

## APPENDIX 1

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> March 8 2005	<b>MEETING NAME</b> Executive
<b>Report title:</b>		Independent Review of the Council's Equality & Diversity Framework by Lord Herman Ouseley	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Chief Executive	

### RECOMMENDATIONS

1. That the Executive:
  - Welcomes this report and associated recommendations as a positive means of progressing the equality and diversity agenda in Southwark;
  - Agrees to establish a sub-group to oversee and drive forward the Council's response to the report, and to ensure that any outstanding complaints against the Council are properly dealt with;
  - Agrees to seek the assistance of the Commission for Racial Equality in the development of the Council's response to the report;
  - Agrees that the outcome of the report should be considered as part of the forthcoming review of the Council's Equality Scheme and agrees to ask for an extension to the deadline for publication of the revised scheme from 30 May to 31 July 2005;
  - Thanks Lord Ouseley for the time, energy and commitment he has brought to the review.

### BACKGROUND INFORMATION

2. On 27 July 2004, following the District Auditor's report into Imperial Gardens and the associated Ombudsman and overview and scrutiny reports, the Executive resolved that the Leader and Chief Executive secure the appointment of an independent person of national standing to conduct an objective review of the Council's equality and diversity framework and agree detailed terms of reference with that person once appointed.
3. In August 2004, the Leader and Chief Executive appointed Lord Herman Ouseley to conduct the review and agreed detailed terms of reference with him. Lord Ouseley is the President of the Local Government Association, the former Executive Chair of the Commission for Racial Equality and formerly chief executive of Lambeth Council and the Inner London Education Authority.
4. Lord Ouseley began his review in September 2004 and has since held private and public meetings with a number of interested parties, including local residents and business people, members and officers of the Council. He received submissions from people who believe that they have been unfairly treated, as well as from people who have praised the Council for its work. His report was published on Monday 7 March 2005. As well as a wide ranging review of the Council's corporate policy framework and how it discharges its duties with regard to equality, diversity and social cohesion, the review has

examined workforce considerations and issues of policy implementation specific to each Council department. The report comprises detailed findings, including strengths and areas for improvement, and makes thirty-five specific recommendations for further action.

5. Lord Ouseley has also prepared an annexe to his report, which contains a schedule of Council policies and documents considered by the review, a list of the individuals and organisations that contributed to the review (excluding those individuals who specifically asked not to be named) and a number of written submissions from individuals and organisations. The annexe contains no further judgments or commentary by Lord Ouseley; whilst he considered the submissions in the formulation of his report, he has not assessed or verified them. The original intention of both the Council and Lord Ouseley was to publish the whole annexe at the same time as the report. However, it would not be appropriate to do so, for reasons contained in the legal concurrent.

## **KEY ISSUES FOR CONSIDERATION**

### ***Consideration and implementation of the review report***

6. The review has concluded that the Council has comprehensive equality and diversity policies, which are among the best in local government. However, its success should not be measured only in terms of its policies but also in how it delivers them, where the review detected a number of shortcomings. In particular the Council needs to communicate more effectively with all sections of the community, rebuilding trust where it has been lost. Although the review found that the Council aims to provide services for all its diverse population equitably and fairly, and works hard to avoid unlawful and unfair discrimination, there are some people who feel unfairly treated by the Council.
7. Read as a whole, the report makes balanced judgments on the strengths and shortcomings of the Council's equality and diversity framework, with a set of recommendations addressing key areas for improvement. The main thrust of the recommendations would appear to be:
  - Making targeted improvements to officer and member training, to ensure equality and diversity competence
  - Tackling instances of disproportionality in the profile and management of staff
  - Improving the availability and use of equality and diversity monitoring data
  - Establishing better processes for community consultation and engagement, especially in major regeneration areas
  - Contracting an independent equality and diversity auditor, reporting to the Council and feeding back to the public and community organisations.
8. A preliminary view of the recommendations would be that the vast majority constitute constructive and practical suggestions for ensuring the full implementation of equality and diversity policies within the Council's own workforce and the wider community.
9. In order to take forward the findings and recommendations of the review, it is proposed that a special sub-group of the Executive be established to lead the process. Extensive consultation with the community and staff will be required

on the changes arising from the report and it is clearly desirable that this process dovetail with the forthcoming consultation on the new Equality Scheme.

