

APPENDIX 1

**SCRUTINY PROGRAMME BOARD
28 FEBRUARY 2012**

EQUALITY AND IMPACT ASSESSMENTS

SUMMARY

At the previous meeting of the Scrutiny Programme Board held on 4 January 2012, a CfPS Policy Briefing entitled 'Equality Impact Assessments' was provided to members. Members made a request that the Policy Briefing be summarised for this meeting of the Scrutiny Board.

BACKGROUND: PUBLIC SECTOR EQUALITY DUTY

The Equalities Act 2010 ("The Act") has two main purposes:

- to harmonise discrimination law, and
- to strengthen the law to support progress on equality.

The Public Sector Equality Duty ("PSED") (section 149 of The Act) came into force on 5 April 2011.

The PSED applies to public bodies and others carrying out public functions. It supports good decision-making by ensuring public bodies consider how different people will be affected by their activities, helping them to deliver policies and services which are efficient and effective; accessible to all and which meet different people's needs.

The PSED is supported by specific duties, as set out in the Statutory Code of Practice, which came into force on 10 September 2011. The specific duties require public bodies:

- to publish relevant, proportionate information demonstrating their compliance with the PSED; and
- to set themselves specific and measurable equality objectives.

Section 31 and 32 of the Equality Act gives the Equalities and Human Rights Commission ("EHRC") the power to issue "a compliance notice" if these duties are not being carried out. Individuals disadvantaged by public sector decisions can still bring an action under the Human Rights Act 1998.

EQUALITY IMPACT ASSESSMENTS (EIAs)

All council officers, from recycling officers to transport planners to social workers to librarians, have a duty to consider access to the services they provide and the implications of the policies they develop for all groups in the local community: it is not only the responsibility of the equalities officer or diversity champion. Likewise, consideration of equalities issues is important to scrutiny committees, whether they are carrying out a

review of the council's recycling policy, monitoring children's social services or challenging the development of the library plan.

An intrinsic part of the PSED is the preparation of EIAs. EIAs have been operational in WMBC since 2008 and are published on the Council's website. EIAs should be produced whenever a WMBC policy is being developed. An EIA will enable the Council to make an informed judgement as to whether a policy will have unintended, negative consequences for certain people.

According to the EHRC, an EIA can have one of four outcomes:

- No major change
- Adjust the policy
- Continue the policy
- Stop and remove the policy

A robust methodology in the completion of EIAs will allow the Council to affirm that it has made a policy decision in a logical way, and that no assumptions have been made about the impact of a certain section of the community.

As it is important to consider the broad policy impacts of decisions, the effective production of EIAs relies on the principles of equality being "mainstreamed" within the wider decision making process. It is difficult to think of any policy change that the Council could implement that would have no impact whatsoever on local people.

The North West Employers Organisation Equality network has asked WMBC to be a case study in EIAs. WMBC were one of the first in the region to redesign its toolkit following the introduction of The Act in 2010.

It is essential that the Council's EIA process becomes more robust in terms of completion, quality assurance, scrutiny and transparency.

As part of the Independent Corporate Governance Review report, AKA highlighted "shortfalls" in the way the Council evaluates the impact of its policies both prior to execution and in response to evidence about the impact". Subsequently, the AKA report identified "Equalities" as an area for improvement.

Failure to carry out EIAs will leave the Council:

- failing to meet legal requirements.
- open to reputational risk.
- open to legal challenge.

It was agreed at Cabinet 12 January 2012 that the authority formally adopts EIAs as the Council's process for giving due regard to the impact of its policies and decisions.

SCRUTINY AND EIAs

At national level there have been a number of decisions overturned due to EIAs having been carried out ineffectively, or not considering the full issues.

Using EIAs to analyse proposed service changes (as part of a “pre-scrutiny” process) immediately focuses on the results of that change, rather than the process used to reach it.

An approach taken in Gloucestershire whereby EIAs (renamed “community impact assessments”) are now sent to O&S committees before being signed off by the relevant cabinet member, the intention being that this provides a way of building “pre-scrutiny” into the process and to provide additional political leadership. This suggests a new and more focused approach to “pre-scrutiny” more generally, where a discussion of methodology is mixed with a broader, substantive discussion on the policy

THE EQUALITY FRAMEWORK FOR LOCAL GOVERNMENT

In 2009 WMBC adopted this framework as a benchmarking toolkit. The toolkit involves an assessment and categorisation in one of three levels:

- Development;
- Achieving; and
- Excellent.

WMBC is currently “Achieving” and is looking to become “Excellent”.

This framework strongly promotes the use of scrutiny in establishing a culturally different approach to equality. Councillor engagement is particularly encouraged as part of this process.

SCRUTINY REVIEWS

Scrutiny reviews should involve a consideration of the way in which recommendations will impact upon different local residents. An awareness of equalities issues in the planning, delivering and monitoring of scrutiny reviews will enhance their robustness and ensure that recommendations have a greater chance of being implemented.

Using scrutiny reviews to examine equalities issues also brings wider benefits to the council. Involving a range of councillors in equalities work draws on their community experience and knowledge, raising issues that may not immediately occur to officers who may be less connected to local communities. The process of challenge and review can also provide an opportunity for officers to step back from day-to-day service delivery and reflect on its impact on the whole community.

Focusing on broader issues of concern to the community, rather than simply looking at internal council policies and services, can be a useful way for scrutiny to set and own its own agenda and helps avoid the temptation to politicise the scrutiny process. All members of a scrutiny panel, whether from the administration or opposition groups, can share, for example, a common desire to improve local health inequalities for or ensure better access to transport services.