



Notice of meeting of

Social Inclusion Working Group

To: Councillors Jamieson-Ball (Chair), Cuthbertson (Vice-Chair), Fairclough, Sue Galloway, King, Potter and Scott

Non voting Co-opted Members:

Jack Archer - Older People's Assembly

Sue Lister - Older People's Assembly

Peter Blackburn - LGBT Forum

Karen Roberts/Elly Treanor - LGBT Forum

Ruth Sanderson - BME Citizens Open Forum (YREN)

Daryoush Mazloum - BME Citizens Open Forum (YREN)

Date: Wednesday, 17 January 2007

Time: 6.00 pm

Venue: Clementhorpe Room, Priory Street Centre

AGENDA

The formal part of this meeting will begin at 7.00pm and will be preceded by an informal discussion on equality legislation and group presentations, commencing at 6.00pm.

1. Declarations of Interest

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Minutes

(Pages 1 - 18)

To approve and sign the minutes of the meeting held on 22 November 2006. An easy read copy of these minutes is also attached for Members' consideration.

3. Public Participation

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Panel's remit can do so. Anyone who wishes to register or requires further information is requested to contact the Democracy Officer on the contact details listed at the foot of this agenda. The deadline for registering is Tuesday 16 January 2007 at 5.00pm.

4. Age Discrimination (Pages 19 - 36)

This report summarises the forthcoming Employment (Age) Regulations 2006 and outlines the amendments made to the Council's HR processes in order to comply.

5. Application for Funding to Support Effective Community Involvement in the Social Inclusion Working Group (Pages 37 - 44)

To consider an application for funding received from The York Racial Equality Network (YREN) who host a regular community forum that sends representatives to the Social Inclusion Working Group (SIWG). They have applied for financial support to help improve the effectiveness of the Black and Minority Ethnic community's involvement in the work of the SIWG.

6. Community Forums Reports and Feedback

To receive reports from community forums involved in the Groups work.

7. Forward Plan

To agree items for future meetings of the Group.

8. Any other business which the Chair considers urgent under the Local Government Act 1972

Democracy Officer:

Name: Jill Pickering

Tel: (01904) 552062

jill.pickering@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details set out above.

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City of York Council

Committee Minutes

MEETING	SOCIAL INCLUSION WORKING GROUP
DATE	22 NOVEMBER 2006
PRESENT	COUNCILLORS JAMIESON-BALL (CHAIR), CUTHBERTSON, SUE GALLOWAY, LIVESLEY (SUB FOR CLLR FAIRCLOUGH), SCOTT AND SIMPSON-LAING (SUB FOR CLLR POTTER)
IN ATTENDANCE	JACK ARCHER – OLDER PEOPLE’S ASSEMBLY SUE LISTER – OLDER PEOPLE’S ASSEMBLY PETER BLACKBURN – LGBT FORUM KAREN ROBERTS – LGBT FORUM ELLY TREANOR – LGBT FORUM RITA SANDERSON – BME CITIZENS’ OPEN FORUM (YREN) DARYOUSH MAZLOUM - BME CITIZENS’ OPEN FORUM (YREN) LYNN JEFFRIES – DISABLED PEOPLE’S FORUM ALISON COWAN – DISABLED PEOPLE’S FORUM
APOLOGIES	COUNCILLORS FAIRCLOUGH, KING AND POTTER

12. DECLARATIONS OF INTEREST

The Chair invited Members to declare at this point any personal or prejudicial interests they might have in the business on the agenda, in addition to the standing declarations below:

Cllr Scott – as Young People’s Champion

Cllr Livesley – as Deputy Older People’s Champion

No further interests were declared.

13. MINUTES

RESOLVED: That the minutes of the Social Inclusion Working Group held on 20 September 2006 be signed as a correct record and the “easy read” version be noted subject to the deletion of the words “which specifically cater for the needs of people with learning difficulties and their carers” from the third paragraph of Minute 9 (Provision of Adult Changing Places) in both sets of Minutes.

Arising out of discussion it was confirmed that co-opted Members were able to appoint a substitute to attend the meeting in their place, if required.

Officers stated that, if Members were happy, they would photograph the new co-optees at the January meeting for the inclusion of their pictures in the “easy read” version of the minutes.

14. PUBLIC PARTICIPATION

It was reported that there were no registrations to speak under the Council’s Public Participation Scheme.