10. Under the Race Relations Amendment Act 2000, the Council has a duty to publish a new Race Equality Scheme by 31<sup>st</sup> May 2005. The Scheme, which will incorporate all the dimensions of inequality included within the Council's Equality and Diversity Policy, will set out a programme of service, policy and cross-cutting reviews for the period 2005-2008.
11. Initial discussions and planning for the new Scheme have already commenced. Given the importance of ensuring that the Scheme is fully informed by the review, and the need to ensure wide consultation with the community and staff before it is finalised, it would be helpful to seek agreement with the CRE for an extension of the deadline to 31<sup>st</sup> July 2005.
12. Following an initial examination of the implications of the findings and recommendations of the report by the sub-group, it is proposed that a report be brought back to the full Executive in April 2005.

### ***Summary of findings and recommendations of the report***

#### Introduction

13. The report is very wide-ranging and comprises detailed findings, including strengths and areas for improvement, covering policy, strategy and service delivery. It makes thirty-five specific recommendations for further action, which fall broadly into four areas:
  - Policy development
  - Community consultation and engagement
  - Workforce considerations
  - Policy implementation

#### Policy development

14. The Council's policy-making processes are comprehensive and in line with best practices in local government. The Council has taken a strong and consistent corporate approach to developing and adopting policies specific to the equality and diversity challenge. The framework for policy development is sound, with an Executive Member leading on equalities, the Chief Executive chairing the Chief Officer Equalities Sub-Group and the Corporate Equalities Action Plan providing strategic direction for specific programmes and action.
15. Overall, the Equalities Action Plan provides a sound, all-embracing, Council-wide strategic framework for addressing the improvement and development of equality, diversity and social cohesion in the borough. It has a precise focus covering the key areas of leadership, employment, access to and provision of service and participation. Although included within the plan, the promotion of good relations between people from all backgrounds needs to be made more prominent as an activity.
16. The Race Equality Scheme adopted by the Council in May 2002 is regarded as a good model for planning and implementing the actions needed and is

regarded by the Commission for Racial Equality as a good working document. The Council is engaged with the review process that will ultimately lead to a revised scheme and it needs to ensure the wide and effective engagement of the borough's diverse communities with a view to producing an exemplary and meaningful revised scheme by May 2005.

17. The external Equality and Diversity Panel provides independent challenge, rigorous scrutiny and ideas for adoption. The panel members are experienced in specific equality and diversity concerns and bring an explicit understanding of the different groups of people whose needs are being responded to. However, their scrutiny of Equality Impact Assessments is overly dependent on officers' own assessment of actions, progress and achievements, and this should be supplemented with specific service user feedback.
18. The Southwark Race and Equalities Council should contribute to the process of promoting good race relations and tackling inequality in the borough. The Council is currently assisting SREC to redefine its focus, so that there can be clear agreement on what programmes to prioritise to meet its goals. The recent review conducted by the Council as part of its ongoing monitoring of SREC's performance provides a basis for reinvigorating the organisation.
19. The recommendations on policy development are confined to a small number of improvements to existing policy and process, most of which are already well in hand. According to the report, the Council should:
  - ***Urgently produce an action plan for the wide-scale involvement of stakeholders in the review of the Race Equality Scheme (3)***
  - ***Include customer, client and service user monitoring data as part of the Equality Impact Assessment process (4, 28)***
  - ***Agree an action plan for the reform of SREC (6)***
  - ***Revise the CEAP to highlight and prioritise targets explicitly aimed at promoting good race relations in the borough (8)***

#### Community consultation and engagement

20. The Council places a very high priority on effective and meaningful consultations, involvement, engagement and participation with its diverse communities. Consultations take place on a wide variety of initiatives and policy planning processes and local liaison arrangements exist for specific service areas.
21. Residents' surveys show year on year improvements in satisfaction levels with the way the Council is run, with well over half of respondents considering themselves satisfied. As is the case nationally, satisfaction in different areas of Southwark varies according to levels of deprivation. A significant minority of people said that they found Council staff unhelpful when contacted, perceived them as uninterested in their problem and reported they were unable to get a satisfactory outcome. The new Customer Service Centre will aim to reduce levels of dissatisfaction.
22. In spite of all the consultation and engagement programmes undertaken, there is always more that the Council could be doing to improve communications with residents to get its positive message across, a fact

which it is continually addressing.

