

Item No. 5	Classification: Open	Date: 19 th May 2005	MEETING NAME Cross-Party Working Group – Ouseley Review Implementation
Report title:		Employment & Workforce Issues	
Ward(s) or groups affected:		N/A	
From:		Head of Human Resources	

Recommendations

That Members agree:-

1. The Council's aim should be to concentrate its efforts on those employment & workforce issues it has direct control over (Council run services and staff) and then prioritise other developments arising from Lord Ouseley's recommendations.
2. The priority for obtaining workforce profile data for contractors be outsourced services that provide a direct front line service to Southwark residents. Any contractual implications arising to be reported to a later meeting.
3. Procurement to be an area for Equality Impact Assessment over the forthcoming year.
4. Explicit equalities' targets on employment & workforce issues, as part of performance management, have been set for Chief Officers. These to be cascaded to other departmental managers.
5. For a meaningful analysis of recruitment to take place, focus is on contemporary information (2004-05) using 2003/4 for comparative trends. This to be reported to the Working Party as part of the July report.
6. The Council's current approach to progressively monitoring sexual orientation, religion & belief through anonymous staff surveys and other voluntary and anonymous routes continues.
7. That a report on disciplinary action be limited to an annual report, to avoid confidentiality risks and to enable meaningful statistical analysis and the proper assessment of trends.

Background

8. The first meeting of the cross-party working group took place on 4th April 2005 to consider Lord Ouseley's recommendations on the Council's equality and diversity framework. The working group requested that a paper be submitted to its May meeting setting out options to address those recommendations relating to employment and workforce issues.

This report looks at each of the recommendations in turn, identifies the options available and clarifies where further work is required. Where progress relies on an explicit decision by Members this is reflected in the recommendations above.

Key Issues for Consideration

9. Recommendation 16.8

Southwark Council's workforce E & D data is comprehensive and improving. However, as several services are outsourced it is necessary to have E & D staff data for all external providers and contractors in order to assess E & D performance, compatibility with the Council's equality policies, compliance with E & D legislation and enabling the Council to meet its public duty obligations (7.2).

10. Issues for consideration are –

- This is an area which is not wholly within the Council's control, but there is acknowledgement that increasingly external providers deliver Council front line services and that further steps need to be taken to ensure equality and diversity dimensions are properly measured.
- The restrictions of the Data Protection Act. The Data Protection Act restricts the collation and retention of "sensitive" data without the individual's explicit consent. Ethnic monitoring data would fall into "sensitive data". The Council overcomes this restriction for its own staff as it has a statutory duty related to race, communicates the purpose of record retention to employees and has clear procedures to safeguard the accuracy and retention of data.
- The types of contracts are various and multi-sited. For example, the Home Care contract is the provision of a borough-based service that is a direct replacement of a Council function; whereas the IT hardware contract is a specialist service that will be sited alongside its technology – currently outside London.
- The extent that existing contractual arrangements can be altered mid term, the potential costs of altering those contracts, whether they have existing requirements surrounding equalities & diversity which permit the provision of employee data and how judgements will be made to identify any contractual implications.
- The extent to which best practice is applied for the standard evaluation procedures used by the Council to check Equal Opportunities Policy systems for bidders, and the standards applied by contract monitoring officers to ensure compliance with RRA 1976.

11. In recognition of these issues and the intention to improve monitoring data: -

- a. Any profile data requested from outsourced services should recognise the restrictions of the Data Protection Act and be presented by the outsourced service in a way that maintains employee anonymity, ie statistical rather than individual; and should take account of procurement regulations which allow consideration of workforce matters where they relate to the achievement of best value and the delivery of the contract.

- b. That Members are asked to agree, the priority to provide data should be those contracts that provide a direct service to the Southwark community as an alternative to provision by the Council. This is consistent with the importance of service delivery compliant with Council lead on equality and diversity.
- c. The Procurement Unit, Legal Services and contract managers be required to consider further the process of contract determination and amendment to ensure that legal restrictions and effective client monitoring occur; including financial implications to changing existing practice / altering contract requirements in relation to such direct service contracts. It is noted that procurement is a planned area for Equality Impact Assessment during the forthcoming year.

12. Recommendation 16.9

During 2003/4, £34.9 million was spent on agency staff, which should be analysed with E & D classifications to assess E & D compatibility and to deal with alleged discriminatory practices (7.3).

