



London Borough of Hammersmith & Fulham

Cabinet

5 DECEMBER 2011

LEADER

Councillor Stephen Greenhalgh

PROPOSED IMPLEMENTATION OF SECTION 153 OF THE EQUALITY ACT 2010

**Wards:
All**

As per Schedule 19 (Consolidated) of the Equality Act 2010, Hammersmith and Fulham Council ('the Council') is required to publish information about its policies and practices in respect of their effects on people with protected characteristics, and to publish one or more specific and measurable equality objective(s).

The first requirement must be published by 31 January 2012, and the second must be published by 6 April 2012

CONTRIBUTORS

EDFCG
EDCS
EDASC

**HAS A EIA BEEN COMPLETED?
YES**

**HAS THE REPORT CONTENT BEEN RISK ASSESSED?
YES**

Recommendations:

- 1. That agreement to continue with established business practices as set out in the report is the Council's response and commitment to the first requirement of S153.**
- 2. That setting the objectives outlined in the table at 2.3 of the report be agreed as the Council's response and commitment to the second requirement of S153.**
- 3. That the reporting of progress on the second recommendation is carried out via a report to the Cabinet Member for Community Care at a public meeting.**

1. BACKGROUND

- 1.1. Section 153 of the Equality Act 2010 has been reviewed twice by the coalition government and has been reduced from four parts to compliance, to two, as outlined here in this report. The Regulations were laid before Parliament on 27 June 2011 and were debated in the Commons on 11 July 2011. The final reading in the House of Lords took place on 06 September 2011, and this date was made public on 05 September 2011.
- 1.2. Confirmation from the Government Equalities Office (GEO) of the duty as a result of these activities was announced on the GEO website on 10 September 2011, confirmed by email to stakeholders on 14 September 2011. During consultation on the new equality duty, the GEO did not propose a specific duty on public bodies to consult, as previously. Additionally, the timing of the final issue of the Regulation leaves little time for a consultation with the public. As noted below, the Council's Single and Disability Equality Schemes 2009-2012 (SES and DES) will continue until June 2012, which provides assurance to members and to the public.
- 1.3. S153 requires the Council to do the following:

1. Publication of information:

We must publish information to demonstrate our compliance with the duty:

- By 31st January 2012
- Annually, no later than date of previous publication

The information to be published must cover:

- Our employees who share a relevant protected characteristic; and
- Other people affected by our policies and practices, who share a relevant protected characteristic

The information must be published in a way that is accessible to the public. We may demonstrate compliance by publishing the information within another published document.

2. Objectives:

Prepare and publish one or more objectives that we think we should do, to achieve any part of the general duty:

- By 6th April 2012;
- And again as we see fit, but no later than every four years; and
- Objective(s) must be specific and measurable

- 1.4. The first of these deals partly with our other obligations under Section 149 of the same Act, which, broadly, requires us to give due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations in the exercise of our functions. This is given in more detail towards the end of this report.
- 1.5. The second replaces previous, similar duties, which required the Council to draw up and deliver equality schemes. The Council will continue with its current Single and Disability Equality Schemes 2009-2012 (SES and DES) and publicly report progress to the Cabinet Member for Community Care. As at June 2011, 80% of both the SES and DES has been achieved and this was reported back to the Cabinet Member at a public meeting on 16 June 2011. This figures excludes the results from Children's Services, as this part of the Council was undergoing an Ofsted inspection. Children's Services are likely to report on their progress to the Cabinet Member for Community Care at the next meeting.
- 1.6. The Council will report again on the final results of the SES and DES to the Cabinet Member for Community Care, at a public meeting in June 2012. This meeting may be refocused to reflect the wider needs of the community, and in the event that there are recommendations to this effect, this will form a separate report from relevant Council departments.
- 1.7. The new duty imposed by the second section of S153 is flexible and as such, the Council is able to add another equality objective at any time it sees fit. The recommendations below, accordingly, are mindful of this flexibility.

2. RECOMMENDATIONS TO CABINET

- 2.1. It is proposed to respond to the first requirement by continuing with two ways of usual ways of working, which exist as we have made great efforts to thread equality and diversity through our day to day business practices. Specifically, it is proposed to continue with the following:

Publication of information

Employees

The Council already has the means and capability to produce the necessary information, which is already published annually on the internet and intranet in the form of an Annual Workforce Profile Monitoring Report, so there is no change here for us.

Other people affected by our policies and practices

We already publish Equality Impact Analyses (EIAs), or Equality Statements (whichever is applicable) with all of our Key Decision Reports which are those that affect staff and service users on the internet and intranet and we will continue to do so. We also publish a

range of data on our borough demographics. Where there may be gaps in data that is not routinely collected, officers consult with the Council's Opportunities Manager who advises accordingly. In such cases, data from sources such as the Office for National Statistics (ONS) is regularly used in a proportionate way. Again, there is no change for the Council as we are already doing this.

- 2.2. It is not necessary to report further on the first requirement. This is because the information is already available, for example, via the Annual Workforce Monitoring Report and EIAs or Equality Statements that are published with Key Decision Reports.

Recommendation 1: Cabinet agrees to continue with established business practices as set out in the report is the Council's response to the first requirement of S153

- 2.3. It is proposed to respond to the second requirement by focusing efforts on the following specific and measurable objectives. These have been identified and are as follows:

2.4.