23. Although the Council does communicate and consult a great deal, the processes and methods require improvement. Greater outreach is needed and explicit contacts need to be made with all groups. Specific feedback principles need to be applied consistently, including what decisions are made, why they are made and a clear account of the benefits and disadvantages. There is a crucial role for elected members in communicating messages to constituents and building trust and confidence with local communities.
24. The recommendations here are concerned with supporting members in their community leadership role, better co-ordinating existing resources and making more use of outreach activities, particularly in the context of regeneration or large-scale development:
  - ***Improved equality and diversity information should be made available to elected members (5)***
  - ***Effective co-ordination of existing resources for reaching and engaging with all communities is needed when regeneration or development is proposed; team based, outreach activities should be the focus (30)***

#### Workforce considerations

25. Over the past two decades the Council has pursued active recruitment policies and practices that accord with recognised best equality and diversity approaches. The Council's record as an employer of diverse groups of staff is as good as any other local authority in Britain. It is probably second to none in attracting BME applicants for job vacancies as well as in making appointments. However, the proportion of BME applicants is significantly greater than the proportion of BME individuals appointed (66% versus 46% in 2003/4) and the reasons for this disparity require further analysis.
26. The Council is also a good equal opportunity employer at senior levels in the organisation but needs to address some shortfalls. Women make up 54% of the workforce and 43% of the top 5% earners; BME staff make up 45% of the workforce and 20% of the top 5% of earners.
27. In order to deliver equality and diversity outcomes and address under-representation at senior levels, the Accelerated Development Scheme and Talent Management Initiative proposed by the Council require targets to be set as part of performance appraisals for chief officers with regard to their own senior teams and for managers generally.
28. There are imbalances in some specific areas of the workforce, which require more detailed analysis and action. These include the representation of disabled and BME staff in the top tier of management, and the ethnic diversity of the Building service (which is 80% white) and residential care staff (who are 70% BME).
29. Classified disability among the workforce is recorded at 2.2%. The Council is a "two tick" employer, regularly promoting jobs and opportunities to the disabled community; nevertheless, it should further intensify its initiatives.
30. Although the numbers involved are very small, male and BME staff are

disproportionately subject to disciplinary investigations and action. As there is the potential for overzealous action in this area, each disciplinary case should be monitored on an ongoing basis for one or two years to ensure that no discrimination is occurring and best practices are being maintained.

31. More BME than white staff are employed on temporary or fixed term contracts within the Cleaning business unit of the Environment & Leisure Department. It is the policy of the unit to employ all new staff on temporary contracts and the majority of new employees since 2003 are from BME backgrounds, which explains why disproportionality may exist. However, there needs to be an assessment of the discriminatory potential in this unit and action taken to eliminate any discrimination found.
32. Although MORI concluded that staff satisfaction at the Council was broadly in line with normative data (62% Southwark versus 60% nationally), 19% of both white and BME staff remain dissatisfied and 21 % of BME staff compared to 13% of white staff disagreed that the Council was an equal opportunities employer. The reasons for dissatisfaction need to be better understood and addressed meaningfully.
33. There is a lack of equality and diversity monitoring data for the employees of external providers and for agency staff employed by the Council. This should be addressed, so that the Council can determine and secure wider benefits for its diversity strategies and ensure that expenditure is effectively deployed in support of its equality and diversity policy objectives.
34. Given the diversity of the borough and the Council's own workforce, it is essential that all members and officers are equality and diversity competent. This applies particularly to the most senior officers and those whose work directly impacts on the public e.g. planning and environmental services.
35. The recommendations here are primarily concerned with analysing and addressing any findings of disproportionality related to the workforce, improving the range of equality and diversity data available to the Council, and ensuring that members and officers are fully competent in equality and diversity matters:
  - ***All instances of disproportionality identified, both during recruitment and within the composition and management of the workforce, should be analysed and addressed (10, 11, 12, 13, 15, 16)***
  - ***Better monitoring data is needed on applicants with disabilities and on staff from different religious affiliations, staff who are lesbian, gay, bisexual or transgender and to prepare for age discrimination legislation (14)***
  - ***Equality and diversity data for external providers and agency staff should be obtained and analysed (8, 9)***
  - ***Equality and diversity competence is an essential requirement for all jobs and needs to be explicit in recruitment and performance management (2)***
  - ***Members, chief officers and officers within the Planning Division and Environment & Leisure Department should receive training to ensure individual equality and diversity competence (1, 27, 32)***
  - ***Achievement of equality and diversity targets should figure specifically in chief officers' and managers' appraisals of***

## ***performance (17)***

### Policy implementation

36. Education continues to be a major priority for radical improvement in Southwark and there are numerous actions underway, which the report does not seek to catalogue or replicate. However, areas where the report recommends that additional priority be given are:

- ***The promotion of good relations between people of all backgrounds through learning in school (18)***
- ***Setting targets for greater diversity in the teacher workforce (19)***
- ***Raising the level of parental involvement in schools (20)***
- ***Developing school and community partnerships, making learning attractive and engaging young people in contributing to positive developments (21)***

