

## APPENDIX 9

### Southwark Human Rights, Race and Equalities Bureau

#### Response to draft report on Future delivery of equalities and human rights functions (Southwark Human Rights, Race and Equalities Bureau) for 2010/11 from Southwark Council

##### Introduction

1. SHRREB has been provided with a draft of a report being prepared for Councillor Adele Morris, Executive Member for Citizenship, Equalities and Communities on the future of funding for SHRREB and the future delivery of equalities and human rights functions in 2010/11. This response has been agreed by the Council of Management of SHRREB.
2. SHRREB rejects the main conclusions of the report and wishes to argue for a further six months funding in order for it to continue and develop the delivery of its work programme in 2009/2010 and negotiate a quarterly monitoring against agreed outcomes for the financial year commencing 1<sup>st</sup> April 2010
3. In essence the concerns of the Council can be summarised under two main headings – governance of the organisation and programme delivery. While SHRREB accepts that there have been a number of problems in both of these areas over recent years the Council of Management elected at the AGM held in early November 2009 believes that it has the capacity to provide sustained and competent governance and that it has taken decisions that will see sufficient resources allocated to take forward the agreed work programme. SHRREB believes that Council officers have not taken into account recent developments. Council officers have been kept fully informed of all developments but SHRREB did not formally know that consideration was being given to withdrawing the Council grant until the letter tabled at a Council of Management meeting on 21 September. This was followed by the non release of core funding for the third quarter ten days later which has put the organisation immediately into a difficult position. No meeting then took place with Council officers to discuss the position and nothing was received from the Council laying out exactly what it expected of SHRREB.
4. In this response we first look at governance issues before going on to consider the work programme. Before doing that it is necessary to comment on two points made in the report paragraphs on background information.
5. The report (para 9) says that “SHRREB has also not applied to the Council’s Community Support Programme which is openly advertised.” SHRREB has

been awarded grant aid in previous years without such an application and it was assumed that the same process would apply this year. Some of the confusion here is probably due to the fact that SHRREB's monitoring officer is Andy Matheson who is responsible for the Council's funding of advice services (none of which goes to SHRREB) and not Bonnie Royal who is responsible for the Community Support Programme. Nevertheless it is unfair to criticise SHRREB for not doing something it has not been required to do it previous years.

6. The last bullet point in para 10 says that "in 2008 the Council provided funding to commission a further consultant to support it with resolving its problems." If this refers to the Sean Baine report two points need to be made. Firstly the funding was found by reducing the already agreed grant to SHRREB so no additional funding was found. Secondly the consultant was not employed to support SHRREB with resolving its problems. The consultant was jointly commissioned by the Council and SHRREB to review the future of the organisation – the recommendations in the report were accepted by both the Council and SHRREB in November 2008 and were used as a basis for the SLA agreement to progress the work in 2009-2010 which although affected by the governance issues during May – July 2009 could still be delivered within the agreed time-period

## **Governance**

7. The draft report makes a number of comments which SHRREB disputes.
8. The report (para 11) comments on the failure to hold an AGM within the correct timetable. This was because of staff shortages. However it was always known that an AGM had to be held and now has been held following a Charity Commission order so the breach has been remedied. Consideration should also be given to the fact that a constitutional review was delayed due to the six month review of the organisation which commenced in July 2009. It was agreed at the board meeting with the monitoring officer present that as the election of a new board was the final process of the restructure that historical issues with the organisation's governance were addressed and verified prior to an AGM to ensure the process was legitimate.
9. The report (para 11) says that a conflict of interest in relation to a former board member was not properly managed. This is simply not true. The Board member wrote an e-mail after a Board meeting to the Acting CEO asking that her sister who was employed by SHRREB be paid an amount she felt had been agreed at the last Board meeting. In fact it had not been agreed. The Chair immediately pointed out to the Board member that there was a conflict

of interest and that she was not entitled to make representations on behalf of her sister. The Board member accepted this and made no further comments of any sort on the employment of her sister. There is no other way that this incident could have been handled more promptly or effectively.

