

**DISABILITY ACCESS MEMBER-LED REVIEW**

**To:** Cabinet

**Date:** 4<sup>th</sup> March 2014

**From:** Enterprise, Growth and Community Infrastructure Overview and Scrutiny Committee

**Electoral division(s):** All

**Forward Plan ref:** N/A      **Key decision:** No

**Purpose:** The Committee commissioned a member-led review regarding disability access. This report sets out the findings and recommendations from the review.

**Recommendation:** Cabinet is asked to:

- a) Consider and comment upon the findings and recommendations contained within the report
- b) Respond to the recommendations contained within the report.

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## 1. BACKGROUND

- 1.1 The Committee commissioned Councillor Bourke to lead a review regarding disability access on 5<sup>th</sup> October 2012. The Committee confirmed the continuation of the review following the May 2013 Council elections. County Councillor Smith and Cambridge City Councillor Bird also participated in the review.
- 1.2 After an initial member-led review group meeting with a number of officers, the group agreed that Councillor Bourke would investigate the policy background and then the review group would reconvene to evaluate service delivery and possible improvements against this background.
- 1.3 The proposal for the review stemmed from a discussion that Councillor Bourke had had with one of his ward residents, an aspiring Paralympian, regarding the actions that the Council could take in supporting a positive Paralympic Games legacy by removing barriers to access for people with disabilities.
- 1.4 The terms of reference for the review are attached as **Appendix A**. The following is a summary:

### Review Purpose

- To review the Council's compliance with equalities legislation in relation to disability access, and to identify opportunities for the Council to make improvements in this area.
- The review may refer to the Council's partnership arrangements with other organisations, where this is relevant to disabled accessibility.

### Review Objectives

- A) Identify and understand relevant legislative requirements
- B) Identify and assess the adequacy of the Council's relevant policies and procedures (particularly Community Impact Assessments)
- C) Assess the implementation relevant policies and procedures in practice
- D) Propose improvements, where necessary and feasible, with the aim of strengthening disabled accessibility

### Key Themes

Members determined that the review should initially focus on the Economy, Transport and Environment elements of disability access.

The reasons for this were:

- Otherwise the scope of the review would be unmanageably large
- These were consistently the areas of greatest concern
- It was felt that it was particularly get new developments right first time, as retro-fitting schemes was costly and sometimes impractical

- There is currently a significant amount of capital investment in Highways and Access, and it makes sense to have any input into Council policy before all of that funding is spent.

Therefore the key themes are:

- Highways Accessibility
- Transport Accessibility
- Buildings Accessibility.

1.5 Members also considered the Council's general approach to supporting disability access through its strategies, policies, values and culture.

1.6 The Group would like to thank the contributors to the review:

- County Council Officers:
  - Executive Director: Economy, Transport and Environment (also Chairman of the Council's Diversity Group)
  - Accessibility Officer
  - Traffic Manager
  - Highways Engineer
  - Principal Lawyer
  - Head of Service for Local Infrastructure and Street Management
  - Head of Management Support
  - Human Resources Manager
- Papworth Trust Officers
- Disabilities campaigner MJ Black.

## 2. LEGISLATIVE REQUIREMENTS

2.1 The Equality Act 2010 replaced and simplified previous anti-discrimination legislation into a single Act, including disability legislation.

2.2 The Act covers all aspects of a local authority's work and establishes nine strands or 'protected characteristics' related to:

- Age
- **Disability**
- Ethnicity and race
- Gender
- Gender identity and transgender
- Marriage and civil partnership
- Pregnancy, maternity and breastfeeding
- Religion and belief
- Sexual identity and orientation.

2.3 The Act comprises a general duty and specific duties.

The general duty (also known as the Public Sector Equality Duty - PSED) requires all public bodies – including all local authorities, all schools, other state-funded educational settings and academies – to have *due regard* (see below) to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act

- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
  - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 2.4 There are six principles established by case law underlying due regard (sometimes known as ‘the Brown principles’, after the specific case which generated them) – awareness, timeliness, rigour, non-delegation, continuous, and record-keeping:
1. **Awareness:** all staff should know and understand what the law requires.
  2. **Timeliness:** the implications for equalities of new policies and practices should be considered before they are introduced.
  3. **Rigour:** there should be rigorous and open-minded analysis of statistical evidence, and careful attention to the views of the workforce and stakeholders.
  4. **Non-delegation:** compliance with the PSED cannot be delegated.
  5. **Continuous:** due regard for equalities should be happening all the time.
  6. **Record-keeping:** it is good practice to keep documentary records to show that equalities have been considered when decisions are being made.
- 2.5 In order to meet the three aims of the general duty, local authorities and schools have two sets of specific duties:
- Publish information to show their compliance with the Equality Duty, at least annually; and
  - Set and publish equality objectives, at least every four years
- 2.6 The Legal Officer advice confirmed that the Council is required to meet these requirements.