37. There is a very wide range of provision for young people, which requires vision, leadership and cohesion to secure the best use of all available resources. The Council has addressed this by the appointment of a Director of Children's Services to achieve essential strategic co-ordination, direction and the delivery of effective programmes to meet the diverse needs of Southwark's young people. The Council is aware of issues highlighted to the review that point to young people as a "problem" (e.g. gangs in some parts of the borough) and its cohesion initiatives are targeted at these, alongside specific projects. Nevertheless, the report recommends that:

- ***The Council reassures itself that existing arrangements for assessing and responding to potential youth inter-ethnic conflict are sufficient (22)***

38. The Council has an excellent record of responding to the needs of travellers, when compared to other local authorities across the entire country. There are four official sites with 38 pitches in Southwark and the statutory agencies are regarded as positive. Good relations exist on the whole between travellers and other resident communities. Where unauthorised encampments have appeared during the last few years, the Council has managed them very sympathetically and sensibly. More outreach work to explain and inform the community about the planning process is needed, in addition to the support already provided through the Willowbrook Centre and Southwark Travellers Action Group.

39. The Housing Department provides a comprehensive service and is clear about its commitment to equality and diversity; innovative practices and methods have been introduced to engage with hard to reach communities. The Social Services Department provides essential services for the most needy and vulnerable and has a clear recognition of special needs; it has a proportionate balance of staff from the different backgrounds of BME, women and people with disabilities, and under-representation at more senior levels is under continuous review. The recommendations for both departments are focused on:

- ***Collecting more data and information about service user's views both for management purposes and policy development, including***

**areas where dissatisfaction has been expressed i.e. Community Housing (23, 24, 25)**

40. The Environment & Leisure Department provides a diverse range of services including a range of universal services such as refuse collection, street cleaning, parks, libraries and cultural services. Libraries and sports provision are comprehensive and inclusive. As in other departments, monitoring data (especially service user feedback) needs to be improved for the equalities impact assessment process. The relatively high number of disciplinary cases and the use of temporary contracts in the Cleaning unit should be reviewed and monitored; although disciplinary proceedings were warranted in all cases, there is the potential for overzealous action. There has been a recent transformation in the Parks and Wardens services. Officers in the Trading Standards and Environmental Health services have to strike an almost impossible balance between appearing too lax in providing guidance and advice or appearing oppressive by taking enforcement action. The positive development of services and the difficult balancing act taken by these enforcement services are not always recognised by everyone; the report therefore recommends that the department:

- **Improves communication and information sharing to ensure that all sections of the community have increased awareness of the services available (26)**

41. Social renewal is at the core of the Council's approach to regeneration, inward investment and neighbourhood renewal. One of the main challenges for Planning and Regeneration is how to manage change in a way that brings benefits to local people while minimising adverse impacts. Large scale regeneration tends to favour relatively big businesses over existing small and medium sized businesses. Because of the diverse nature of the borough and because the business interests of poorer and BME communities tend to be locked in to the SME sector, equality and diversity competence is critical for planners and decision makers. Although it may be assumed that many thousands of local people who did not contribute to the review are satisfied with their treatment, some small businesses, including BME businesses at the Elephant & Castle, Camberwell and Peckham, have been extremely critical of the Council's planning and regeneration activities.

42. There is a wide range of business support services provided, including an ethnic minority business support unit, as part of Elephant Enterprises; more specific attention needs to be given to promoting business development opportunities for people with disabilities, who are not currently benefiting from the provision, although it is acknowledged that numbers are always likely to be small. The recommendations of the report "Regeneration Policies and the Impact on SME/BME Businesses" agreed by the Executive on 2 November 2004, if fully implemented with the engagement of BME communities, would enable the Council to place itself at the forefront of best practice in enterprise development, provision of business support services for SME/BME traders and businesses and planning and regeneration activities, which give priority to local communities at every stage of prospective development proposals and new initiatives. However, there is scepticism and suspicions within BME communities, which needs to be overcome; this will require communication and engagement and a positive demonstration by the Council that decisions are being subject to rigorous equality proofing, with all potential adverse impacts being taken into account.



