

| MAYOR AND CABINET | | |
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| Report Title | Response to comments by the Overview and Scrutiny Business Panel on equalities implications in reports | |
| Key Decision | No | Item No. |
| Ward | Borough wide | |
| Contributors | Head of Law, Director of Policy and Governance, Strategic Procurement and Commercial Services Manager | |
| Class | Part 1 | Date: 10 October 2019 |

Purpose of Report

To consider and respond to matters raised by the Overview & Scrutiny Business Panel (OSBP) on 21st May 2019.

1 Overview & Scrutiny Business Panel comments

On 21st May 2019 the Overview and Scrutiny Business Panel resolved:

‘... that Mayor and Cabinet be requested to direct officers to ensure that:

- i. Equalities and the issues surrounding it are addressed as part of contract compliance.*
- ii. Equalities implications become an explicit part of the decision making process.*
- iii. All reports to explicitly include equalities implications or an equalities impact assessment, and evidence that the equalities impact has been considered at every step of the decision making process (at the beginning, throughout the duration and at the end).*
- iv. Looking beyond the Equalities Act; Class should also be included as part of equalities implications.’*

2 Recommendations

It is recommended that Mayor and Cabinet:

- i. Note officer comments as set out in this report;
- ii. Note the report considered by the Safer, Stronger Communities Select Committee (SSCSC) on 9th October 2019 and the comments of the Safer, Stronger Communities Select Committee at that meeting; and

- iii. Consider whether to provide a response to the Business Panel in line with those comments.

3 Responses to comments by the Overview and Scrutiny Business Panel

3.1 Overview and Scrutiny Business Panel have requested that Mayor and Cabinet consider the matters set out in paragraph 1. This paper contains the response to those matters, for consideration by Mayor and Cabinet.

3.2 Mayor and Cabinet are asked to note that the Safer, Stronger Communities Select Committee is carrying out an In-depth Review of Equalities in Lewisham. At its meeting on 9th October 2019 that committee considered a paper (attached at Appendix 1) on these issues:

1. How is Lewisham Council meeting its equalities obligations under the 2010 Equalities Act and Public Sector Equality Duty?
2. What is the Council's Comprehensive Equalities Scheme and how successfully is it embedded in decision-making and policy and strategy development?
3. How else is equalities embedded across the Council including Equality Analysis Assessments and Equalities implications in committee reports?
4. What is the importance of socio-economic inequality and income deprivation? How can the Council promote socio-economic equality?
5. How does the Council ensure equalities are embedded in the commissioning process for third party organisations that deliver services?

3.3 The issues considered by the Safer, Stronger Communities Select Committee therefore overlap with the matters raised by the Business Panel. Table 1 below presents a comparison of the questions raised by SSCSC, and those raised by OSBP.

Table 1

| OSBP referrals i – iv (see 1 above) | Does SSCSC questions 1 – 5 address this? (see 3.2 above) |
|---|---|
| i. Equalities and the issues surrounding it are addressed as part of contract compliance. | SSCSC Question 5 addresses same issue as that raised in OSBP referral (i), being the embedding of equalities into the commissioning process. OSBP referral (i) further asks specifically for consideration of how this addressed throughout the contract period. |
| ii. Equalities implications become an explicit part of the decision making | SSCSC Question 3 addresses same issue as that in OSBP referral (ii) – consideration of equalities in reports. |

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| process. | OSBP referral (i) also asks specifically for equalities implications to become an 'explicit' part of decision making. |
| iii. All reports to explicitly include equalities implications or an equalities impact assessment, and evidence that the equalities impact has been considered at every step of the decision making process (at the beginning, throughout the duration and at the end). | See above, in relation to SSCSC Questions 2 and 3; these address the same issue. OSBP referral (iii) also refers specifically for evidence that equalities implications have 'been considered at every step of the decision making process'. |
| iv. Looking beyond the Equalities Act; Class should also be included as part of equalities implications. | SSCS Question 4 addresses same issue as that in OSBP referral (iv) – consideration of socio-economic inequality and income deprivation. |

3.4 A verbal update or supplementary paper will be presented at the Mayor and Cabinet meeting to inform Mayor and Cabinet of the comments made by the Safer, Stronger Communities Select Committee which are relevant to the matters raised by the Overview and Scrutiny Business Panel, so that Mayor and Cabinet can take those into account.

3.5 It is proposed that Mayor and Cabinet approve the actions or responses proposed in Table 2 below, subject to any changes arising from consideration of the comments made by the Safer, Stronger Communities Select Committee. If there are any changes needed, these will be addressed in the verbal update or supplementary paper.

Table 2

| OSBP referrals i – iv (see 1 above) | Proposal for action or response |
|---|--|
| i. Equalities and the issues surrounding it are addressed as part of contract compliance. | The paper to be considered by the Safer, Stronger Communities Select Committee clearly describes the embedding of equalities into the commissioning process and how this forms part of the contractual terms of contracts with third parties. Post procurement and as part of the contract management function services require regular compliance and performance reporting from contractors which would enable the |

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| | identification of equalities issues.. |
| ii. Equalities implications become an explicit part of the decision making process. | SSCSC Question 3 addresses same issue as that in OSBP referral (ii) – consideration of equalities in reports. Officers could be asked to pick up that issue within the SSCSC response, or if that response does not deal with that issue to prepare a separate response for initial consideration by SSCSC as part of their review with referral back to OSBP. |
| iii. All reports to explicitly include equalities implications or an equalities impact assessment, and evidence that the equalities impact has been considered at every step of the decision making process (at the beginning, throughout the duration and at the end). | Officers could be asked to pick up that issue within the SSCSC response, or if that response does not deal with that issue to prepare a separate response for initial consideration by SSCSC as part of their review with referral back to OSBP. |
| iv. Looking beyond the Equalities Act; Class should also be included as part of equalities implications. | Socio-economic status is not a ‘protected characteristic’ under the Equality Act and therefore there is no legal obligation to include when reporting. However the SSCSC Question 4 addresses same issues and clearly describes the actions being taken to address socio-economic inequality. |

4 Financial Implications

None.

5 Legal Implications

None except as set out in the report, and in the equalities implications below.

6 Crime and Disorder Implications

None

7 Equalities Implications

7.1 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.

7.2 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.

7.3 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.

7.4 It is a duty to have due regard to the need to achieve the goals listed in the paragraph above.

7.5 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. This is a matter for the Mayor, 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.

7.6 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>

8 Environmental Implications

None

9 Conclusion

This report sets out the matters to be considered by Mayor and Cabinet with regard to the matter referred for consideration by Overview and Scrutiny Business Panel, so that Mayor and Cabinet can decide whether to provide a response to the Overview & Scrutiny Business Panel in line with those comments.

APPENDIX 1

**Safer, Stronger Communities Select Committee Paper on In-depth
Review of Equalities in Lewisham considered 9th October 2019**