## FINDINGS

### 3. THE COUNCIL’S COMMITMENT TO SUPPORTING DISABILITY ACCESS

- 3.1 The Principal Lawyer confirmed that the Council’s policies are compliant with the Equality Act, including the “disability” strand.
- 3.2 Members investigated how the Council demonstrates its corporate commitment to tackling disability related issues, as distinct from the fact of legal compliance, and found that, in general terms, disability is considered within the broader category of ‘equalities’ (i.e. including the other protected characteristics referred to in section 2.2). This made it more difficult for Members to identify the Council’s commitment in relation to disability access.
- 3.3 Members identified that the following could be construed as relevant, at a strategic level, in demonstrating this commitment:
- The Council’s Values include reference to ‘respect’ and ‘equity’
  - The Council’s Strategic Objectives could all be interpreted as supporting equality actions in the broadest possible sense, e.g. ‘helping people to live independent and healthy lives’.
  - The Council has previously taken part in the ‘Equality Framework for Local Government’ process and rated as an ‘Achieving’ Council. However, there has been no work in recent times to increase this rating.

- The Council also has the 'Positive about Disabled People' accreditation. This is a result of work undertaken over ten years ago. This accreditation relates primarily to recruitment policy and disabled staff. In line with the Positive about Disability Accreditation the Council has had a Disability in Employment Policy since 2003 and a Disabled Staff Charter in place since March 2004.

On the basis of their questioning of the Accessibility Officer and Human Resources Manager, Members were confident that in terms of recruitment and treatment of staff with disabilities, and the accessibility of Council buildings, the Council continued to deserve the accreditation.

- A Council Diversity Group, an advisory group involving Councillors and Officers, meets regularly as a sounding board, co-ordinator and champion of equalities issues. The Chair of the Diversity Group was not aware of any work it had undertaken that related specifically to people with disabilities.
- The Council does not have a current Equality Strategy and action plan. The most recent Equality Strategy lapsed in 2012. Officers advised Members that they intended to produce a Strategy and Plan but that there was no immediate plan to produce the documents or timetable for doing so.

By way of explanation it was made clear that current levels of officer resources available to corporately lead on equality issues have greatly reduced and further reductions are planned. There had been dedicated support for Equalities issues, located within the Corporate Policy team, but this function has since been reduced to a relatively minor part of the remit of Head of Corporate Support. The Council's capacity to lead on equalities has greatly reduced.

Following contact by Scrutiny, officers subsequently decided to prepare an Equality Strategy. It was decided that a "minimalist" Strategy could be prepared without too much difficulty to satisfy the requirement. More detailed plans (in practice, the "Action Plan" part of the requirement) would be the responsibility of the directorates. Members welcomed the fact that a strategy was being prepared but expressed reservations about the limitations of a minimalist approach. There was a risk that it could be seen as a "tick box" exercise, unless action plans proposing specific improvements followed.

3.4 The review group did not want to dwell in detail on funding at this stage of the review, but felt that a short summary would help provide an introductory overview of the Council's corporate commitment to improving disability access. Members learned that there was no dedicated budget for improving disability access. There were, however, three budgets that were of relevance:

- The Accessibility Budget of around £30-40,000 per annum is funded from the Local Transport Plan Integrated Block. This funding is almost exclusively spent on disabled parking bays.
- The Local Highways Improvements Initiative has an annual budget of £550,000 and is used to fund minor highways schemes proposed by councillors and members of the public. Some of these schemes will have an accessibility element.
- The County Council is investing £90M of capital funding in better maintaining our roads, pavements and cycleways, although this will partly be offset by reductions in revenue budgets. It has not been possible to determine what proportion of the funding will be spent on pavements but in 2013/14 the budget for footway works being funded from this

source is £1,533,000, while the revenue budget for pavement maintenance is £771,478. Maintaining more of our pavements to the desired standard will benefit accessibility in general.

- 3.5 In the course of their investigations, Members had some difficulty identifying any Council policies in ETE that related specifically to disability access. They were repeatedly advised by officers that, in theory, understanding and application of equalities principles is “embedded” in activities and thinking across the organisation. Officers advised that this generally informs, for example, designs for new highways and building developments.

Further questioning from Members established that what highways officers meant by this was that when designing new infrastructure (for example, in new developments) satisfying disability access requirements essentially amounts to following technical design specifications that are set nationally.

This clarified for Members that, in terms of disability access, highways engineers undertake two types of work:

- *Design* of new infrastructure in accordance with design standards that are set nationally;
- *Maintenance* of existing infrastructure, much of which will have been designed at an earlier time, when these standards were not in place. This infrastructure therefore often falls significantly short of modern design standards and public expectations. Members acknowledged that, realistically, it would be prohibitively expensive and in some cases impossible to retro-fit all of Cambridgeshire’s public highway to meet modern design standards.