43. Planning briefs for developments go through a rigorous process of public consultation prior to approval and the public's views are taken into consideration by elected members when decisions are being taken. However, there are equality and diversity imbalances in the composition of committees making planning decisions, including Community Councils.
44. In order to broaden the take up of services to business, improve the effectiveness of communication and consultation on developments and equality proof planning decisions, the report recommends:
- ***Specific attention is given to promoting business development opportunities for people with disabilities (29)***
  - ***Each regeneration area should have its own management group and "town centre" facility, leading on information and advice with outreach to vulnerable groups (31)***
  - ***The profile of committees and senior officers in regeneration and planning needs in the future to reflect the borough's diversity and make equality and diversity profiling, representation and considerations integral to all decision making (33, 34)***
  - ***An independent equality and diversity auditor should be contracted to scrutinise planning processes on a continuous basis, reporting to the Council and feeding back to the public and community organisations (19)***

#### ***Equalities Implications***

45. These are contained within the main body of the report. Detailed implications arising from the findings and recommendations of the review will be addressed in the report back to Executive proposed for April 2005.

#### ***HR Implications***

46. These are contained within the main body of the report. Detailed implications arising from the findings and recommendations of the review will be addressed in the report back to Executive proposed for April 2005.

#### ***Resource implications***

47. It is not possible to assess the financial implications of the Council's response to the report at this stage, although some of the recommendations are likely to require redirection or supplementary resources. The budget recently agreed by the Council is likely to have some limited scope for redirection.

#### ***Consultation***

48. Part of the remit of the sub-group will be to determine an appropriate programme of consultation on the report of the review and the Council's new Equality Scheme. One of the key issues identified by the review is that, although the Council communicates and consults a great deal, its processes and methods require improvement. In particular, the review found that the Council should do more to engage disadvantaged groups in policy making and needs to build confidence and trust in all sections of the community.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### ***Borough Solicitor***

49. The general advice contained in Lord Herman Ouseley's report will enable the Council to better perform its duties under the Race Relations Act.
50. Issues have arisen regarding submissions made to him which have been described in the third part of the Annex to his report. They contain allegations of bad faith and discrimination against officers and members of the Council. The Council has not yet had the opportunity to consider, and still less respond to, these allegations, nor have any of the individuals named in, or identifiable from, the Annex. They are allegations which could injure the reputation of those named, and therefore are capable of being defamatory if untrue. The Council has asked leading Counsel to advise.
51. His advice is that to publish these allegations, unchecked and unverified, is to expose the Council and also Lord Ouseley to risk, if some of them later prove to be unsustainable. There is a defence of 'public interest' giving rise to qualified privilege but leading Counsel has advised that in the case of a legal complaint, the Court would conduct a searching enquiry as to whether any or any sufficient checks were in place in regard to the accuracy of the material, and whether those whose reputations were at risk were invited to comment in order for their views to be published as well.
52. These checks have not been made nor have those referred to in the annex had such an opportunity, and the Council is advised that in those circumstances it would have a low chance of establishing a defence of justification.
53. Where the allegations are made about current employees, leading Counsel also points out that publishing untested allegations is at serious risk of breaching the implied term of the contract of employment not to act in a way as to destroy or seriously damage trust and confidence between the employer or employee.
54. The option of seeking to delete or disguise references to identity was considered but Counsel advised that in his view they would still be identifiable in the edited version which he considered, and further that freedom of information and data protection provisions did not affect the situation.

### **REASONS FOR URGENCY**

55. There is significant public interest in the outcome of the review and it has always been the intention of the Council to make the report public as soon as practicable after receiving it. However, it is also important that the Executive has an early opportunity to consider the report and to agree a preliminary response. Leaving a relatively long gap in time between publication of the report and its consideration by the Executive would risk diminishing public confidence in the Council's willingness and preparedness to deal with the report.

### **REASONS FOR LATENESS**

56. The Executive report is late because the report of the review was not available five clear days in advance of the meeting. It has been circulated at the earliest opportunity.

### BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
<i>Independent Review of the Council's Equality &amp; Diversity Framework by Lord Herman Ouseley</i>	<i>Central House, Town Hall Peckham Road, London SE5 8UB</i>	<i>Graeme Gordon 020 7525 7384</i>
<i>Executive agenda and minutes for meeting of 27 July 2004</i>	<i>Town Hall Peckham Road, London SE5 8UB</i>	<i>Everton Roberts 020 7525 7221</i>

### APPENDIX A

#### Audit Trail

<b>Lead Officer</b>	<i>Bob Coomber, Chief Executive</i>	
<b>Report Author</b>	<i>Graeme Gordon, Project Manager</i>	
<b>Version</b>	<i>Final</i>	
<b>Dated</b>	<i>08/03/05</i>	
<b>Key Decision?</b>	<i>No</i>	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Borough Solicitor	Yes	Yes
Chief Finance Officer	No	No
Executive Member	Yes	Yes
<b>Date final report sent to Constitutional Support Services</b>	08/03/05	