15. THE FEASIBILITY OF A CENTRE FOR INDEPENDENT LIVING FOR YORK

Members had received a presentation from Lynn Jeffries on the feasibility of a Centre for Independent Living for York (CIL), during the informal discussion prior to the meeting.

Consideration was given to a report prepared for the Social Inclusion Working Group by the Centre for Independent Living Steering Group, written by Alison Cowen and Lynn Jeffries, which provided more information on the following:

- What a Centre for Independent living was
- The law in relation to CIL’s
- Findings from a consultation event
- Organisation of a CIL in York together with recommendations.

Alison Cowen confirmed that from earlier informal discussion there appeared to be positive support for the setting up of a CIL for York. It was now important that a steering group was set up which involved disabled people and family members who attended the proposed consultation events to progress the work and for an audit of current services and payments to be undertaken.

Officers confirmed that it was important that the Council (Social Services) were involved with the steering group and that it would be useful if this could be added into the feasibility document.

In answer to questions regarding funding, Lynn Jeffries confirmed that it was hoped that, following the audit of services already available in York, a crossover of services would be identified which could lead to monies being utilised for funding.

Members confirmed that this was still a draft report and that for a fully informed discussion Members would require sight of the full report. It was confirmed that Officers would also need to prepare a report with recommendations on how the SIWG could support progress of the scheme.

RESOLVED: i) That the presentation and feasibility study for a Centre for Independent Living in York be welcomed and noted.

- ii) That further consideration of the feasibility report be deferred pending an Officer report outlining options to take forward the setting up of a CIL in York with partner organisations to include how the Council can meet its obligations for a user led organisation in the area by 2010.

REASON: To update Members on the feasibility of setting up a Centre for Independent Living in York.

16. INVOLVING YOUNG PEOPLE IN THE SOCIAL INCLUSION WORKING GROUP

Members considered a report which explored options for effectively involving young people in the Social Inclusion Working Group.

Officers reported feedback from the sub group's discussion at the earlier informal meeting:

Group 1

- That there was no correct solution but the appointment of young people representatives through a Social Inclusion Youth Forum or from the Youth Council to attend SIWG meetings would be a suitable option.

Group 2

- Options B and D were of the greatest interest to this Group
- Other points raised included that it would not be possible for young people under 18 years to have voting rights on the Group if Council agreed voting rights for co-opted members in the future
- How to use the role of the Young People's Champion which had not be included in the report.

In answer to questions regarding the use of a web based forum for young people Officers confirmed that this had been examined by the Young Peoples Working Group. It had been found that there were problems with resources and concerns had been raised regarding inappropriate activity on the site.

Certain Members raised concerns regarding accountability as the recommendation proposed that Officers from the Youth Service would interpret information received from young people. It was questioned whether the Group wanted the views of young people fed into the Group or the appointment of 2 representatives.

Members expressed the view that it was important to have young people representation on the Group and that this should be done quickly. It was also felt important to hear the views of young people who had had direct

involvement in topics that would be discussed at future meetings together with input from other Forums that linked up with young people.

Consideration was also given to the need for wider engagement with young peoples groups and the possibility of using the Groups budget to assist with this.

The options considered were

- A Officers from the Youth Service to attend the meetings to advocate on behalf of young people. Their role would only be to articulate the views of young people as have already been expressed through consultation and involvement activity, as recorded on the consultation database.
- B Include issues that are important to young people are placed on the forward plan and with the advice and support of the Youth Service relevant young people are invited to attend those particular meetings.
- C Hold a once-yearly social inclusion event for young people – a Social Inclusion Youth Forum. This could ascertain the views of young people on a number of social inclusion and equality issues and may lead to the identification of two younger people interested in attending the SIWG on a regular basis. Representation on this would be drawn from within the BME forum and Disabled People's Forum as well as other appropriate groups across the City.
- D The relevant Community Forums involved in the SIWG work to better involve young people in their activities and by so doing identify a young person who would be interested in representing the views of young people from that community at the SIWG. These young people's representatives would be offered an extra place on the SIWG.
- E A combination of options A-D above.

RESOLVED: i) That subject to Option A being reworded to state that the Children and Young Persons Champion will attend meetings to advocate on behalf of young people rather than "Officers from the Youth Service" Option E be supported for addressing the involvement of young people in the SIWG.

REASON: Option E provides for the most effective and comprehensive involvement of young people given the current overall approach to young people's involvement in the city.