13. As reported to the Executive and Scrutiny Committees the Council is currently reviewing its arrangements for the provision of agency workers, with the intention of letting revised contractual arrangements from October 2005. A requirement of the new provider will be to maintain and report on comprehensive monitoring data after a reasonable lead-in time. As the procurement project progresses it will be clearer how soon data would be available.

Recommendations 16.9 & 16.10

14. The responses to these recommendations are linked so they are considered together. Matters related to disability are dealt with in detail below.

Disproportionality exists for BME, women and staff with disabilities across different parts of the workforce and requires targeted action to address imbalances (7.4) and (7.5).

CEO and Directors to be tasked with the goals of making their respective Senior Management teams representative and reflective of BME and staff with disabilities (7.5).

15. Issues for consideration are:-

- The disproportionality identified relates to: top managers (women and BME), building workers (women and BME) and all staff (disabilities) – this is explored further in paras. 17 to 19. For top managers and disability employment, the matter has already recognised in the Corporate Equality Action Plan. For Building Workers this is a known industry problem.
- Two of the BVPIs include; the top 5% of earners who are women and the top 5% of earners who are from bme communities. This is a small group and small changes in data can have a notable impact on the proportions; this would include one-off payments, eg honoraria. At the end of 2004-05 both the proportion of female staff and the proportion

of bme staff have reduced compared to 2003-04. However, it is noteworthy that the proportion of female staff at top manager level is better than ever before with half the Council's top management team now women, and we expect to remain in the top quartile of authorities for the employment of bme managers.

- Looking at the organisation as a whole, the proportion of female staff drops at senior manager grade level. For BME staff the drop occurs slightly earlier, at grades 11 and 12. Below that both women and BME have strong representation, greater than the local community – although there are some occupational exceptions - eg Building Services as highlighted in the report. The Council has therefore an unprecedented opportunity in “growing its own” not only to make a meaningful difference to the lives of individuals but by harnessing this resource to change the organisational profile.

16. Actions to be taken to tackle these issues are a mixture of long and short-term solutions and include: -
- a. Looking at training targeted at under represented groups to overcome the impact of past discrimination. The proposed Accelerated Development Initiative will consider knowledge and skills but also provide related work experience.
 - b. Re-look at the opportunities for worklife balance – throughout the hierarchy. Whilst this benefits all staff, for carers (mainly women) it may be the critical factor in applying for a promotion.
 - c. Looking at the development of career pathways. For all staff it is recognised that the quality of information on career development can be improved and options are currently being explored.
 - d. Striving to achieve corporate liP by the end of 2005. As a framework, liP not only addresses equality issues but also establishes common standards in the provision of training opportunities.
 - e. Continuing to engage the views of the BME consultation group about methods to support staff throughout the organisation and overcome obstacles to progression.
 - f. Changing the proportion of women and bme staff in Building Services is a medium to long-term issue. The profile of Building Workers in Southwark is not believed to be extraordinary but reflective of the industry. Already apprenticeships from people of different profiles have been organised and the department has drawn up a local action plan to progress the improvements. Further opportunities need to be explored including targeted recruitment and the development of a culture that better supports diversity. Vacancies and turnover in this area are relatively low so change will be gradual. The emphasis therefore is on building a foundation of diversity rather than quickly achieving change. As part of the action required links need to be made with Regeneration initiatives in this area, eg “Building London Creating Futures”, Apollo London as a partner.
 - g. Lord Ouseley's recommendations include equality and diversity targets as part of CEO and Chief Officers' performance management. Numbers are

small and opportunities for change limited, therefore such targets need to be viewed over the medium term. Targets need to be bespoke based on existing profiles in departments, corporate targets for related BVPIs and an assessment of the opportunities to change. Equality targets across the broad spectrum of employment and workforce issues have been incorporated into the current process of determining Chief Officer performance management objectives for 2005/6.

17. Recommendation 16.12.

More people with disabilities should be targeted by the Council with a view to improving their opportunities to be employed at all levels within the Council in greater numbers (7.6).

18. Issues for consideration: -

- Excluding schools, the proportion of employees with disabilities is 2.23% at year-end 2004-05. There is less than 1% difference between Southwark and the upper quartile performing authorities.
- At the last staff survey, where responses were anonymous, just over 6% of respondents (114 staff) indicated that they have a disability. It is generally accepted that under-reporting exists.
- This is an existing action point within the CEAP.

