

CABINET

7 OCTOBER 2022

REPORT OF PORTFOLIO HOLDER (PARTNERSHIPS)

A.5 DRAFT EQUALITY AND INCLUSION STRATEGY 2023 TO 2027

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To present to Cabinet a draft four year Equality and Inclusion Strategy and seek approval to commence wider consultation prior to formal approval from Cabinet in Q3 and its implementation in Q4.

The development of this strategy is a key Corporate Priority under 'Effective and Positive Governance' for which the Q2 milestone is *"to take a draft Inclusion and Equality strategy to Cabinet and authorise consultation on it."*

EXECUTIVE SUMMARY

In accordance with the requirements of the Equality Act, 2010, all public bodies, including local authorities, are subject to what is referred to as the 'Public Sector Equality Duty (PSED)'. This duty requires public bodies to pay due regard to the following:

- 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; and
- Foster good relations between people who share a protected characteristic and those who do not.

As part of this PSED local authorities are required to have and publish their equality and diversity objectives, showing how they will meet these requirements. This draft Equality and Inclusion Strategy sets out how Tendring District Council (the Council) will seek to meet its obligations under the PSED over the period of 2023 to 2027.

Cabinet is asked to endorse this draft strategy for consultation with key partners. Following the consultation process, a revised final strategy will be submitted to Cabinet for final approval, publication and implementation.

The draft Equality and Inclusion Strategy sets out five objectives underneath each of which are listed the ways in which the organisation will seek to achieve them over the lifetime of the strategy. The contents are aligned to existing Council Plan and priorities and other documents such as the forthcoming Community Engagement Strategy, Local Plan, Housing Strategy, Economic Growth priorities and by working in close partnership with other providers.

The five objectives are:

1. Engage and communicate in appropriate and accessible ways

2. Ensure we deliver inclusive and responsive services
3. Foster good relations with and within the community
4. Break the cycle of inequality and improve life chances
5. Develop and support a diverse workforce

RECOMMENDATION(S)

It is recommended that Cabinet approves the draft Equality and Inclusion Strategy, as set out in Appendix A for public consultation purposes.

REASON(S) FOR THE RECOMMENDATION(S)

These recommendations are made in accordance with the agreed and published Corporate Priorities for 2022/23, section C3 Effective and Positive Governance for Q2.

ALTERNATIVE OPTIONS CONSIDERED

To decide against adoption and publication of an Equality and Inclusion Strategy – this option is not recommended as this would be in conflict with the Cabinet’s Highlight Priorities for 22/23 and could be regarded as failing to comply with Public Sector Equality Duty as set out within the Equality Act 2010.

To delay consultation on a draft Equality and Inclusion Strategy – is also not recommended as the purpose of consultation is to gauge views on its proposals which could strengthen the Council’s commitment to fulfilling it PSED.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The draft Equality and Inclusion Strategy is a priority target within the agreed and published Corporate Priorities for 2022/23, section C3 Effective and Positive Governance for Q2.

The draft document and the objectives have been prepared aligned to support the the Council’s vision as set out in the Corporate Plan 2020-24, “to put community leadership at the heart of everything we do through delivery of high quality, affordable services and working positively with others”.

The Council’s Values which underpin the Corporate Plan are:

- Councillors and staff uphold personal integrity, honesty and respect for others
- Innovative, flexible, professional staff committed to delivering excellence
- Recognising the diversity and equality of individuals
- Working Collaboratively with partners, including Supporting the Essex wide vision and ambitions

The draft strategy also supports the forthcoming Community Engagement Strategy, adopted Local Plan and Housing Strategy, together with Economic Growth priorities and by working in close partnership with other providers.

OUTCOME OF CONSULTATION AND ENGAGEMENT

This strategy is a draft document on which consultation and engagement will be carried out subject to Cabinet approval of the recommendations of the report before them.