- ii) That the Youth Council be consulted on the best method of appointing two young people for to represent them on the Group.
- iii) That the SIWG review the above option at the end of a six month period.

- iv) That the next meeting give consideration to ways of using the Groups budget to engage young people and in assisting them to feed their views into the work of the Group.

REASON: To develop a more comprehensive and inclusive means of involving young people in issues of social inclusion and equality.

17. APPLICATIONS FOR FUNDING TO SUPPORT EFFECTIVE COMMUNITY INVOLVEMENT IN THE SOCIAL INCLUSION WORKING GROUP

Members considered a report, which detailed applications, received from two community forums for financial support to improve the effectiveness of their community’s involvement in the work of the Social Inclusion Working Group.

The applications for financial support had been received from the following

Forum	Amount Requested £	Purpose	Summary of what funding would pay for
OPA (Older People’s Assembly)	1,130	To support engagement with wider community	Newsletter printing and postage. Development of website.
LGBF (Lesbian, Gay and Bisexual Forum)	1,750	To support engagement with wider community	Newsletter production, printing and postage. Improving ease of contact by LGB people with forum representatives.

Officers confirmed that both applications met the criteria established by the Group in July for receipt of financial support.

Officers indicated that if approved this would leave approximately £3000 in the budget to be allocated at the January meeting otherwise it would be lost and he asked for any applications to be submitted prior to Christmas for consideration at the January meeting.

Members referred to the application from the Older People’s Assembly and their indication that their newsletter and website would include reports of discussion at the SIWG. Confirmation was received from the LGBT representative that they would also undertake to include this information on their website.

RESOLVED: i) That the funding application made by the Older People's Assembly in the sum of £1,130 be met in full.

REASON: The funding application meets the criteria established by the SIWG and the budget to support this work for 2006/7 has sufficient resources to meet this expenditure.

ii) That the funding application made by the Lesbian Gay and Bisexual Forum in the sum of £1,750 be met in full.

REASON: The funding application meets the criteria established by the SIWG and the budget to support this work for 2006/7 has sufficient resources to meet this expenditure.

18. **COMMUNITY FORUM REPORTS AND FEEDBACK**

Members received a report from Lynn Jeffries from the Disabled People's Forum, one of the community forums involved in the Group's work. An "easy read" version of the report had been attached to the agenda for Members information. Lynn confirmed that the Disabled People's Forum had now been appointed and that their first meeting was scheduled for early December. She stated that this would be her last meeting of the Group, as the Forum would be putting forward representatives to attend future meetings.

Members also received a verbal report from Sue Lister representing the Older People's Assembly who reported that the Assembly followed a government initiative "Better Government for Older People". This had set up 28 pilot projects of which York was one to enable older people at grass roots level a direct channel of communication to government. She also reported on their recent work which involved Information Fairs as part of the distribution of transport tokens and bus passes event at the Guildhall and the York 50+ Festival.

Members thanked Group representatives for their feedback and attendance at the meeting and in particular to Lynn for her involvement in the setting up of the Disabled People's Forum.

19. **FORWARD PLAN**

Members collated ideas for business for future meetings.

RESOLVED: That the Social Inclusion Working Group.

- i) Consider the new legislation and the new council policies and procedures in relation to the age of the existing staff profile.
- ii) Receive input from the Lesbian Gay Bisexual Transgender Forum (LGBT) on the most appropriate ways of collecting data about sexuality.

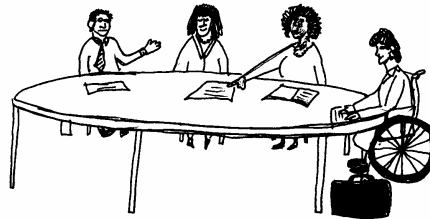
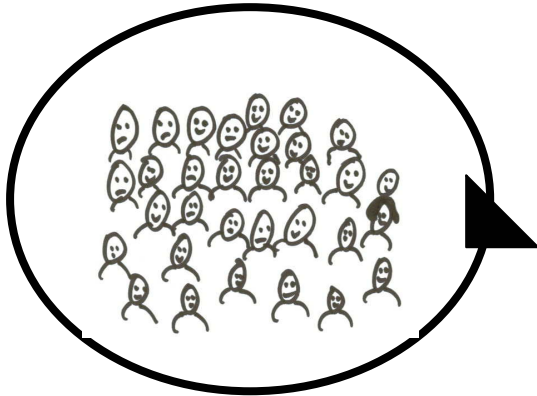
- iii) Undertake training on the social barriers to disabilities to better inform Group members.
- iv) Give consideration at the next meeting of ways of using the Groups budget to engage young people and in assisting them to feed their views into the work of the Group.

