

22 November 2016

Report of	Head of Community Services	Author	Andrew Harley
Title	Equality and Safeguarding - Annual Update Report		☎ 282880
Wards affected	All		

The Committee is asked to review this annual report on Equality and Safeguarding

1 Decision Required

- 1.1 Committee is asked to review progress made in meeting the Council's legal duties and objectives in regard to both Equality and Safeguarding, and to endorse the approach set out at paragraph 8 below.
- 1.2 Committee is also asked to note the proposed revisions to the Council's Safeguarding Policy which takes account of new legislation and guidance but whose approach remains the same. (See Appendix C.)

2. Reasons for Decision

- 2.1 It is important that Committee has an opportunity to review progress and activities and supports the approach set out in order to assist the Council with compliance of the relevant duties.

3. Supporting information

- 3.1 The following appendices have been included at the end of this report to assist Committee in its task:
 - Appendix A – Council initiatives in the areas of Equality and Safeguarding
 - Appendix B - Modern Slavery Transparency Statement and Associated Actions
 - Appendix C – Safeguarding Policy with revisions highlighted in bold italics

4. A Combined Approach

- 4.1 The Committee is being asked to review the Council's approach to both Equality and Safeguarding. There are a number of reasons for this combined approach:
 - The two areas of work are mutually supportive and reinforcing.
 - They both involve the principle of proportionality and having "due regard".
 - Each area helps to support, and prevent harm occurring to, vulnerable groups.
 - An approach that reviews these two areas together may help to deliver maximum benefit for customers, the most effective management of risk and the most efficient use of resources.

5. National and Local Developments

Equality and Diversity

- 5.1 During the relevant period, there have been no changes to legislation or guidance in regard to how the Council should meet its [Public Sector Equality Duty](#). Furthermore, no review has been announced, despite the statement of the Government's Independent Steering Group that "a full evaluation of the PSED will be undertaken in 2016".
- 5.2 Nevertheless, there have been some notable developments in policy areas relevant to Equality and Diversity:
- In April 2016, the Home Office launched a new [Resettlement Scheme](#) to support 3,000 vulnerable and refugee children and their families at risk within the Middle East and North Africa. This was followed by the announcement of a [Community Sponsorship Scheme](#) for refugees in the UK and [Online Help](#) service.
 - In July 2016, the Home Office introduced a [Hate Crime Action Plan](#) which outlined actions to prevent, respond to, and support victims of Hate Crime to 2020.
- 5.3 In terms of central government arrangements, in July 2016, Nicky Morgan MP was replaced by Justine Greening MP as [Minister for Women and Equalities](#). Justine Greening has overall responsibility for the Government's policies on women, sexual orientation and transgender equality, and cross-government equality strategy and legislation. There is also a [Parliamentary Under Secretary of State for Disabled People](#) who is responsible for areas including cross-government disability issues and strategy, disability benefits and mental health matters.

Safeguarding

- 5.4 In the area of Safeguarding, there have been significant public policy developments. It is clear that effective safeguarding remains high on the Government's agenda.
- From 31 October 2015, a new 'female genital mutilation' [mandatory reporting duty](#) was introduced via the [Serious Crimes Act 2015](#). Although this applies to teachers, health and social care professionals (as opposed to Council staff and councillors), the importance of this issue is clear, and the Council's revised Safeguarding Policy requires all those subject to the Policy to follow reporting procedures. Multi-agency [Statutory Guidance](#) on FGM was issued in April 2016.
 - Following concerns around '[failing children's services](#)', the Government commissioned a review into the role and functions of Local Safeguarding Children Boards (LSCBs). The [Government's Response](#) to the [Wood Report](#) (published in May 2016) suggests further legislation and guidance to deliver:
 - A "new duty" requiring "more robust and much clearer arrangements" to promote effective joint working.
 - Greater flexibility in local arrangements, coupled with Secretary of State powers to intervene where these are deemed to be inadequate
 - A centralised *National Learning Framework* to replace the existing system of Serious Case Reviews

- In January 2016, notice was given of new [Joint Targeted Area](#) inspections to assess how local authorities and partners are working together to identify and protect children. A 'deep dive' element was included in order to focus on children at risk of Child Sexual Exploitation (CSE). In March, 2016, Ofsted announced a consultation on proposals for "a more proportionate approach to... re-inspection", followed in June by a further consultation on the [future of social care inspection](#).
- There have been a number of consultations during this period, including those on the [Definition of Child Sexual Exploitation](#) which ended in March 2016. In July, the Home Office announced a consultation to run until September on a [mandatory reporting duty](#) to report suspected abuse or neglect of a child.
- The significance for the Council of the [Modern Slavery Act 2015](#) and the [Counter Terrorism and Security Act 2015](#) will be considered in detail at paragraph 6 below.