In accordance with the published Corporate Priorities for 2022/23, section C3 Effective and Positive Governance, consultation will be carried out during Q3. Cabinet will then receive a further report on the outcome of the consultation, a revised strategy document to reflect the consultation outcomes (as appropriate) for appraisal and approval.

Consultation will be carried out with relevant partner organisations including health, police, key voluntary agencies such as CVST, CAT, Essex Equality Network Group and community hubs, Unison as the recognised trade union for the organisation and employees. Consultation may also be extended to include community groups that represent some protected characteristic groups such as Clacton Pride and Colchester Refugee Action.

Following consultation and the further report to Cabinet, the approved strategy will be published on the Council's website in accordance with the requirements of the PSED.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	NO	If Yes, indicate which by which criteria it is a Key Decision	<input type="checkbox"/> Significant effect on two or more wards <input type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	

The Equality Act 2010 enacts a single general Public Sector Equality Duty (PSED) under s149, in that public authorities exercising public functions must have "due regard" to eliminating unlawful discrimination, advance equality of opportunity and good relations between communities.

The duty on public authorities to have "due regard" to the Public Sector Equality Duty is more than a requirement to have general regard. Real, active, tangible thought has to be given to the PSED requirements.

Although what is sufficient to evidence "due regard" has often been a subject of dispute, the High Court considered the "due regard" requirement in *R (Brown) v Secretary of State for Work and Pensions and others [2008]*. The High Court held there was no prescribed way to evidence "due regard". However, a public authority had to be able to evidence it had regard to the impact of its proposed policy on equality. The Court then, very helpfully, set out the following general principles about complying with the due regard requirement:

- There should be a proper analysis of all the relevant material and an appreciation of the

duty to have due regard.

- Regard should be had to the duty to have due regard before, and at the time, a particular policy is considered. It shouldn't be a "box-ticking" exercise but should instead be a process integrated in the decision-making process.
- The duty is a continuing one.
- The duty is non-delegable and will always remain the responsibility of the body subject to the duty.
- The duty should be exercised with rigour and an open mind.
- The duty should be reconsidered if new information comes to light and adequate records should be kept of the consideration and decision-making processes undertaken in order to demonstrate that the equality duties have been undertaken conscientiously. If the relevant general equality duty is not mentioned, it does not mean that the duty has not been performed, however it is good practice to refer to the duty and any considerations under it to avoid future legal challenge.

These general principles have also been confirmed in later cases. As with all case law they are not an exhaustive or final list, but we know that in general the principles are:

1. Proper Analysis
2. An initial consideration not an afterthought
3. Continuing Duty
4. Non-delegable
5. Rigorous and transparent
6. Obligation of reconsideration

The development and publication of an Inclusion and Equality Strategy is one way in which the Council demonstrates it is fulfilling its obligations within the PSED.

The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:

The Equality Act 2010 protects the rights of individuals and supports equality of opportunity for all. It offers protection, in employment, education, the provision of goods and services, housing, transport and the carrying out of public functions.

The Equality Act also makes it unlawful for organisations carrying out public functions to discriminate on any of the nine listed protected characteristics. The public sector equality duty also sets out duties for such organisations to stop discrimination.

Indirect discrimination may occur when a person or service provider takes the same approach to decision making or service provision for everyone. This may then put people sharing a protected characteristic at a particular disadvantage.

The duty means the Council (and bodies acting on its behalf) must consider equality and good relations when they develop policies and deliver services. They must also keep these issues under review, keep up to date and learn from lessons when things do not go quite right. A proactive Equality and Inclusion Strategy demonstrates the Council's commitment to complying with the PSED.

FINANCE AND OTHER RESOURCE IMPLICATIONS

No major financial implications for the development of this Strategy are anticipated at this time.