REASON: To focus the future work of the Social Inclusion Working Group.

Cllr C Jamieson-Ball
Chair

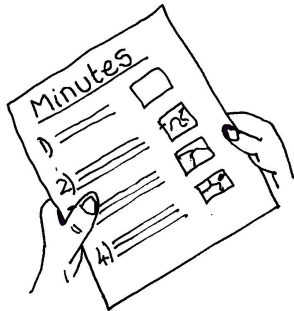
[The meeting started at 6.00 pm and finished at 8.15 pm].

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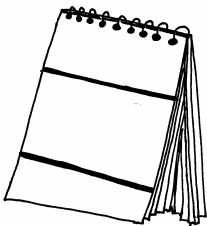


Social Inclusion Working Group

(Social inclusion means including everyone in society. The Social Inclusion Working Group has been set up to look at how all different communities in York can be given the same chances to take part in life and be included)



MINUTES



Date of meeting: 22 November 2006

Members of the Council who were at the meeting (to be known as 'Members' in these minutes):



**Ceredig
Jamieson-Ball
(Chair)**



Sue Galloway



Ian Cuthbertson



David Livesley



David Scott

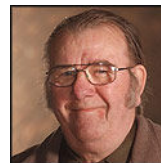


**Tracey
Simpson-Laing**

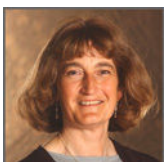
Members of the Council who were not able to come to the meeting:



Ken King



Bill Fairclough



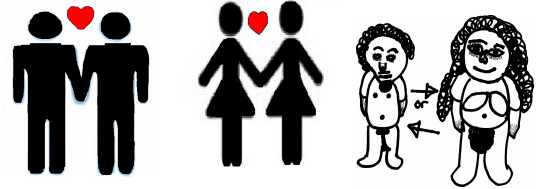
Ruth Potter

People who were at the meeting representing community groups:

Sue Lister and Jack Archer from the Older People's Assembly



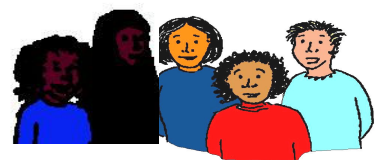
Peter Blackburn, Karen Roberts and Elly Treanor from the LGBT Forum (LGBT stands for Lesbian Gay Bisexual and Transgender)



Lynn Jeffries and Alison Cowan from the Disabled People's Forum



Rita Sanderson and Daryoush Mazloum from the BME Citizen's Forum



1. York Centre for Independent Living

Lynn Jeffries and Alison Cowen talked to the Group about plans for a Centre for Integrated Living.



A Centre for Independent Living (CIL) is an organisation controlled by disabled people. It is for all disabled people.



It exists to provide services which help disabled people to live as independently as they choose. Independent living means having choice and control in your life.



Lynn and Alison had talked to many local disabled people and their families about what they think a CIL in York should be like. Disabled people said they welcomed the idea of a user led CIL as part of the move towards a new culture of user led approaches within health and social services.

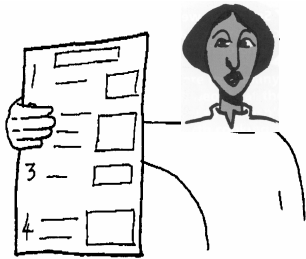




The next step is to set up a steering group of disabled people and their families. This would work with Social Services to try to develop a CIL in York.

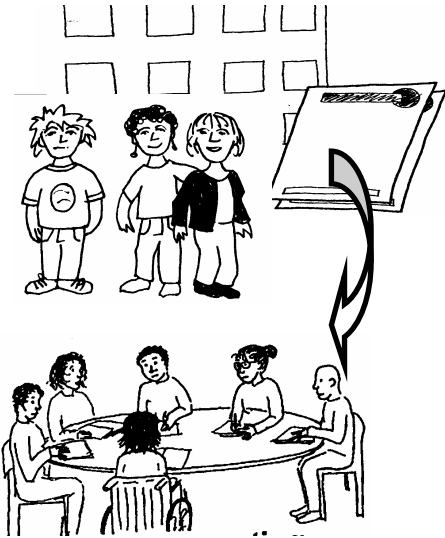


Members of the Group welcomed the report about the idea of a CIL in York. They also said they would like to see the final version of the report when it was ready.

