

Draft Equality Impact Assessment (EIA) of main Budget proposals for 2013/14 Housing, Health & Adult Social Care Select Committee

Scrutiny Meetings please note that the purpose of the draft EIA below is to demonstrate, based on current available information, what would be sent to Cabinet and to Full Council as an analysis of the main budget proposals. It may require changes or to be updated.

(A) Overview and Summary

The purpose of this EIA is to assess the main items in the budget that is likely to be proposed to Full Council on 27 February 2013, following discussion of the proposed Budget at Overview and Scrutiny Committee on 29 January 2013, as well as at Cabinet on 11 February 2013. The Council is obliged to set a balanced budget and Council Tax charge in accordance with the Local Government Finance Act 1992.

(B) Methodology and explanation of Public Sector Equality Duty ('PSED')

This EIA is intended to assist the Council in fulfilling its PSED requirements. It assesses, so far as is possible on the information currently available, the equality impact of the main items in the budget. A public authority must in the exercise of its functions, comply with the requirements of the Equality Act 2010 and in particular section 149 (the Public Sector Equality Duty). Where specific budget proposals have a potential equalities impact these are considered and assessed by the relevant service as part of the final decision-making which will happen throughout 2013/14, and changes will be made where appropriate.

The protected characteristics to which the Public Sector Equality Duty ("PSED") applies include age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, sexual orientation, religion or belief and sex.

The PSED is set out in section 149 of the Equality Act 2010 ("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.

It is not, however, feasible or appropriate to carry out detailed EIAs of all the individual proposed policy decisions on which the budget is based at this stage. Detailed EIAs will be

carried out of policy decisions that have particular relevance to the protected groups prior to any final decision being taken to implement those policy decisions.

The aim in this document is to identify the elements of the budget that may have a particular adverse or a particular positive impact on any protected group so that these can be taken into account by the Scrutiny Committee when it discusses the budget.

Case law has established the following principles relevant to compliance with the PSED which Council will need to consider:

- (i) Compliance with the general equality duties is a matter of substance not form.
- (ii) The duty to have "due regard" to the various identified "needs" in the relevant sections does not impose a duty to achieve results. It is a duty to have "due regard" to the "need" to achieve the identified goals.
- (iii) Due regard is regard that is appropriate in all the circumstances, including the importance of the area of life of people affected by the decision and such countervailing factors as are relevant to the function that the decision-maker is performing.
- (iv) The weight to be given to the countervailing factors is in principle a matter for the authority. However in the event of a legal challenge it is for the court to determine whether an authority has given "due regard" to the "needs" listed in s149. This will include the court assessing for itself whether in the circumstances appropriate weight has been given by the authority to those "needs" and not simply deciding whether the authority's decision is a rational or reasonable one.
- (v) The duty to have "due regard" to disability equality is particularly important where the decision will have a direct impact on disabled people. The same goes for other protected groups where they will be particularly and directly affected by a decision.
- (vi) The PSED does not impose a duty on public authorities to carry out a formal equalities impact assessment in all cases when carrying out their functions, but where a significant part of the lives of any protected group will be directly affected by a decision, a formal equalities impact assessment ("EIA") is likely to be required by the courts as part of the duty to have 'due regard'.
- (vii) The duty to have 'due regard' involves considering whether taking the particular decision would itself be compatible with the equality duty, i.e. whether it will eliminate discrimination, promote equality of opportunity and foster good relations. Consideration must also be given to whether, if the decision is made to go ahead, it will be possible to mitigate any adverse impact on any particular protected group, or to take steps to promote equality of opportunity by, for e.g., treating a particular affected group more favourably.

All these matters will be considered by service departments as part of the final decision-making and implementation processes, but must also be considered by the Council when taking its decision on the budget later on in February 2013.

Generally, it is not possible at this stage, and prior to any detailed EIA, to identify measures that will mitigate the adverse effects of any particular policy decision, although where this is possible mitigating measures are identified at the appropriate point in this document.

(C) Assessment of impact of main budget items by department

SAVINGS, EXISTING EFFICIENCIES, AND NEW EFFICIENCY SAVINGS

The majority of the ASC line items are to do with staff reorganisations, for which staff and where relevant, service equality impact assessments are carried out. Other line items that have a frontline impact or connection are included here:

Third Sector Investment Fund, £150,000

This line item is likely to be of relevance to equality groups including: disabled people; women; BME groups; and people of different age groups. It is included here because of its relevance to those protected groups. However, these savings are the same as those identified in a Report which was agreed by the Cabinet in July 2010. This was accompanied by a full EIA. There is no change to that decision and this line item is implementing the recommendations as agreed in 2010.

Third Sector Grants – Small Pot: one-off of £68,000

This saving arises from the fast track small grants scheme, some of which was not spent because the applications received were not of a satisfactory standard. No adverse impact has been identified as a result of the small grants not being awarded.

Third Sector Grants – 10% reduction across all areas as contracts end (on-going £100,000)

This item arises from reducing the grants fund to give an on-going £100,000. This will leave a budget of £2.9m. However, there is no guarantee that any contract would be renewed as this is clear at the outset and as such this should not have any discernible impact on any protected group.

Review of Support Planning £120,000

Support Planning helps disabled adults to plan what they may want to change in their lives, what they want to stay the same and how they would spend their individual budgets to support them to live independently. As such, this service is of high relevance to disabled adults and will help to advance equality of opportunity between disabled people and non-disabled people, and will help to encourage disabled people to participate in public life. This line item refers to a staff reorganisation only and the quality of service will not be affected, and so there is no impact on disabled people as a result of this reorganisation.

