

APPENDIX B

Draft Equality Policy and Objective 2017-21 Consultation Feedback

Overview of Consultation

Following the pre-consultation, work was undertaken to consider the responses received and develop a revised draft policy. The public consultation sought views on this revised policy in order to develop a finalised proposed policy for Cabinet to consider.

The consultation consisted of an online survey and also the opportunity to respond by e-mail or telephone. Face to face discussions were also offered where people wanted to discuss the proposed policy in more detail. The survey was hosted on the Darlington Borough Council website and the link was circulated to other stakeholders supporting individuals with protected characteristics within the voluntary sector. These voluntary sector groups were also asked to circulate to their wider networks. Posts were also made on Surestart websites to ensure that as many people could comment as possible.

Staff were also invited to comment and face to face discussions took place with representatives of the trade unions and staff to ensure that their views could be taken into account.

Finally, everyone contacted as part of the pre-consultation work were emailed to ensure they had the opportunity to comment further on the latest draft. Councillors were also contacted as key decision makers.

Feedback

The following issues were raised by respondents to the council's consultation on the draft Equality Policy and Objective 2017-21. These issues have been organised by theme and some have been grouped together, with the council's responses given underneath.

Changes to draft policy:

- Protected characteristic definitions in Annex 1 should be updated to give broader definition under Sex

The current definition of Sex by the Equality and Human Rights Commission remains "a man or a woman", with discrimination towards transgender covered under a separate protected characteristic of Gender Reassignment (see below). The Council has expanded the definition of Sex in Annex 1 of the proposed Equality Policy 2018-22 to clarify that this refers to a person's biological sex.

The definition of Gender Reassignment has also been updated, in recognition of this point and recent work undertaken by the Equality and Human Rights Commission and Women and Equalities Commission, to clarify that a person does not need to have undergone any specific surgery to change from their birth sex to their preferred gender, and that they can be at any stage of the transition process to meet this definition.

- The draft equality policy should be renamed equality scheme

The initial draft of the equality policy was called an equality scheme, in line with the council's current scheme. During pre-consultation engagement on this draft, the Council received feedback that the term 'scheme' could have negative connotations. The name of the document was changed to policy, a recognised synonym for scheme, as a consequence of this feedback and consideration of the wider corporate policy framework, within which the policy will fit. Contrary to the feedback received that a policy should only say what will be done and not how, the definition of policy used by the council – and evidenced by the content of a range of council policies – includes detailing how specified outcomes will be achieved. Moreover, the key content of the policy has not changed as a result of changing its title from scheme to policy.

- The Public Sector Equality Duty (PSED) section of the policy should be expanded to include:
 - definitions of the aims of the duty and greater detail about how to comply with the aims
 - a definition of 'due regard'
 - conduct that is prohibited by the Equality Act

The information about the PSED within the draft policy is the same as currently contained in the existing scheme. The council are, however, happy to supplement this information in order to help aid Members', officers' and the publics' understanding of the duty. The draft policy has therefore been updated to include the above information, where this would help aid understanding, as requested via feedback.

Changes to EIA Guidance Notes:

- EIA must be included in day-to-day activities as stated in the Act, and it should be included that all council actions should reflect the impact assessment process

*The Act does not impose a legal requirement on the council to conduct an Equality Impact Assessment. Compliance with the Act includes understanding the potential effects of the council's activities on different people, but the Act does not prescribe a process for doing this. The need for officers to employ the principles and thinking **underlying** the EIA process in their day-to-day activities is stressed multiple times in the draft policy, including in para. 33 "The principles*

and thinking underlying the EIA process are relevant to everything from the development of major new policy initiatives to the day-to-day actions of an individual”.

- The groups chosen for EIA should be identified as those that will be affected and the best way of communication should be used

Paragraphs 25-31 of the EIA guidance notes refer to engagement with affected groups during the EIA process and make clear that officers, when undertaking engagement for an EIA, must ask “have all the people who will be affected by the activity been identified, informed and invited to be involved”. The types of methods to be used and the most effective means of engagement are also listed in this section, however the notes have been amended to make it explicit that when inviting people to be involved in engagement on an EIA this must be “via a suitable method”.

- The EIA guidance notes must state that an EIA should be started at the concept of an idea, not once the idea/project has been formalised and after the event.

This point is included in para. 9 of the guidance notes: “Equality Impact Assessment should be carried out as an integral part of the planning of an activity. It does not take place at one point in time, but should evolve with the planning process.” It has however been made explicit following receipt of this feedback, via the addition of “from concept to final product”.