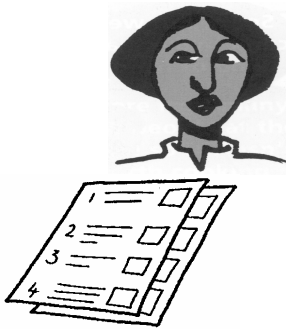


They also wanted officers to come to a future meeting to explain how SIWG could support development of a CIL in York.

2. Involving Young People

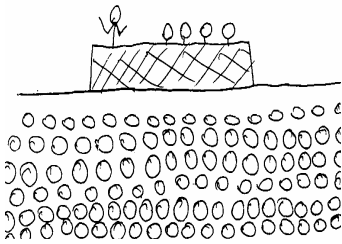


The Group discussed options for involving young people in their meetings:

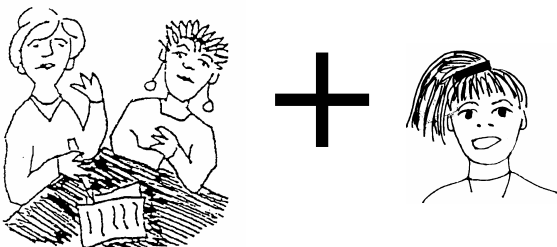


Option A - Officers from the Youth Service to attend the meetings to advocate on behalf of young people.

Option B - The Youth Service advise on the issues that are important to young people.

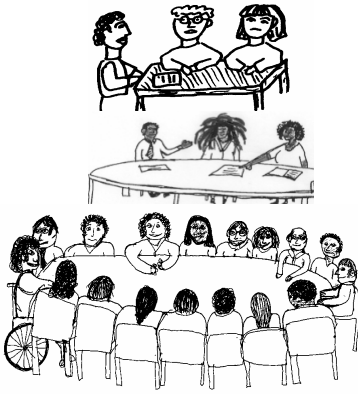


Option C - Hold a once yearly social inclusion event for young people.

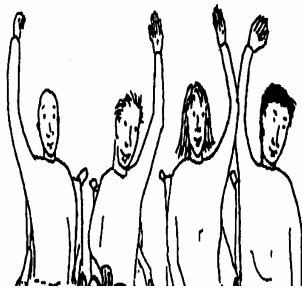


Option D - Offer the community forums an extra young people's representative.

Option E - All of the above.

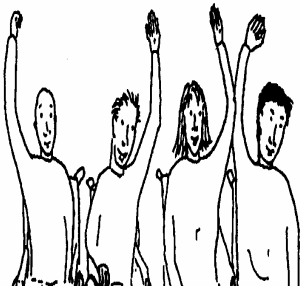


2 small groups discussed the options and suggested the following:



Group one decided they preferred another option - to invite young people from the Youth Council to attend SIWG.

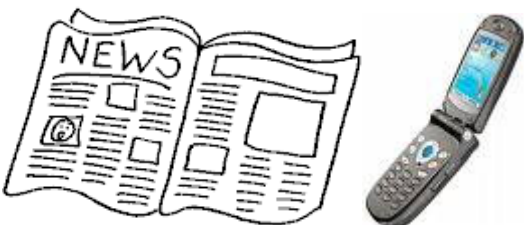
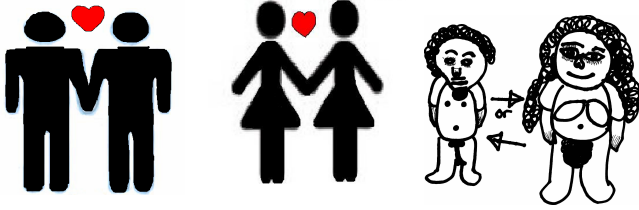
Group two preferred options B and D. The Group also wanted young people under 18 years to have voting rights on the Group if the Council agreed.



The Group agreed that option E was the best. However they wanted it to be the Young Person's Champion who reported the views of young people and not an officer. How well this options work will be reviewed in 6 months time.