5.5 There have also been revisions to [Statutory Guidance](#) on the Care Act 2014. Following learning and feedback from the first period of implementation, the following changes are of note:

- An adult safeguarding enquiry (conducted by Essex County Council) is not generally appropriate in cases of self-neglect, and that assessment should be made on a "case by case basis" which may depend upon "the adult's ability to protect themselves by controlling their own behaviour".
- Guidance adopted the new cross-government definition of domestic violence and abuse as: "any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality." This definition reflects the new offence of *coercive and controlling behaviour* introduced by the [Serious Crimes Act 2015](#).

5.6 In terms of Local Safeguarding Board arrangements, Phil Picton was appointed the new independent Chair of the Essex Safeguarding Children Board (ESCB) and the Essex Safeguarding Adults Board (ESAB) in June 2016.

6. Meeting the Duties

Overall Arrangements

- 6.1 Equality and Safeguarding are each integrated into the day-to-day operations of the Council. However, arrangements are also in place to ensure strategic focus and operational co-ordination. The Head of Community Services provides the strategic lead whereas the Equality and Safeguarding Co-ordinator provides the operational lead. The relevant Cabinet Portfolio is 'Business, Leisure and Opportunities'. Appendix A provides some specific examples of where Equality or Safeguarding initiatives have taken place over the last 12-18 months.
- 6.2 In the area of Equality and Diversity, the Diversity Steering Group (DSG) provides an active forum for 'advancing equality' for both customers and staff. Its members are service 'representatives' who play a key role in reviewing progress and disseminating best practice. In a similar way, Designated Safeguarding Officers attend quarterly 'workshops' to review safeguarding referrals and improve processes. Each service area has between two and four officers who have an enhanced level of training to provide expertise and assistance to officers.
- 6.3 Partnership working is key to meeting the Council's safeguarding duties. The [Safer Colchester Partnership](#) (SCP) is led by a Responsible Authorities Strategic Group

(RASG) which consists of Chief Officers representing local statutory partners and organisations. It aims to achieve sustainable solutions following the identification of local needs and priorities. It does this by delivering initiatives and engaging with local communities on issues including domestic violence and hate crime. Examples of such initiatives are included in Appendix A.

- 6.4 The Council works closely with both the Essex Safeguarding Adults Board and the Essex Safeguarding Children Board. Support from, and representation to, both the ESCB and ESAB for District Councils is by way of Board Membership. Colchester Borough Council Executive Director Pam Donnelly sits on the ESAB, whilst Maldon District Council Chief Executive Fiona Marshal sits on the ESCB. Both feedback to the Chief Executives Group and Designated Leads for the District and Borough Councils.

Equality and Diversity

- 6.4 The Equality Act 2010 imposed a Public Sector Equality Duty (PSED) upon local authorities including district councils. Under its 'general duty', the Council must "integrate consideration of the advancement of equality" into its "day-to-day business, and across all... functions". Councillors and staff must have "due regard" to the need to:

- 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
- foster good relations between people who share a 'protected characteristic' and those who do not.

The 'protected characteristics' are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. The duty also covers marriage and civil partnership, but not for all aspects of the duty.

- 6.5 The Equality and Human Rights Commission's [Technical Guidance](#) to the PSED (2013) remains the best guide to the practical operation of the PSED. In addition, the Council continues to take note of the Government's [Review](#) of the PSED which endorsed the so-called "Brown Principles". These confirmed that the 'due regard' duty must be fulfilled before and at the time that a particular policy is being considered; it must be exercised in substance, with rigour and with an open mind; and that it is non-delegable.

- 6.6 The PSED 'specific duties' require us to publish information to demonstrate that we are meeting both the 'general duty', and one or more published [equality objectives](#). During the period 2015-16 we have continued to meet both of these requirements. Information published on the Council website includes:

- [Equality Impact Assessments](#)
- The Council's [Strategic Plan](#) and its Year End Performance Report (including its Strategic Plan Action Plan).
- The Council's website pages on [Equality and Diversity](#)
- The Council's [equality information](#) section contains all required information
- Workforce statistics: [Equality monitoring information](#)
- Work undertaken by the Council's Research and Engagement team about service users, customers and the borough's population.
- The Council's independent, external accreditation as an '[achieving](#)' organisation under the Equality Framework for local government.

- .6.7 In April 2015, the Council published its new 'equality objective', which is (to):

'Ensure Colchester is a welcoming and safe place for residents, visitors and businesses with a friendly feel that embraces tolerance and diversity'.