19. An increase in the number of people with disabilities is being pursued through:-

- a. Promoting the Council as a supportive employer to people with disabilities through; job fairs, promotional material, promotional advertising.
- b. Creating an environment where current employees who have a disability feel comfortable and able to declare their disability. This may not match the 6% responding to the survey but will raise the declared numbers. Options include, continuing and promoting disability awareness training, creating a disabled workers support group in partnership with the Trade Unions, and providing expert guidance to managers.
- c. From 2005-06, an additional BVPI has been added – the top 5% of earners who are disabled. It would be unrealistic to expect numbers to be great, at year commencement it is less than 1%, however, the message is clear. People with disabilities do and are expected to be able to undertake jobs at any level within an organisation.
- d. At a national level there is an intention to change the scope of the Disability Discrimination Act, affecting the public sector. This will create a new duty on public bodies to promote equality of opportunity for disabled people, in the same way, as one exists for race. The detail of the Act remains outstanding and is not expected to come into force until 2006.

20. Recommendation 16.13

66% of applicants for vacancies in 2003/4 were from BME people but only 46% of appointed people were from BME background and the reasons for the 20% fall away needs analysis and consideration of any appropriate action required (7.7).

21 It is recommended that the analysis focuses on contemporary information, no older than financial year 2004-05 and reported to Members as part of the workforce report (planned for July). This will allow an assessment of whether the identified problem persists, whether there is a trend in the statistical data and to drill down into smaller pockets of information – departmental, divisional etc.

22. The proportions from which the recommendation derived, were based on year 2003-04 recruitment activity; some of which occurred two years ago, much influenced by organisational changes at that time, such as the return of Street Cleaning services, and initiatives to positively encourage BME applicants. It isn't feasible to further analyse the 2003-4 information in a meaningful way because, with this time lapse, much of the detailed data will no longer be available.

23 It should be noted that top line data on recruitment, as required under the CRE monitoring framework, may flag up issues for further investigation. Where there are very large or small numbers applying for posts in relation to the number of available appointments this may lead to distortion of figures. Further work may therefore be required to investigate any identified areas of concern/ variance following publication of the trend figures.

24 Recommendation 16.14

Issues relating to disabilities are referred to in paragraph 17-19 above.

Better quality monitoring data is required on applicants with disabilities and also to enable a better understanding of the equality and diversity prospects of staff from different religious affiliations, those who are Lesbian, Gay, Transexual or Bi-Sexual and to enable effective preparation for dealing with forthcoming legislation to eliminate age discrimination (7.8).

25. Issues for consideration are:-

- The Council has acknowledged the need to broaden it's intelligence on different areas of equality monitoring, especially to ensure discrimination is not occurring.
- Advice from external organisations including Acas & Stonewall are supportive of monitoring, but recognise that for some employees sexual orientation is a matter of particular sensitivity. Monitoring needs to be incremental, building trust, confidence and openness.

Sexual orientation is a sensitive matter and it may not be appropriate to ask about this at this time. **Extract from ACAS guidance on monitoring**

Stonewall's position on monitoring is that employers should begin to monitor. The pros and cons of monitoring workers' sexual orientation are currently contentious – as was ethnic monitoring when it first began.

Under-declaration is a constant problem with monitoring, and inaccurate figures may lead to inappropriate decisions. Many LGB employees and job applicants will not feel safe declaring their sexuality.

Creating a safe environment in the workplace will enable more people to be open about their sexual orientation but employers should not force people to disclose this information. Monitoring on sexual orientation should provide an option for people to state that they prefer not to answer a particular question.

You may want to take a snapshot of how many LGB people are currently in the organisation, or perhaps you want specific information on the experiences of those employees; or both.

You might choose to carry out a large-scale, anonymous survey or focus on specific areas such as harassment.

Ideally the data you gather should be good enough to use as a benchmark for improvement.

Extract from Stonewall's Guidelines for Employers on The Employment Equality (Sexual Orientation) Regulations

- In a similar way to 16.8 above, the Council has no statutory requirement to collect information on sexual orientation, religion or belief. Its facility therefore to require employees to provide information other than on an anonymous basis is restricted.

26. The Council included questions around sexual orientation, religion & belief in its anonymous staff survey of 2004. This was a useful starting point for the Council in introducing the concept of monitoring in these areas. (The results of the survey showed no significant differences in responses from people that could be linked to sexual orientation, religion or belief). This has been followed by introducing similar monitoring in exit questionnaires – again voluntary and can be anonymous if people so choose.
27. The Council is shortly to launch a LGBT workers' consultative group. The group will be modelled on the BME group but recognising the need for individual development. Not only will this group help raise awareness of LGBT issues it is a potentially useful resource to test out the right time and process to extend any further monitoring, e.g. the next stage may be to introduce voluntary monitoring as part of e-recruitment. In the interim, Members are asked to endorse the Council's approach of information gathering through anonymous staff surveys and other voluntary and anonymous routes. Also the facility and processes to record voluntary data will be put in place. It is vital that when this step occurs it is non-threatening and ultimately successful.
28. Age is a matter of known fact. At a time, therefore, when the provisions of the age discrimination are clearer, it will be possible to begin to properly assess the impact on the workforce and applicants; the collection of related data will be easier to implement. From known information, the Council is prepared for the implementation of potential legislation.