E ✓

3. Applications for funding.

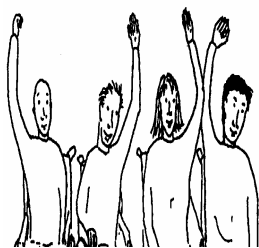


The Older People Assembly (OPA) and The Lesbian Gay Bi-Sexual and Transgender (LGBT)

Forum asked the Group for the money to help them be involved in the Group and to let other people know more about its work.

The Older People's Assembly (OPA) asked for £1,130 to help with the costs of a newsletter, postage and a website.

The LGBT Forum asked for £1,750 for help with the cash of producing a newsletter and to buy a mobile phone.



The Group agreed that this money would help its work and so would pay them money. This would leave the group with £3,000 to spend this year.

4. Community Forum Reports and Feedback

Disabled People's Forum

This has now been set up and had held its first meeting . The Forum also electing a steering group to plan future meetings. This group will elect rep's for future SWIG meetings. This means that Lynn will no longer be the representative for the DPF. She was thanked for all her help and involvement so far.



Older People's Assembly

Sue reported the OPA had helped to organise and host the York 50+ Festival, which was a great success and lots of people attended



5. Future Meetings



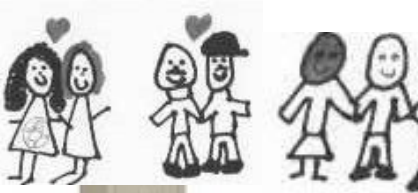
The Group thought about other things it would like to talk about at future meetings.



- Discuss the new laws to stop age discrimination and what the council is doing about it.



- The Lesbian Gay Bi-sexual Transgender Forum (LGBT) will tell the group how it thinks the council should check whether it is treating LGBT people fairly.



Confidential !



- Discuss the social barriers that cause disability.



- Think about ways of using the Group's budget to engage young people and assist them to feed their views into the Group.





Social Inclusion Working Group

17th January 2007

Report of the Head of Human Resources

AGE DISCRIMINATION

Summary

1. This report summarises for Social Inclusion Working Group the forthcoming Employment (Age) Regulations 2006 and outlines the amendments made to the Council's HR processes in order to comply.

Background

2. Prior to 1 October 2006 there was no specific domestic legislation in force that covers discrimination on the grounds of age. However, the *General Framework for Equal Treatment Directive* which prohibits discrimination on the basis of religion or belief, disability, sexual orientation and age in employment or occupation, required the Government to introduce legislation implementing the age provisions of the Directive by the 2nd December 2006. To this end, on 28 April 2006 the Government published the Employment Equality (Age) Regulations 2006. Subsequent to the publication of the Regulations, ACAS have published a guide called "Age and the workplace: Putting the Employment (Age) Regulations 2006 into practice".
3. In summary the Regulations:
 - Set a default retirement age of 65;
 - Allow employers to have a retirement age below 65 as long as they can demonstrate that it is appropriate and necessary;
 - Give employees the right to request to work beyond their retirement age;
 - Make it compulsory for employers to consider any such request.
4. The regulations apply to all employers, private and public sector vocational training providers, trade unions, professional organisations, employer organisations and trustees and managers of occupational pension schemes. The regulations cover recruitment, terms and conditions, promotions, transfers, dismissals and training but they do not cover the provision of goods and services.
5. The regulations make it unlawful on the grounds of age to:
 - discriminate directly against anyone, unless objectively justified;
 - discriminate indirectly against anyone unless objectively justified;

- subject someone to harassment;
 - victimise someone because they have made or intend to make a complaint or allegation or have given or intend to give evidence in relation to a complaint of discrimination on grounds of age;
 - discriminate against someone after the working relationship has ended.
6. There are limited circumstances when it is lawful to treat people differently because of their age where it can be shown there is an objective justification for doing so. An objective justification allows employers to set requirements that are directly and indirectly age discriminatory in certain circumstances. These will need to be supported by real evidence to support any such claim of objective justification. Each case must be considered on its merits and any such direct and indirect discrimination will need to be justified as a proportionate means of achieving a legitimate aim.
7. A legitimate aim might include economic factors such as business needs and efficiency, the health, welfare and safety of the individual or the particular training requirements of the job. A legitimate aim must correspond with a real need of the employer – economic efficiency may be a real aim but saving money because discrimination is cheaper than non-discrimination is not legitimate. The legitimate aim cannot be related to age discrimination itself. The test of objective justification is not an easy one and it will be necessary to provide evidence if challenged.
8. There are also exceptions to or exemptions from the age regulations in the following areas:
- pay and other employment benefits based on length of service (any benefit earned by five years service or less will be exempt);
 - pay related to the National Minimum Wage;
 - acts under statutory authority;
 - enhanced redundancy;
 - life assurance;
 - retirement;
 - occupational pension systems.
9. In very limited circumstances, it will be lawful for an employer to treat people differently if it is a genuine occupational requirement (GOR) that the job holder must be of a particular age. When deciding if this applies, it is necessary to consider the nature of the work and the context in which it is carried out.
10. Prior to the introduction of the regulations the Council's Comprehensive Equalities Policy already included an aim:
- “to ensure that no one who deals with the Council receives less favourable treatment on the grounds of age.”
11. As a consequence guidance on how to avoid age discrimination was included in the relevant HR process from September 2006, for instance the Recruitment and Selection Policy, Bullying, Harassment and Discrimination Policy etc. As such the Regulations do not require alterations to many of the Council's current