Reprocurement of Supporting People contracts (on-going £300,000)

This line item is additional to the existing target of £369,000 for 2013/14, leaving an overall budget of £8.7m. The Supporting People tenders are being evaluated and the outcome of tenders will be known in January. It will be at this stage that the impact can be fully assessed.

Better gate keeping into residential and nursing care (£1,450,000)

This saving arises from low scale integration work, whereby a more planned discharge of clients back into their homes results in better outcomes and a lower number of clients because people are not having to be re-admitted to hospital so often. This will help to advance equality of opportunity for older and disabled people and to encourage participation in public life by helping them with their care after hospital. It is of high relevance to disabled adults, and to older people who have been admitted to hospital, with the focus being on managing the exit from hospital in a proactive and holistic way such that money is saved.

This line item also supports delivery one of the Council's two Equality Objectives, as required by S153 of the Equality Act 2010 and agreed by Cabinet in December 2011. The objective is:

Continuity of Care: Reduce unplanned admissions to hospitals and nursing care homes through early intervention by integrated health and social care services.

Managing Inflation requests from providers: £200,000

This line item refers to inflation-related requests made by providers of such services as care and residential nursing homes, making this of high relevance to older and disabled people. This is being managed by ASC and a standard system has been set up to ensure that recent case law and the views of stakeholders including care providers are assessed and taken into account when agreeing fees. Each case is judged on its own merits in line with emergent case law and the needs of providers to run a service that is fit for purpose. Therefore there should be no impact on older or disabled people, or on providers as a result of this approach.

Reduction in demand for all aged people with care placements and care packages: £450,000

This line is of high relevance to older and disabled people and relates to better, proactive support for this group. As such, the savings arise from a more planned approach and not from a reduction in service and so there will be no impact on older and/or disabled people.

Underspends

On going £40,000 contribution to MTFs as result of review of no recourse to public funds clients.

The on-going £40,000 is regarded as manageable and as not having an impact because the department anticipates that it can manage demand within the reduced budget. This item will be of high relevance to BME groups and those of various nationalities. The council has a statutory responsibility to offer assistance to asylum seekers under the National Assistance Act, 1948. We have a duty to provide accommodation and benefits to asylum seekers while they await the outcome of their case with the Home Office. Following changes in the law due to the Immigration and Asylum Act of 1999, asylum seekers that arrived after April 2000 no longer have a right to assistance and do not have to be provided for by the council. Therefore, the on-going £40K will be of relevance to those who arrived before April 2000 but it will not have an impact as the service can be managed sufficiently.

Housing & Regeneration Department (HRD)

Only the efficiencies that may have an effect on service users or that require comments to provide assurance of the level of impact on vulnerable groups are included here:

Reducing costs and financial risks associated with Hamlet Gardens: £350,000 and Withdrawal from the Hamlet Gardens Temporary Accommodation contract: £200,000

These efficiencies relate to the reduced procurement cost expected to result following the expiry of an expensive lease for temporary accommodation, and the Council procuring accommodation more cost effectively. These efficiencies are not expected to have any significant equalities impact.

Transforming Housing Options: £240,000

This efficiency relates to a staffing reorganisation which has been designed to best meet the requirement to deliver the revised housing strategy. Both the strategy changes and the staffing proposals have been the subject of separate EIAs, the latter showing no adverse impacts on staff with protected characteristics.

Elimination of Housing Benefit Subsidy Loss on HALD portfolio: £300,000

Introduction of and changes to Local Housing Allowances (LHA) has restricted Housing Benefits paid to customers. 546 tenancies where existing rents exceeded LHA rates were identified. A combination of negotiation with landlords to reduce rents charged and seeking suitable alternative accommodation where appropriate has been successful in mitigating

this risk. To date only 8 tenants are waiting to have their position resolved. This saving is a budgetary provision that is now no longer required.

Reorganisation of Elderly Resettlement Service: £27,000

The service will continue to be provided by the Floating Support team.

GROWTH

ASC

Increase in demand for LD placements and care packages: £700,000 Increase in demand, due to demographic and other factors, for care placements and packages: £450,000; and Increase in demand for mental health (MH) placements: £250,000

These line items relate to an increase in the demand for placements for people with various needs arising from their disability or age-related requirements. These will all be of high relevance to disabled and older people, and will support the participation of disabled people in public life, and help to advance equality of opportunity between disabled and non-disabled people. However, these items will have a neutral impact as the increase in budgets will meet the needs of these groups and there will be no change to the service or to the eligibility for the service as a result.

HRD

No growth is forecast for this service and so it is not possible to analyse the impact on equality groups.

FEES AND CHARGES

ASC

Home care: no increase

It is proposed that there is no increase to the home care charge of £12 between 2012/13 and 2013/14. This is because savings are expected to be delivered in 2013/14 which will reduce the average home care unit cost. At this point, the charge will be reviewed again. The home care charge of £12 is compared with the average home care contract rate of £12.22. This service is of high relevance to older and disabled people. In 2013/14, Hammersmith & Fulham will still be amongst the London Boroughs with the lowest contribution towards home care. Unlike nearly all other London Boroughs, a person's savings and property are not taken into account when assessing that person's ability to make a contribution to the cost of home care.

Meals on Wheels: increase from £4.30 to £4.50

The price per meal is proposed to be increased from £4.30 to £4.50 in 2013/14. This is an increase of 4.7% in line with inflation. This service is of high relevance to older and disabled people. Increasing the price will not advance equality of opportunity but it is not possible to mitigate for this as the costs of the service have increased. The Meals Service is due to go out to tender in April 2013 and consideration of impacts on equality groups (older and disabled people, in the main) will form part of this.