This objective is reflected in the new [Strategic Plan 2015-18](#) within the 'Welcoming' Priority. The specific actions required to meet the objective are included within the associated Action Plan, which is subject to six monthly monitoring.

- 6.8 The Council remains committed to the use of Equality Impact Assessment process. Despite not being a legal requirement, these remain a vital framework through which the Council can continue to identify, evaluate, and mitigate against, disproportionate negative impacts upon the 'protected characteristics'. It allows us to make the right judgements on the basis of sound information and data, in an open and transparent way.
- 6.9 The Council works with a host of agencies and organisations in order to meet its duties and advance equality more generally. Many of these are included in Appendix A.

Safeguarding

- 6.10 Under Section 11 of the [Children Act 2004](#), local authorities "must make arrangements for ensuring (that)...their functions are discharged having regard to the need to safeguard and promote the welfare of children." The Act required district councils to supply information to enable the Local Safeguarding Children Board to perform its function to co-ordinate activity. There are agreed [SET Procedures](#) (covering Southend Essex and Thurrock) for child safeguarding which district councils are required to follow, and which are integrated into the Council's Safeguarding Policy.
- 6.11 Under Section 42 of the [Care Act 2014](#), the local authority must make enquiries to co-ordinate action to support an adult who: (a) has needs for care and support (whether or not the authority is meeting any of those needs), (b) is experiencing, or is at risk of, abuse or neglect, and (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it. Although Essex County Council is the *investigating authority*, the Act requires district councils to supply information to enable the Local Safeguarding Adults to perform its function to co-ordinate activity. There are also agreed [SET Procedures](#) for adult safeguarding, integrated into the Council's Safeguarding Policy.
- 6.12 The Council passes concerns to the Family Operations Hub (in regard to children) and to Social Care Direct (in regard to an adult). A secure record of contacts and referrals (via the [FORS](#) and [SETSAF1](#) forms) with any feedback received are retained in a secure area, and are reviewed at quarterly Designated Officer Workshop meetings.
- 6.13 The Council, as chair of the local Community Safety Partnership, has responsibilities under [Section 9 of the Domestic Violence, Crime and Victims Act 2004](#). During the period, the Safer Colchester Partnership has had one Domestic Homicide Review published, which can be viewed on the ESAB website [here](#). The Council has provided information to other Community Safety Partnerships in the case of two 'Serious Adult Reviews' and twelve 'Domestic Homicide Reviews'.
- 6.14 Partnership working remains key to the Council being able to meet its statutory duties more generally. On 30 November, the Safer Colchester Partnership will be hosting Colchester's *Hidden Harms Conference* for partner organisations in order to raise awareness, share approaches and deepen joint working. It will include presentations and

workshops around key issues such as Gangs, CSE and Modern Slavery. The Council regularly attends the Essex County Council *Missing and Child Exploitation* (MACE) strategic meeting which facilitates the sharing of intelligence and best practice between partner agencies.

- 6.15 The local Safeguarding Boards audit the approach and performance of partners including Colchester Borough Council in regard to: (a) senior level commitment, and accountability; (b) core policies and procedures; (c) safer recruitment; (d) service development; (e) learning, development and staff support; (f) preventative work and inter-agency working; and (g) information sharing. In 2015, the Council completed remote audits for each Board by self-assessment. Over 80% of criteria were met for each audit following moderation, indicating a high level of compliance. However, a number of actions were identified in the areas of training, multi-agency working, customer feedback and complaints, the dissemination of lessons learnt from SCRs and DHRs, and 'Early Help'. The Council monitors progress towards completing such actions.
- 6.16 Modern slavery encompasses sexual exploitation, labour exploitation, forced criminal exploitation and domestic servitude. Section 43 of the [Modern Slavery Act 2015](#) states that local authorities have a duty to co-operate with the Independent Anti-Slavery Commissioner. A Strategic Plan was published in October 2015 which identified models for "best practice within partnership working". Information on Modern Slavery (along with Domestic Abuse, Mental Capacity, Forced Marriage, FGM, and PREVENT) has been incorporated into e-learning Safeguarding Awareness training which is taken by all Council staff. As required by the Act, a Transparency Statement has been published on the Council's website. Appendix B (below) includes the published Transparency Statement (in addition to associated actions planned for the period 2016/17).
- 6.17 [Sec 26 of the Counter Terrorism and Security Act 2015](#) placed a new duty upon local authorities to have "due regard to the need to prevent people from being drawn into terrorism." [Statutory Guidance](#) to accompany the new duty was issued in April 2015: "Effective leadership" and "partnership working" are required for the Council "to demonstrate an awareness and understanding of the local risk of radicalisation". The Council is required to work with "relevant agencies" using "existing mechanisms to understand the risk". In accordance with the Guidance, concerns around radicalisation are referred by the Council to the Essex County Council's Family Operations Hub or Social Care Direct, as with other safeguarding concerns. The CSP's Responsible Authority Strategic Group has agreed a Strategy and Action Plan. The [PREVENT Strategy](#) is published on the Safer Colchester Partnership website.