10. In para 11 there is a reference to updating bank signatories and, by implication, not ensuring a proper separation of function between staff and trustees. The reason that signatories were not updated following an agreement that they should be changed was that it was expected that there would be shortly be an AGM and new trustees and new signatories. In the meantime the Council of Management agreed that the two existing signatories (the Chair and the Acting Chief Executive) could not sign any cheques unless two Board members had authorised payment. The new Council of Management has agreed four signatories who are all Board members and this decision is being progressed.
11. In the same paragraph there is reference to a “failure to deliver services effectively resulting in a formal complaint from a partner organisation on behalf of a client and failure to notify service users, the Council or partners of a period of service closure or of access arrangements during the closure.” These points were answered in the response sent to the Council on 21 September but this response has been ignored. In that response we said:
  - In general the legal department has delivered effectively having made a small profit whilst operating a full cost recovery budget for the first time in 2008-2009. We have almost reached our annual targets in terms of new matter starts and have been successful in a high percentage of our casework often working in conjunction with organisations and agencies providing various other services to our shared clients. The caseworker in question in relation to the complaint was appropriately disciplined with the full approval of the board and is no longer an employee of this organisation following an investigation as to why a file transfer request was not adhered to within a reasonable time of it being requested.
  - It is accepted that it was a mistake not to include our Southwark Council monitoring officer in the mail out which went out to all clients. However it should also be noted that the office closure dates were agreed at a board meeting in presence of the monitoring officer who attends all board meetings and reports back on decisions to the Council.
  - A letter was posted to all clients on our database (a copy of which was later provided to our monitoring officer at a board meeting where the matter was discussed). The letter outlined an emergency number for

clients to call, provided the date when the office would re-open and arrangements were made between the Acting Director and the Head of the Legal Department to manage this process until the office resumed after the Christmas period. A message was also left on the main office number providing the same information.

- Most of our partners within the advice network contact staff via work mobiles and several were in contact during the closure period to clarify to clients the letters they had received. It was also admitted and agreed at a board meeting relating to this issue that SHRREB would ensure all advice network partners were informed when the office was closed for any period of time. Other methods have also been employed as we are only a staff team of 4.
12. We find it difficult to equate the criticisms made on these incidents with a “failure to deliver services effectively”. All organisations will make mistakes – in this case mistakes have been acknowledged and staff disciplined. We would also like to clarify that to date this is the only complaint received in relation to the legal department since 2006 when the restructure process began.
  13. In para 17 the report says that the Board has had too few members to govern effectively. SHRREB accepts that it is desirable to have more than the two Board members there had been previous to the AGM but would argue that even with two members (the minimum required by the constitution) there has been effective governance. It should also be noted that in 2007 Southwark council requested all board members to stand down who had been involved as trustees since 1996 which left a board of only three. It was further agreed at that point with Southwark that as the organisation was going through a restructure with the support of LBS that we would continue with a minimal board in order to address the organisations issues and that a full board would be elected once the organisation had addressed the financial and management issues identified in 2006-2007 which led to the additional 35k funding support provided by Southwark. The report also says in the same paragraph that the Board was unable to agree the investigation report carried out into alleged financial impropriety. This is untrue. The Board agreed all the recommendations in the report at its meeting on 21 September 2009 (it is also worth noting here that the Council has not queried anything in that report and neither has SHRREB’s auditor).
  14. The report (para 23) comments on the recent AGM and says that only 7 of 30 member organisations were present – in fact there were 8 present. The report states that there was inadequate compliance with procedural

requirements. We do not understand this. 8 nominations were put to the meeting and accepted. Afterwards the staff found that two further nominations should also have been put to the meeting – this was explained to the first Board meeting and it agreed to co-opt these two members. Since then, because of the uncertainty produced by the Council, two members elected at the AGM have resigned leaving a Board of eight. The Council of Management has now agreed a further 4 co-options bringing membership of the Board to 12. This is the strongest Board that SHRREB has had in many years, made up of a number of individuals who have no previous history of serving on the board .

15. In conclusion, with respect to governance issues, SHRREB accepts that there have been a number of issues over previous years including a need for more trustees and disputes between trustees. However it is to the credit of SHRREB that a small number of trustees stuck with the organisation through difficult times and that at all times proper procedures were followed, Board meetings were held at regular intervals and all issues were properly investigated and resolved. It is ironic that the Council officers are now proposing to act when the Board is at its strongest for many years and determined to act jointly and decisively to further the work of SHRREB.