HR processes although, having undertaken an impact assessment, the Regulations did require the Council to amend its HR processes to give employees the right to request to work beyond their retirement age and have such a request considered. Additionally the Regulations required the Council to revise its redundancy selection criteria as previously a high scoring element of the selection criteria was length of service, which is age discriminatory and therefore unlawful under the Regulations. This is reinforced by the ACAS guide which states that “using length of service in any selection criteria” is “likely to be discriminatory”.

12. Changes were also required in other policies and practices elsewhere in the Council, for instance the Council’s redundancy payment calculation table will need to be revised and the manner in which the Council exercises its pension discretions will also need to be amended. These amendments are being led by the Resources directorate.

Consultation

13. The proposed changes to the Council’s redundancy selection criteria and the proposed procedure to give employees the right to request to work beyond their retirement age and have such a request considered (Guidelines on the Employment of People over 65) were subject to consultation with the trade unions recognised by the Council.

Options

14. This report briefs the Social Inclusion Working Group on amendments to Council policy approved in September 2006 as a consequence of statutory requirements. As a result, there are no options to consider.

Analysis

15. Introducing revised redundancy selection criteria and a mechanism to give employees the right to request to work beyond their retirement age and have such a request considered have enabled the Council to comply with the age Regulations.
16. The revised redundancy selection criteria can be found in Annex 1. As can be seen the performance based criteria are designed to retain better performing employees and those who have the skills and experience required by the organisation, with weighting given to various criteria accordingly.
17. The revised guidelines on the employment of people over 65 can be found in Annex 2. The guidelines replaced the Council’s previous policy on the employment of over 65s and differ from the previous guidelines in a number of important ways.

Previous Provision	Revised Provision	Reason for change
Emphasis on employees to approach CYC to request to work beyond 65	Employees notified in writing of their impending retirement and notified of their right to request to work beyond their retirement age	Statutory obligation
Requests to work beyond 65 only granted in exceptional circumstances	Requests will be agreed unless there is a genuine and non-discriminatory reason not to do so	Current provision directly discriminatory
Extensions for a maximum period of 12 months	Extensions will be indefinite unless the employee has requested an extension for a stated period	Current provision directly discriminatory
Extensions subject to medical examination	Employees will be subject to the Council's existing performance management systems and not treated differently due to their age	Current provision directly discriminatory
No right of appeal	Right of appeal	Statutory obligation

Corporate Priorities

18. There is no direct relationship to the Councils corporate priorities as a result of this report, but it underpins them all indirectly.

Implications

Financial

19. Removing length of service as the primary criteria in redundancy selection may increase the cost of enacting redundancies in the Council as previously those selected for redundancy were those with less service and, as redundancy pay is calculated by reference to length of service, such employee's therefore received lower severance payments.
20. As redundancy exercises are managed on a case by case basis, it is not possible to determine the precise financial impact of the change. However the cost of redundancy payments are met by a centrally held budget which is monitored in accordance with established systems.
21. Increasing the number of employees working beyond age 65 will reduce the Council's recruitment advertising costs. Such a reduction is difficult to quantify although it is not expected to be a significant saving.

Human Resources (HR)

22. The HR implications are covered in the main body of the report.

Equalities

23. The proposals contained in this report comply with the principles of the Council's Comprehensive Equalities Policy and the age Regulations and are therefore supported.