Discussion with highways engineers indicated that even with maintenance schemes they sometimes use their discretion to make improvements to disability access or accessibility more generally when carrying out other works, but there is no policy as such.

- 3.6 Despite suggestions that disability access generally informed design principles and was embedded in service delivery, Members found numerous anecdotal examples that suggest that theory often does not translate into practice in both design and maintenance schemes.
- 3.7 The former Executive Director: Economy, Transport and Environment (Alex Plant), confirmed the above, and acknowledged that equalities issues are often not fully ‘mainstreamed’ into Council activities, due to a number of factors such as time and resource pressures, and therefore improvements could be made. For example, sometimes Officers do not involve disabled people, or disabled groups, in discussions about housing or infrastructure developments at an early enough stage. The Director also felt that the Council could work with the Council’s Diversity in Action: Disabled Employees and Members group (DIADEM), as a potential sounding board for changes that could have an impact on disabled people.

## **KEY FINDINGS AND RECOMMENDATIONS**

- 3.8 Members wished to acknowledge that the Council was a good recruiter and employer of people with disabilities. The “Positive about Disabled People” accreditation still applies. Therefore the member-led review on disability access intends to focus on the Council’s provision of services to the public, focusing on Economy, Transport and Environment in the first instance.

3.9 In terms of the services the Council provides to the wider public, Members concluded that there were two gaps in its commitment to improving disability access.

- The Council has few policies of its own that directly concern disability access

The Equalities Strategy, once prepared, will address itself to equalities issues at a high level, but Members felt that it was unlikely in itself to drive a significant improvement in disability access. At a more practical level, the Council's policy with the design of new schemes is effectively to follow the law, in the form of technical design requirements that are set nationally. Members did not feel that this was likely to lead to significant improvements either. Both of these approaches were felt to be remote from the experience of service users with disabilities.

Highways maintenance also lacked any clear policy on disability access. Members welcome the fact that some highways engineers consider disability access when doing maintenance work, sometimes using their discretion to (for instance) introduce a dropped kerb as part of what is supposed to be a maintenance scheme. However, this occurs informally, is entirely reliant on the individual, and is likely to be inconsistent in its application.

- There is no plan or process in place for ensuring that the Council learns from best and worst practice and seeks to continuously improve disability access provision.

## **RECOMMENDATION 1 – REINVIGORATE EQUALITIES ACTIVITIES**

Officers should seek to reinvigorate the equalities 'agenda' across the Council, within existing resources, using the new Equalities Strategy as a starting point.

The new minimalist Equalities Strategy should be used as a starting point for this activity, rather than being treated as an end in itself. Until it is translated into a meaningful set of actions for improving our performance on equalities issues there is no reason to believe that it will bring about improvement. If lack of resource is a barrier Members with an interest in this area could become more proactively involved.

## **RECOMMENDATION 2 – ACTION PLAN FOR DISABILITY ACCESS**

The Council should prepare a detailed action plan for improving disability access through its provision of public services.

Complying with the Equality Act and satisfying the specifications that apply to new design projects is the minimum requirement that is incumbent on all local authorities, and does not in itself demonstrate a significant commitment to improving disability access through the Council's services. It has also been acknowledged that disability access is not fully mainstreamed into the Council's provision of services.

The Council should therefore prepare a Disability Access Action Plan to ensure that it goes beyond compliance and mainstreams improving disability access into service provision, seeking to become a national leader in removing barriers to access for people with disabilities. This would be a positive and lasting local legacy of the Paralympic Games for Cambridgeshire.

Supporting this recommendation would provide a basis for further work on the part of the member-led review group by signalling the Council's desire to produce a Disability Access Action Plan. The review group would then work to propose detailed actions to be

considered for inclusion in the plan. Under the Council's new governance arrangements the review would eventually report to the relevant Committee(s), which would decide which elements of the proposals to support.

Following the constructive comments of the Enterprise, Growth and Community Infrastructure Overview and Scrutiny Committee, Members of the review group wish to stress their intention to be both realistic and practical in their proposals. Their intention is to provide a range of proposals with different cost implications, some of which would be cost-free while others would require funding.

Members of the review also recognise that officer time is limited, particularly in Economy, Transport and Environment, and stress that they will therefore try to ensure that any changes proposed in terms of process are not excessively bureaucratic or cumbersome for staff.