<input type="checkbox"/>	The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:
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	USE OF RESOURCES AND VALUE FOR MONEY
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	The following are submitted in respect of the indicated use of resources and value for money indicators:
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A)	Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	N/A
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B)	Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	<p>Through the implementation of the strategy, the Council will:</p> <ul style="list-style-type: none"> • Enable good governance, fair and informed decision making through building confident, skilled, and active communities and an inclusive culture. • Ensure our decision making structures and processes are understood and accessible for individuals and communities.
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C)	Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	<p>Through the implementation of the strategy, the Council will:</p> <ul style="list-style-type: none"> • Understand people’s experience of the services they use and the communities they live in, work in or visit and use this intelligence to improve inclusion, equality of access, wellbeing, quality of places and our services.
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	MILESTONES AND DELIVERY
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	<p>October 2022 – Consultation process commences, agreed draft Equality and Inclusion Strategy circulated to invited parties (as listed above) for comment and advice.</p> <p>November 2022 – Consultation period ends. Revisions made to strategy as appropriate following consultation.</p> <p>November and December – Final version of strategy submitted to Management Team, ICAB and Cabinet for approval.</p> <p>January to March 2023 – publication of strategy and roll out of training/briefings as required.</p>
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	ASSOCIATED RISKS AND MITIGATION
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	To decide against adoption and publication of an Equality and Inclusion Strategy would run counter to the PSED set out within the Equality Act 2010 and would/could result in the Council being in breach of the law. The development and subsequent adoption and publication of a strategy will mitigate against this risk.
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EQUALITY IMPLICATIONS	
Having undertaken an equalities impact assessment, the conclusion is that the proposal does impact on the protected characteristics.	
SOCIAL VALUE CONSIDERATIONS	
Social value is embedded within the proposed strategy.	
IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030	
No significant impact.	
OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS	
Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.	
Crime and Disorder	<p>Working with partners the Council is aware that hate crime cases are high within certain areas and wards of the Council, notably Pier Ward. Of hate crime cases that have been reported to the police within the Tendring District, for the twelve month period ending June 2022, 47% (176 instances) are racially motivated.</p> <p>According to the Home Office, Hate Crime Survey for England and Wales 2019 to 2020 "47% of hate crime incidents came to the attention of the police". It is likely that Tendring will reflect this national figure.</p> <p>The Equality and Inclusion Strategy places an emphasis on working with partners to address hate crime and to increase its role as a developer of Hate Crime Ambassadors amongst its staff.</p>
Health Inequalities	<p>The Equality and Inclusion Strategy addresses a number of actions that will be taken, with key partners, to address health inequalities across the District and especially for those parts of the population who are significantly impacted.</p> <p>It is recognised that some parts of the community can be reluctant to engage with services for a range of reasons that can include a fear of being treated unfairly, of not being understood or of not being taken seriously. As a Council we will work with partners to identify the barriers to access and seek to reduce or remove them completely.</p>
Area or Ward affected	All areas and Wards of the Tendring District are affected.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

This draft strategy sets out the Council's intended priority objectives for equality and inclusion for the period 2023 to 2027 in line with its responsibilities under the PSED and its Corporate Plan. At the present time, the authority does publish (via its website) the statistical data regarding the composition of the District as required but it does not currently have a policy statement regarding equality published on its website.

Following Cabinet approval of the final strategy (after a period of consultation) its publication will support the Council in meeting its responsibilities under the Public Sector Equality Duty (PSED) as well as setting out the organisation's priorities for supporting equality and inclusion.

The timing of this Strategy will enable the priorities to be adjusted, if necessary, in light of the data to be released from the 2021 national census. The Office of National Statistics has announced a timetable for release of data between October and December 2022.

PREVIOUS RELEVANT DECISIONS

Minutes of the meeting of the Cabinet, held on Friday, 25th February, 2022 resolved that: 'the highlight priority actions for 2022/23, as set out at Appendix A to the aforesaid report, be formally adopted by Cabinet'.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

Equality Impact Assessment

APPENDICES

Draft Equality and Inclusion Strategy

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