Information

PROVIDING SUPPORT FOR COUNTY COUNCILLORS

Sheet Number:

2017-21/ 93

for County Councillors

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| From: | Scott Wooldridge, Monitoring Officer, Democratic Services |

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| Date: | 6 February 2019 |

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| To: | All County Councillors |

**MTFP 2019/20 Due Regards legal duties for decision makers**

Before making a formal decision, Members (and Officers) within Somerset County Council have a legal duty and responsibility to consider the affect that decision will have on:

* People from the protected characteristics identified under the Equality Act
* How safe people feel within their community and around Somerset
* How safe the data is that we hold on people
* How safe are staff our in their working environment
* What effect it will have on the environment
* How we can support communities within Somerset to get along better

To aid Members involved in setting the Annual Budget at February’s Full Council meeting, the Council uses equalities impact assessments to assist decision makers meet their statutory duties and make robust decisions in a practical and proportionate way.

When you are taking a decision you should be made aware of any impact assessment that has been completed and you **must** use it to inform your decision. The Medium Term Financial Plan 2019/20 being presented to Cabinet on 11 February and Full Council on 20 February incorporates a summary of equalities impacts along with several proposals for change, some of which have an equalities impact assessment. It is essential that all members read and understand these impacts before the Council takes any decisions on the budget. Where impact assessments have been completed they will also include information on mitigating measures for any impacts that have been identified.

It is essential that decision makers ensure that consideration is given to their legal obligations, in particular the need to exercise the equality duty under the Equality Act 2010, to have due regard to the impacts based on sufficient evidence appropriately analysed. Having “due regard” is a legal term that requires Members to consider what is proportionate and relevant in terms of the decisions they take. Setting the annual budget is a decision for all Members of the County Council.

This however does not prevent the council from making difficult financial decisions, such as service reductions or decisions which may affect one group more than another. What the duty requires is consideration of all the information, including the potential impacts and mitigations, to ensure a fully informed decision is made.

Attached to this information sheet is a guidance document for Members that will help with questions to ask when paying due regard. Please contact Tom Rutland, Corporate Equalities Manager on 01823 359221 if you have any questions regarding the attached guidance. Further information about Equalities Impact Assessments can also be found on the Council’s website at:

<http://www.somerset.gov.uk/information-and-statistics/financial-information/impact-assessments/>

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| **Member Checklist for Equality Act 2010** |
| **Things to consider when Demonstrating Due Regard** |
| **Questions to ask yourself** |
| * Do you feel you have had sufficient training to take this decision? |
| * Do you understand what you are being asked to make a decision on - is the description clear? |
| * Is the evidence and data sufficient and giving you confidence that the impact assessment is robust? |
| * Are the impacts what you would expect to see? |
| * Where the officer considers there to be no impact has justification for this being given? |
| * Does the decision affect more than one of the Protected Characteristics? |
| * Is there evidence that all three of the General Equality Duty have been considered? (see below)? |
| * Does the impact assessment evidence that equality impacts have been considered from the start of the process? |
| * Where appropriate, are we working with Partners to identify impacts and achieve mitigation? |
| * Is the mitigation for the impacts achievable and realistic? |
| * How do the impacts identified fit with the other elements of the decision (financial, legal etc). Do you have enough information to make the decision? |
| **For large decisions such as budget planning please consider the following:** |
| * If a set of smaller decisions are taken together will they have a greater impact on the Protected Characteristics or geographical groups? |
| **Potential Remedies for concerns** |
| * Check with the officer on areas you are unclear. |
| * Delay the decision to improve the information you have and the quality of the assessment |
| * Do not take the decision |
| * Ask for an alternative way forward to be identified and worked through |

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| **General Equality Duties** |
| * Eliminate unlawful discrimination, harassment, victimisation * Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it * Foster good relations between persons who share a relevant protected characteristic and persons who do not share it |

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| **Protected Characteristics identified through the Equality Act 2010** | |
| Age | This refers to a person belonging to   * a particular age (e.g. 42 year olds) * or range of ages (e.g. 18 - 30 year olds) |
| Disability | A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.  Different disabilities will have different effects on peoples lives; a person with a mobility impairment may require ramps, a lift or hand rails to help the get into and around buildings; a person with a visual impairment will require written documentation in either a larger font or a different format all together. The Equality Act 2010 places duties on providers of service to make reasonable adjustments to the way service is provided. This can mean that people with a disability receive favourable treatment to make sure they receive the same services as the wider community. |
| Gender Reassignment | Gender Reassignment covers the whole process of transitioning from one gender to another. This begins at the individuals decision to start the process and continues for their life time. |
| Marriage and Civil Partnership | The Equality Act defines marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters. |
| Pregnancy and Maternity | Maternity refers to the period of 26 weeks after the birth, which reflects the period of a woman's ordinary maternity leave entitlement in the employment context. |
| Race | It refers to a group of people defined by their race, colour, nationality (including citizenship) ethnic or national origins and includes Gypsies and Travellers. |
| Religion or Belief | The Equality Act, advise that religion or belief ‘must have a clear structure and belief system'. Denominations or sects in a religion are also religions.  Belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition. Political beliefs are specifically excluded. |
| Sex | Women, men, girls, boys, |
| Sexual orientation | A person's attraction towards their own sex, the opposite sex or both sexes and includes: Lesbian, Gay, Bi-sexual and Heterosexual |
| Carers through association with disability and age | Carers provide care for anyone (e.g. a parent, child, other relative, an elderly person, friend or neighbour) who has any form of disability (sensory loss, physical, learning disability, mental health problem) long or terminal illness? |
| **Protected Characteristics adopted locally** | |
| Rurality | This term relates to a person whose home is not in a large town or city. Because of this they may become isolated and/or find it harder to access services |
| Low income | Families or individuals who are existing on a low income. This could be due to a disability, where they live or their employment status. |
| Military status | Military status aims to look at the effect on currently serving armed forces personnel (including reservists), their families and veteran forces personnel and their families |