Objective	Specific and Measurable elements	How it meets the duty
<p>1. Narrow the attainment gap: Tackle the underachievement of some groups of children by reducing the gaps in performance between all children and those who are or have been entitled to free school meals.</p>	<p>Continue to monitor progress and develop strategies to reduce the gaps in achievement between underachieving groups and the rest. This will focus on the Early Years Foundation Stage (5 year olds), Key Stage 2 (11 year olds), Key Stage 4 (16 year olds) and progression to Higher Education</p>	<p>This objective aims to monitor and address gaps in educational achievement which in turn impact upon life chances for children who have grown up in families which have been subject to poverty. Children with some protected characteristics under the Equality Act tend to be over-represented in the cohort who are entitled to free school meals e.g. some ethnic groups. Improving the educational achievement of these groups would have a positive impact upon their future life chances</p>
<p>2. Continuity of Care: Reduce unplanned admissions to hospitals and nursing care homes through early intervention by integrated health and social care services.</p>	<p>In partnership with the NHS, develop services which:</p> <ul style="list-style-type: none"> • proactively identify and target preventative care to people at risk of unplanned admissions • minimise duplication, gaps and overlaps in assessment and care provision • maximise opportunities for 	<p>This objective aims to eliminate discrimination and improve equality of opportunity for older people and disabled people by being more responsive to their health and care needs. More integrated and flexible services will disproportionately benefit</p>

	<p>prevention, recovery, and rehabilitation</p> <ul style="list-style-type: none"> • allow more people to be cared for at home, including at the end of life <p>Specific targets for shifts in activity and improved outcomes will be developed through the Continuity of Care programme.</p>	<p>those with the greatest need and ability to benefit.</p>
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2.4 It is recommended that Cabinet agrees to the second and third recommendations for the following reasons:

Recommendation 2: It is recommended that members agree to the objectives in the table at 2.3 because they aim to improve outcomes for a number of protected groups

Recommendation 3: It is recommended that progress on these objectives is reported to the Cabinet Member for Community Care at a public meeting (see 1.6), in order to assure the public on our progress and invite comment from the public in this regard

3. FURTHER INFORMATION

3.1 Members should be assured that the requirement to set one or more equality objectives does not preclude setting further objectives at a later stage.

3.2 Members should note that service departments work to identify priorities in their own business plans, and that the Council's Opportunities Manager provides advice and support on such matters, and will continue to do so.

4. NEIGHBOURING BOROUGHES AND S153

4.1 In light of the tri-borough proposals, officers have investigated the implementation of S153 in neighbouring boroughs. The Royal Borough of Kensington and Chelsea (RBKC) and Westminster City Council ('Westminster') are each setting their own objectives.

5. RISK MANAGEMENT

5.1 The items proposed in this report are proposed in order to meet the new duty arising from S153 of the Equality Act 2010. In this regard, Members should note that failure to comply with this, or any other part of the Act could result in legal action being taken against the Council.

6. EQUALITY IMPLICATIONS

6.1 The public sector equality duty provisions of the Equality Act 2010 came into force on 6th April 2011 and widened the general equalities duties with which a local authority has to comply. Section 149 of the Act provides (so far as relevant) as follows:

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) tackle prejudice, and
- (b) promote understanding.

(6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

- 6.2 In addition, local authorities are under a duty by virtue of s29 of the Equalities Act 2010 not to discriminate against, victimise or harass any person to whom they provide services on any of the protected grounds.
- 6.3 It is considered that the objectives proposed in this paper collectively respond to paragraphs a) to c) in subsection 1) of S149 of the Equality Act and that they target groups that we know experience disadvantage.
- 6.4 Both objectives have been individually analysed in the accompanying Equality Impact Analysis. Overall, the impacts on various groups is positive, and will be of particular relevance to, and have a positive impact on the following:
- Age groups including older people
 - Disabled people
 - Race groups
 - Men and women: women proportionately more so than men
 - Children and young people, including those with low educational attainment
- 6.5 As noted at 1.7 of this report, Members can add another objective if the need arises, when we would review and respond accordingly.

7. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE AND CORPORATE GOVERNANCE

- 7.1. There are no direct financial implications arising from this report

8. COMMENTS OF THE ASSISTANT DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)

- 8.1 The Council's legal duties are set out in the body of the report.

LOCAL GOVERNMENT ACT 2000
LIST OF BACKGROUND PAPERS

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	Equality Impact Analysis (available electronically)	Carly Fry x3430	FCS
2.	Statutory Instrument 2260: Section 153 of the Equality Act 2010 (available on request)	Carly Fry x3430	FCS
3.	GEO: Equality Act 2010: Specific Duties to support the Equality Duty. What do I need to know? A Quick Start Guide for Public Sector Organisations (published 21 October 2011) (available on request)	Carly Fry x3430	FCS
4.	GEO: Equality Act 2010: The public sector Equality Duty. Promoting equality through transparency. A consultation (published August 2010) (available on request)	Carly Fry x3430	FCS
5.	GEO: Equality Act 2010: The public sector Equality Duty: reducing bureaucracy. Policy review paper (published 17 March 2011) (available on request)	Carly Fry x3430	FCS
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