29. Recommendation 16.15.

On-going monitoring of each disciplinary case should be instituted, especially in the Environmental Cleaning Business Unit and in the Social Services Department to eliminate any potential scope for discrimination and to ensure that appropriate management action is taken to reduce the relatively high number of such disciplinary proceedings against BME staff. Such monitoring should extend to examine any discriminatory implications of the high proportion of BME staff who are on temporary and fixed term contracts in the Cleaning Business Unit (7.9).

30. In accordance with the CRE's framework on ethnic monitoring, the profile of those subject to disciplinary investigation and disciplinary action is recorded, reported and published annually as part of the Workforce Monitoring Report. Numbers of staff subject to disciplinary action is low and more frequent monitoring risks breaches of confidentiality – from the material the subject of the investigation / action may be obvious to a sufficiently large audience – and potentially distorts the apparent frequency of disciplinary action in a particular area.

Similar to recruitment it is important that information is contemporary and that monitoring does dwell on historic information except to compare trends. Analysis must identify real and potential problems so they can be addressed, where-ever this may occur in the organisation. As a starting point the Head of HR will look at the reasons and profile of staff of each case that leads to a disciplinary outcome regularly, minimum quarterly. This will create an opportunity to identify problems and take corrective action quickly whilst providing the background for the annual analysis.

31. Recommendation 16.16

The reasons for the levels of staff dissatisfaction need to be known and better understood. 360 degree independently facilitated reviews should be deployed involving key staff and managers, particularly in identifying potential for promotion to senior and top positions and in order to tackle identified concerns (7.11 and 7.12).

This recommendation appears to fall into two parts.

32. A better understanding of staff dissatisfaction will be achieved through: -
- a. Continuing consultation with the BME consultation group, the Trade Unions and other consultation group set up to give a voice to minority groups, e.g. the LGBT group noted above.
 - b. Better enabling staff to use harassment and other complaint procedures to raise concerns. (The 2004 staff survey showed that some staff do not know how to raise a harassment complaint). Whilst this may be a painful process for the Council it is correct that unresolved issues are formalised and a resolution sought.

- c. Internal Communications strategy that encourages improved opportunities for dialogue between managers and employees, managers and groups of employees. This will make use of a range of communication techniques including the use of facilitated independent input where this is seen to be beneficial.
33. All staff at JNC level undertake occupational assessment as part of their recruitment process. This has the potential to measure an individual's attributes and behaviours that will enable them to better manage a diverse workforce – there is no off the shelf test that measures “equalities”. Within employment there are potential options to measure such attributes, through occupational assessment techniques, as part of performance management. This will however require further research and a period of development to ensure robustness and independence. It is not possible to highlight resource implications at this stage but will be considered as part of the development.
 34. Recommendation 16.17

The delivery of equality and diversity outcomes, through the Accelerated Development and Talent Management Initiatives, require targets to be set and to be part of performance appraisals. The achievement of equality and diversity targets should figure specifically in Chief Officers', Senior Managers' and Supervisors' appraisals of performance (7.14).
 35. The response to this recommendation is covered in paragraph 15 above. In a similar vein, Chief Officers will need to cascade the targets to their departmental managers using the same principles.

Resource Implications

36. Activity would be within existing and planned resources for 2005-06, unless stated in response to the particular recommendations above.

Consultation

37. This report will be shared with the BME Consultation Group and the constituent Trade Unions, and ongoing discussions will continue around implementation of recommendations.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
BVPI11a-c definitions & outturns Staff Survey 2004	PMS	Jill Seymour 0207 525 7066

Audit Trail

Lead Officer	Bernard Nawrat – Head of Human Resources	
Report Author	Jill Seymour – Corporate Personnel	
Version	1	
Dated		
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
<i>Officer Title</i>	Comments Sought	Comments included
Borough Solicitor & Secretary		
Chief Finance Officer		
Executive Member		
Date final report sent to Constitutional Support Services		