### **Source Documents**

### **Location**

### **Contact**

Enterprise, Growth and Community  
Infrastructure Overview and Scrutiny  
Committee agendas and minutes

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## Terms of Reference for Overview and Scrutiny Review

Review Title:	Disability Accessibility
Committee(s):	Enterprise, Growth and Community Infrastructure Overview and Scrutiny
Scrutiny Lead Members:	Kilian Bourke (Chairman), Gerri Bird, Mark Howell, Mandy Smith
Scrutiny Officer contact :	Robert Jakeman, 01223 699143

1. Council Plan (how does this review relate to the priorities and aims of the Council?)
<p>The review contributes to all three of the Council's priorities in a wide range of ways either directly or indirectly:</p> <ul style="list-style-type: none"> <li>• Supporting and protecting people when they need it most</li> <li>• Helping people to live independent and healthy lives in their communities</li> <li>• Developing our local economy for the benefit of all</li> </ul> <p>The review is particularly relevant to the second priority.</p>
2. Overall Purpose (why are we doing this?)
<p>To review the Council's compliance with equalities legislation in relation to disabled accessibility, and to identify opportunities for the Council to improve access for disabled people.</p> <p>The review may refer to the Council's partnership arrangements with other organisations, where this is relevant to disabled accessibility.</p>
3. Objectives
<p>E) Identify and understand relevant legislative requirements</p> <p>F) Identify and assess the adequacy of the Council's relevant policies and procedures (particularly Community Impact Assessments)</p> <p>G) Assess the implementation relevant policies and procedures in practice</p> <p>Propose improvements, where necessary and feasible, with the aim of strengthening disabled accessibility</p>

4. Outcomes
<ul style="list-style-type: none"> <li>• A report to Cabinet (and possibly other relevant decision makers) that provides assurance about disability accessibility issues that Members deem to be satisfactory, and recommendations for improvement, if required.</li> </ul>
5. Key Themes
<p>The key theme throughout the review will be what can be achieved to improve disabled accessibility within existing resources. Members will also consider the differences across rural and urban areas.</p> <p>A) Highways Accessibility</p> <ul style="list-style-type: none"> <li>• How do the Council's Highways policies take account of disability accessibility issues?</li> <li>• What are the levels of resources available to support highways accessibility, and are these adequate?</li> <li>• How does the Council manage shared use of the highways between disabled people and others (e.g. cyclists)</li> </ul> <p>B) Transport Accessibility</p> <ul style="list-style-type: none"> <li>• Availability, accessibility and convenience of public and community transport for disabled people</li> <li>• Implications of recent and planned transport changes for disabled people</li> </ul> <p>C) Buildings Accessibility</p> <ul style="list-style-type: none"> <li>• Accessibility within public sector buildings</li> <li>• Arrangements to ensure accessibility within new developments (e.g. Northstowe)</li> </ul>
6. Equality & Diversity (does this review address these issues either in terms of the subject matter or the way in which the review will be conducted?)
<ul style="list-style-type: none"> <li>• Equal access for disabled people is the central driving feature of the review.</li> <li>• Members will review the Community Impact Assessment process, and its application.</li> </ul>

7. Timescale (how long will the review take?)		
The review will be completed following the elections in May 2013. The Enterprise, Growth and Community Infrastructure Overview and Scrutiny Committee will be updated about progress at each meeting. It is expected that the review will be completed by the end of 2013.		
8. Target body for Findings/Recommendations (e.g. Executive, Council and dates of key meetings/ report deadlines)		
Enterprise, Growth and Community Infrastructure Overview and Scrutiny Committee – for approval		
Cabinet – for decision		
The review may touch upon planning related issues that fall within the remit of Local Planning Authorities, potentially leading to recommendations to those authorities.		
9. Evidence (what do we need to inform the review?)		
Information Required:	Already Held	To Be Produced
<ul style="list-style-type: none"> <li>▪ Documents</li> </ul>		<ul style="list-style-type: none"> <li>• Relevant Highways Policies</li> <li>• Community Impact Assessment Policies and Examples</li> </ul>
<ul style="list-style-type: none"> <li>▪ Consultations</li> </ul>		Possible consultations with groups representing disabled people and disabled people
<ul style="list-style-type: none"> <li>▪ Comparative Data</li> </ul>		Funding levels for disability accessibility in comparable areas
<ul style="list-style-type: none"> <li>▪ Best Practice Examples</li> </ul>		TBC
10. Witnesses/Interviews (who & why?)		
<ul style="list-style-type: none"> <li>• Papworth Trust, Disability Cambridgeshire – Disability oriented organisations (others may also be consulted)</li> <li>• Highways Officers – to understand existing policies, practices, resources and future plans</li> </ul>		

11. Site Visits (why, where & when?)

TBC

12. Resources & Budget

The Scrutiny and Improvement Budget can be used for relevant site visits and to commission research.

13. Media Coverage

- Will a press release be prepared to draw attention to the review? No. Press releases will only be issued following unanimous agreement between review group Members and with the consent of the Committee Chairman

Completed by: Rob Jakeman

Date:

Approved by Committee Chair:

Date:

Approved by Sub Group Chair: Kilian Bourke