- The tone of the EIA guidance notes is about compliance rather than developing a culture where access to services is something residents should be able to expect

The EIA guidance notes are intended to help staff understand when an EIA should be undertaken and how to complete one, rather than demonstrate the council’s commitment to equalities which is outline in the proposed Equality Policy and Objective 2018-22.

Equality Advisors:

- Equality champions should be able to self-nominate and not just restricted to senior managers, in order to ensure:
 - Champions include staff members with protected characteristics and real life experience
 - Champions include staff who are passionate about equalities
 - Issues are not diluted by those making representations

The proposed Equality Policy 2018-22 has been updated to clarify that Equality Advisors will include senior managers, for the same reasons given previously, but that arrangements will be put in place to engage with staff members with protected characteristics in order to receive feedback.

- Equality champions should have vast knowledge, experience and training in all the protected characteristics and, in the case of disability, all impairments

Equality Advisors will receive training to develop and maintain a good level of understanding of equalities issues, as well as being consulted with throughout the design, development and testing of the new equalities training specification. Should any situations arise where additional expert knowledge is required, specialist advice will be sought.

- Equality champions should be in all departments, not just ones that deal with the public

The “service areas” referred to in the draft policy do not only refer to frontline services, but to teams throughout the council including back office functions including HR and Legal.

- The names of the equality lead and champions must be published so that everyone knows who to go to if they have an issue

A list of Equality Advisors and their service areas will be published on the council intranet once, subject to Cabinet agreement, the proposed policy is agreed and the Corporate Equalities Group established. Contact details for the equality lead will also be included on this page. For persons outside of the council, the equality pages on the website will be updated, subject to Cabinet’s agreement of the new policy, and include instructions for how residents can contact the council regarding equality issues. It is envisaged that this will likely take the form of a dedicated email address or online form, with additional options for residents who are unable to use online contact methods. The Equality Advisors will help determine the best way to ensure residents with equality-related issues can contact the council and that any queries received will be directed to the most appropriate officer.

Equality Training for Officers:

- The council appears to be committed to a train the trainer model despite concerns that:
 - it has been unsuccessful in the past at preventing act of discrimination by staff
 - there is no guarantee staff taking on the role of trainer have the necessary desire, skills and/or expertise to do it effectively
 - pre-consultation feedback suggesting train the trainer model could be acceptable, subject to conditions, is suspected of being to some degree contrived

The council is not committed to a train the trainer model. Feedback from the consultation is being fed into a review of equality training – as outlined in the

draft policy - across the organisation currently being undertaken which, it is envisaged, will result in a range of different training methods and modules being commissioned. The draft policy and objective will help inform and deliver the review of training by:

- 1. Passing on relevant feedback on the policy and objective relating to training to help develop the new training specification*
- 2. Ensuring the new training specification will support the draft equality objective for 2017-21: "To remind all Members and staff of their duties under the Equality Act 2010, demonstrate how the council has done this via training and engagement with services users and support organisations, and publicise the differences that this work has made."*
- 3. Using the proposed Corporate Equalities Group and other internal focus groups, subject to Cabinet's approval, to scrutinise and finalise the draft training specification.*

Pre-consultation engagement was undertaken on behalf of the council by an independent consultant who discussed a range of different training options with stakeholders.

- The commissioning of training should be clear and transparent

Any commissioning of equalities training will be done in line with the council's procurement rules, which can be found at:

<http://www.darlington.gov.uk/media/1011268/Part-37-Contract-Procedure-Rules.pdf>

- Race should be given priority in terms of staff training, given recent evidence of need.

It is envisaged that equality training will be all encompassing and cover all aspects of the policy, as opposed to numerous individual sessions on each area. However, as noted above, subject to Cabinet approval of the proposed policy and objective, the Corporate Equalities Group and other internal focus groups will be consulted with on the new equalities training specification and feedback received during the consultation will help inform development of the specification.

- Equality champions and protected characteristic groups should be involved in the design, development and testing of any new training

As previously, subject to Cabinet approval of the draft policy and objective, it is intended for the proposed Corporate Equalities Group and other internal focus groups, including staff members with protected characteristic, to be consulted with as part of the development of a new specification for equalities training across the Council.

