			Subtotal	180		180				
Housing, Regeneration & Environmental Services			Total	2,178		2,178				
Corporate Services										
Public Services										
	CUS11a	PAC	Process automation in Revenues and Benefits		500	500		N	N	N

Directorate / Division	Ref	Scrutiny Ctte	Proposal	20/21	21/22	Total	Income	Consultation Reqd?		Full Report Reqd?
				£'000	£'000	£'000		Staff	Public	Key Dec.
	Cus14a	PAC	Parking service budget review	500		500	Y	N	N	N
			Subtotal	500	500	1,000				
Corporate Resources										
	RES21	PAC	Savings generated through not allocating inflation uplift to contract costs	1,000		1,000		N	N	N
	RES22	PAC	Savings generated through the improved ICT provision, leading to operational efficiencies	1,500		1,500		N	N	N
			Subtotal	2,500		2,500				
Corporate Services			Total	3,000	500	3,500				
Council Total				9,178	500	9,678				

APPENDIX 8

PREVIOUSLY APPROVED BUDGET CUTS 2020/21

Ref	Directorate/Description/Division	2020/21 Approved £'000
	Children and Young People	
CYP01	More efficient use of residential placements	300
CYP03	More systematic and proactive management of the market for independent fostering	600
CYP04	Commission semi-independent accommodation for care leavers	250
	Children Social Care – Sub Total	1,150
CYP05	Residential framework for young people - Joint South East London Commissioning Programme	200
CYP06	Cease funding for former CYP funded post in Voluntary Action Lewisham	25
	Joint Commissioning and Targeted Support – Sub Total	225
	Children & Young People Total	1,375
	Community Services	
COM02	Ensuring support plans optimise value for money	250
COM04	Reduce costs for Learning Disability and Transitions	1,000
COM05	Increased focus of personalisation	482
COM06	Reduction in Mental Health Residential care costs	200
COM07	Reduction in Adult Social Care contribution to Mental Health Integrated Community Services	50
	Adult Social Care – Sub Total	1,982
COM10	Crime, Enforcement & Regulation reorganisation	161
	Crime Reduction, Supporting People, and Enforcement – Sub Total	161
COM08	A change in the public engagement responsibilities for air quality and dedicated funding	60
COM15	Broadway Theatre	50
COM16	Cultural and Community Development Service Staffing	75
	Culture & Community Services – Sub Total	185
	Community Services Total	2,328
	Housing, Environment & Regeneration	
CUS02	Income Generation – Increase of Garden Waste Subscription	485
CUS04	Income Generation – Increase in Commercial Waste Charges	300
CUS06	Bereavement Services increase income targets	67
	Environment – Sub Total	852
CUS09	Cost reductions in homelessness provision – income generation and net budget reductions	696
	Housing – Sub Total	696
RES11	Increase in pre-application fees	100
RES12	Catford complex office rationalisation	250
RES13	Reduction in Business Rates for the Corporate Estate	100

RES14	Corporate Estate Facilities Management Contract Insourcing	100
RES15	Commercial Estate Growth	500
RES17	Beckenham Place Park – income generation	105
	Regeneration and Place – Sub Total	1,155
RES18	Electric Vehicle charging points	50
	Planning – Sub Total	50
	Housing, Environment & Regeneration Total	2,753
	Corporate Services	
RES01	Benefits Realisation of Oracle Cloud	350
	Financial Services – Sub Total	350
RES02	Legal fees increase	32
	Legal Services (excl. elections) – Sub Total	32
RES03	Executive Office – Administrative Support Staff Reduction	104
RES04	Policy, Service Design and Intelligence – Reduction on staffing	155
	Policy & Governance – Sub Total	259
RES06	Increase income supporting the Funding Officer post and review the Economy and Partnerships Function	80
RES07	Reduce corporate apprenticeships salaries budget	55
	Strategy - Total	135
	Corporate Resources – Sub Total	0
RES10	Cease graduate programme	78
	Human Resources – Sub Total	78
CUS10	Invest to save – create revenues protection team	394
CUS11	Process automation in Revenues and Benefits	250
CUS13	Invest to save – improve sundry debt collection	480
	Public Services – Sub Total	1,124
	Technology & Change – Sub Total	0
	Corporate Services Total	1,978
	Grand Total	8,434