### **Delivering the work programme**

16. Under the Grant Funding Agreement for 2009-10 SHRREB was to provide services in five main areas:
  - *Taking on a challenge and policy role in relation to each of the discrimination strands, including active involvement in the Council's Equalities and Diversity Panel.* There has been consistent attendance at the Equalities and Diversity Panel where it has been understood that SHRREB's contribution was considered helpful. Southwark's model for the EDP has now been copied by other local authorities across London. However it is accepted that this role needs further development.
  - *Active participation in strategic partnerships.* There has been some attendance at Southwark Infrastructure Group and Council/Voluntary Sector Liaison meetings but this has not been always been possible due to staff shortages. SHRREB no longer has a place on Southwark Alliance and the Stronger Communities Partnership has not been meeting lately. The Voluntary Sector Forum has been reformulated and SHRREB attended the first general meeting of Southwark Voice.

- *Delivery of legal services in immigration, employment and human rights.* The work on employment has not been pursued. However the immigration, asylum and human rights work has been highly successful and all LSC targets have been met.
- *Providing information briefings, community events and consultation.* This area has not been developed due to staff shortages. However one consultation with faith groups was held with local BME faith groups who have requested further consultations to address local and community issues and perceptions.
- *Organising and facilitating forums – Human Rights and Equalities Policy Forum and Racial Incidents Forum.* The SHRREB Council of Management took a decision not to have a separate Human Rights and Equalities Policy Forum but to manage this work directly. Extensive consultations were carried out which resulted in an agreed work programme although this has not been fully implemented. Currently the aim is to produce two policy papers on public sector employment and BME mental health issues in this financial year and consult with communities on the two larger piece of work around LGBT and gender issues. Funding for work on racial incidents has been withdrawn by the Safer Southwark Partnership although a full survey programme has been drawn up and is ready to go.

17. The Council officer's report makes no reference to the series of problems there have been in ensuring that there are sufficient staff resources to carry out the agreed programme. The key events have been:

- Failure to appoint a Chief Executive in the last two years, apart from three months, with the consequent burden of work falling purely on the Acting Chief Executive
- The inquiry carried out by Sean Baine on behalf of the Council and SHRREB after the resignation of the Chief Executive in March 2008 which delayed real progress for six months
- The ongoing necessity to manage the legal service which has been made much more time consuming by the absence on sick leave of the Head of the Legal Service since June 2009.
- The time consumed by divisions within the Council of Management particularly over the suspension of the Acting Chief Executive and her subsequent reinstatement and the investigation into the whole matter

18. All of these events have meant that for over 18 months the only effective officer has been the Acting Chief Executive supported since the beginning of the year by Sean Baine one day a week. This is simply not enough to ensure that the whole work programme is progressed – particularly when the absence of the Head of Legal Services for over six months has meant the Acting Chief Executive having to undertake much of her role.
19. There is an agreed work programme which is attached to this report (this is an expanded version from the one attached to the officer's report). The Council has been aware of the development of this programme and has never criticised it and it is still considered by the Council of Management to be a robust programme. It should also be noted that the work programme originally submitted was agreed by the council who took into consideration the issues surrounding the organisation's management and governance that were addressed in parallel to each other.
20. In order to ensure delivery of this programme the Council of Management had agreed that Sean Baine should be taken on for three days a week – he and the Acting Chief Executive had divided up the work between them. Then came the news that the Council was considering reducing or withdrawing the funding and it was not prudent, in the light of this information, to continue to employ Sean Baine at this level. And so, again, the work programme does not get progressed. If the Council of Management can secure Council funding for six months then they would be employing Sean Baine for three days a week with a specific brief to develop the work programme – after which it is hoped that the Council can agree an annual grant and a new Chief Executive be appointed.

## **Conclusions**

21. SHRREB believes that the Council has taken a very one sided view of the governance issues at SHRREB – in some cases it has misstated the facts and overall it has not recognised that SHRREB has continued to function, that Council of Management meetings have been held regularly, that all issues have been addressed, that up to date and unqualified audited accounts have been prepared and, above all, that after the AGM a new, stronger and totally committed Council of Management has been elected.
22. The legal programme has continued to be delivered to the satisfaction of the Legal Services Commission in despite of the absence of the Head of Legal Services for over six months.

23. A work programme has been agreed but has not been fully developed due to a lack of staff resources. The Council of Management has now agreed a strategy for dealing with this.
24. Therefore the Council of Management is asking the Council to agree to restore funding for the remainder of 2009/2010 and to agree a detailed work programme for the next six months that can be regularly monitored in conjunction with the Council.
25. SHRREB recognises there have been problems in the past but now asks for the Council's support in developing a work programme that is much needed by the people of Southwark.