- A number of comments were received in relation to what staff training on equalities should include, specifically:
 - The reporting of Hate Crime
 - Challenge behaviour and thinking
 - Focus on real-life scenarios
 - The effect of discriminatory behaviour on individuals and the organisation
 - Equality legislation, staff's duties to promote equality
 - The nature of prejudice and discrimination
 - Support and encouragement for staff to challenge unlawful behaviour
 - The difference between an impact assessment and a consultation
 - The equality policy (but more than just being made aware that there is one and through EIA they are fulfilling the objective) – this should be mandatory and regularly monitored
 - How the draft equality policy should be applied in practice, including clarity and guidance regarding partnership working and community development with faith organisations
 - Guidance regarding working with protected characteristic groups

These recommendations will be passed on and used to inform the development of the new specification for equalities training and to commission a new training programme, which is anticipated as being likely to include a range of different methods.

- The current scheme is not always applied consistently and leads to staff feeling anxious and that they may be sanctioned if they make the wrong decision

The proposed Equality Policy and Objective 2018-22 have been updated to reflect feedback received during engagement, including this point, to recognise that training for officers on equalities, the PSED and the council's policy should be the organisation's priority for the next four years.

- The policy does not give enough details about how training and publishing of information will take place

The proposed Equality Policy 2018-22 recommends that the development of a specification for future equalities training include the involvement of the Corporate Equalities Group and other internal focus groups. As this model is subject to Cabinet's approval, specific information on what equalities training will look like, beyond what has been included in the proposed policy, cannot be given at this point as future work needs to be undertaken, once the proposed model has been implemented.

In terms of publishing information going forward, an analysis of equality-related indicators has been undertaken during the development of the new draft policy, which proposes that these indicators be collected and reported on regularly as part of the corporate performance monitoring framework. A review of the equality pages on the council's website will also be undertaken to ensure it is as accessible and easy to find as possible, and include information for groups on how to contact other groups and why certain languages are used for translated documents.

Performance Management:

- Staff surveys, both before and after implementation of the new policy, should be used to help monitor performance and progress

The proposed policy has been updated to reference that questions about equality issues have been included in the biannual staff survey, and that this information will be reported following each survey.

Other:

- The council should engage with trade unions at the earliest possible stage to help identify priority areas for setting objectives

The Council has engaged with trade unions as part of the equality policy and objective consultation and considered responses received, in many cases amending the draft policy as per the recommendations received. Ongoing engagement with trade unions during the implementation of the policy and development of the training specification will be undertaken to ensure any views and/or concerns are taken into account.

- All complaints should trigger an EIA as there may be a wider issue

When completing a complaints form there is a section for individuals to state whether or not they feel they have been discriminated against and if so on what grounds. The Council's Corporate Complaints, Compliments and Comments Procedure Practice Guidance for staff states, "If the complainant alleges discrimination as defined in the Equalities Act 2010 it should act as a trigger for an equality impact assessment." Furthermore, The council's Corporate Complaints, Compliments and Comments Procedure (http://www.darlington.gov.uk/media/1348616/Corporate_complaints_procedure-2017-FINAL.pdf) states, "Where you feel a Council policy unfairly discriminates against a particular group of people with protected characteristics, as defined in the Equality Act 2010, we will investigate the matter as a complaint" whereas, in most other circumstances, dissatisfaction with a Council policy is recorded as a comment.

In practice, when a complaint alleging discrimination on the basis of a defined Protected Characteristic is received, the relevant service area will use the new EIA screening form to determine whether the complaint should trigger a full EIA. It is also envisaged that the new Equalities Group will consider any complaints alleging discrimination at their quarterly meetings, including whether a full EIA should be undertaken. Examples of where policies have been amended to take account of protected characteristic groups include the Tree and Woodland Strategy 2011-20 (<http://www.darlington.gov.uk/media/316261/Item-10-Appendix-1.pdf>) and the Dolphin Centre's rules for soft play, which have been amended to make allowance for disabled children.

- Given recent announcements about the future governance of the council, the draft policy's governance structure needs updating to show where accountability for equalities will sit if the chief executive post is removed

Following implementation of the new management change in June 2018, accountability for equalities will sit with the Managing Director. The governance outlined in the draft policy and appendices has accordingly been updated to reflect this new structure.

- There needs to be investment in the delivery of the new policy to work with the voluntary and community sector

The proposed Equality Policy and Objective 2018-2022 outlines the council's proposed approach to engaging with protected characteristic groups and the voluntary and community sector over the lifetime of the policy.