7. Overview

- 7.1 The Council believes that its approach to meeting its duties in both the areas of Equality and Safeguarding is appropriate and proportionate. An intelligent approach that recognises where and how these legally distinct areas intersect can offer efficient and effective working.

8. Going Forward

- 8.1 In 2016 we propose to:
- Remain focused on continuing to integrate and embed equality considerations into the day-to-day running of Council business, ensuring that equality considerations are always considered through the framework of Equality Impact Assessments.

- Encourage staff to make full use of the Mosaic Segmentation Tool and the new corporate complaints platform to deliver improved equality analysis. This should facilitate greater equality of access to Council services for customers.
- Further extend awareness of key safeguarding issues such as CSE, Forced Marriage, FGM, Modern Slavery and Radicalisation so that the Council can fully discharge its legal and moral safeguarding responsibilities.
- Work more closely with the Safer Colchester Partnership to promote the safeguarding agenda, especially around harms that are often hidden from view and little understood. (Planned projects include the *Hidden Harms Conference* included at 6.14, above).

9. Strategic Plan References

- 9.1 The Council's [Strategic Plan](#) is a key mechanism through which the Council monitors how it is meeting its equality and safeguarding responsibilities. In particular, it contains the Council's current 'equality objective'.
- 9.2 Progress towards the Council's Strategic Plan Action Plan is reviewed within the Council's [Year End Performance Report](#).

10. Consultation

- 10.1 Extensive consultation preceded the publication of the Council's Strategic Plan 2015-18.

11. Publicity Considerations

- 11.1 The Council's approach to Equality and Safeguarding has the potential to affect everyone who lives, works or visits the borough. It can play a key role in the daily lives of individuals and communities by helping to safeguard vulnerable groups from harm as well as tackling prejudice and advancing equality of opportunity.
- 11.2 The [equality information](#) section on the Council's website continues to provide updated information as required by legislation and guidance, along with related content of use or interest to customers, staff and councillors. This helps with openness and transparency, with everything 'in one place'. The Council's website also includes a section dedicated to [Safeguarding children and 'adults with needs for care and support'](#) which contains key information for residents along with links for further information. Over the period, a new website has been created dedicated to the [Safer Colchester Partnership](#)

12. Financial Implications

- 12.1 The Council continues to face significant financial pressures. As part of its strategic response, the Council has sought to mainstream a "business culture" focused on commercialisation and income generation. In this context, special attention will continue to be paid to 'advancing equality' and safeguarding children and 'adults at risk'. An approach that further exploits the interrelationship of these two areas may deliver greater efficiencies.
- 12.2 It is important to understand that our obligation to have "due regard" to the three aims of the 'general duty' does not mean that decisions which have a disproportionate impact upon one or more 'protected characteristics' cannot necessarily be taken. The Council must nevertheless always seek to remove or reduce negative impacts.

- 12.3 The Council's approach must continue to be proportionate, with key decisions being given due priority. Equality Impact Assessments must remain an integral part of the decision-making process when addressing changes to policies and practices.

13. Equality, Diversity and Human Rights Implications

- 13.1 This report is an annual update about Equality and Diversity, and Safeguarding. The importance that the Council attaches to these areas helps to protect vulnerable groups from harm and exploitation and promotes the human rights of all.

14. Community Safety and Health and Safety Implications

- 14.1 The Council's approach to Equality and Safeguarding involves working closely with partners and communities. The Community Safety Partnership plays a vital role in helping the Council to meet its legal duties around safeguarding.
- 14.2 By meeting its Public Sector Equality Duty, the Council will help to ensure that employees do not suffer discrimination, harassment or victimisation. This will in turn create a safer working environment, and one which is consistent with the Council's Health and Safety policies.

15. Risk Management Implications

- 15.1 As an employer and provider of public services, the Council could face legal challenges from individuals or groups who have been unlawfully discriminated against, however unintended. Legal cases brought on grounds of discrimination do not have upper financial limits like those brought through employment tribunals. The Council must meet its responsibilities to ensure it does not discriminate, and this will also help to avoid the potential for significant financial claims.
- 15.2 The Council could suffer significant reputational damage should its staff or councillors fail to comply with their Safeguarding responsibilities. This paper details the Council's strategic and operational approach in this area.