Legal

24. The Employment Equality (Age) Regulations 2006 allow employers to treat people differently on the grounds of their age if there is an objective justification to do so. However discrimination on the grounds of age will only be justified if it is a proportionate means of achieving a legitimate aim. A legitimate aim must correspond with a real need of the employer the aim cannot be discriminatory in itself. For instance economic efficiency may be a real aim, although saving money because discrimination is cheaper than non-discrimination is not legitimate. ACAS state that "the test of objective justification is not an easy one" and it will be necessary to provide evidence, assertions alone will not be enough. It was therefore theoretically possible for the Council to objectively justify continuing to use its previous redundancy selection criteria but given the test of objective justification, it was considered to be unwise to attempt to do so.
25. Equally it may have been possible for the Council to objectively justify only granting permission to work beyond 65 for a limited period on a blanket basis and to make such permission subject to a medical examination. However, again, both of these provisions are directly discriminatory and it is therefore unlikely that the Council would have been able to justify or evidence these provisions.
26. It is important to note that the Regulations make "retirement" a dismissal in law. Such dismissals will be automatically fair provided the correct procedure to enact the dismissal is followed. However, equally, all such dismissals will be automatically unfair should the correct procedure not be followed. Consequently, there will be no legal obligation to agree a request to work beyond 65 even where there is no reason for refusing. This aspect of the Regulations is the subject of a judicial review application backed by Age Concern and must therefore be kept under review if such a policy or practice is adopted.

Additional Considerations

27. In addition to the legal implications of the Regulations described above, work has been undertaken through the Council's Equality in Employment Improvement Plan (EEIP) to analyse the Council's age profile and to consider what, if any, action needs to be taken in this area. The Council's current age profile, broken down by directorate, can be found in Annex 3.

28. The Council's policies and procedures relating to Bullying, Harassment and Discrimination, Recruitment and Selection and the Employment of People over 65 have built in mechanisms to monitor their application and the Council's age profile will be monitored through both the corporate and directorate EEIPs.

Risk Management

29. The provisions in this report help to protect the Council from financial and representational risk associated with potential age discrimination claims.

Recommendations

30. Social Inclusion Working Group are asked to note the action taken by the Council in respect of the Employment Equality (Age) Regulations 2006.

Reason: To comply with statutory requirements, to protect the Council from risk and to further support the Council's approach to equalities and social cohesion and inclusion.

Contact Details

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Chief Officer Responsible for the report:

Jamie Sims
Acting Head of Human Resources

Report Approved **Date** 05.01.07
Jamie Sims
Acting Head of Human Resources

Report Approved **Date** 05.01.07

Officers consulted:

Equalities – Julian Horsler, Equalities Officer
Legal – Matthew Waterworth, Solicitor
Finance – Liz Ackroyd, AB Audit & Risk Management

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

ACAS Guide, Age and the workplace: Putting the Employment (Age) Regulations 2006 into practice

Annexes

Annex 1 – Revised redundancy selection criteria
Annex 2 – Guidelines on the employment of people over 65
Annex 3 – Age Profile of Council December 2006/Age Profile Breakdown Graph

Annex 1 - Revised redundancy selection criteria

CRITERIA TO BE USED WHEN SELECTING EMPLOYEES TO BE DISMISSED BY REASON OF REDUNDANCY

CRITERIA	BAND & POINTS SCORE	BAND & POINTS SCORE	BAND & POINTS SCORE	BAND & POINTS SCORE	BAND & POINTS SCORE
TYPE OF WORK EXPERIENCE (see note 1)	Five years or more of work experience directly relevant to continuing work* 4 points	More than three years but less than five years of work experience directly relevant to continuing work 3 points	More than one year but less than three years of work experience directly relevant to continuing work 2 points	One year or less of work experience directly relevant to continuing work 1 point	No work experience directly relevant to continuing work 0 points
QUALIFICATIONS AND SKILLS (see note 1)	Possesses all essential and desirable criteria required 8 points	Possesses all essential and 65% or more of desirable criteria required 6 points	Possesses all essential and 35% or more of desirable criteria required 4 points	Possesses essential criteria required 2 point	
SICKNESS ABSENCE AMOUNT (see note 2)	No sickness absence in the previous 12 months 8 points	25%of corporate sickness absence target in the previous 12 months 6 points	50%of corporate sickness absence target in the previous 12 months 4 points	75%of corporate sickness absence target in the previous 12 months 2 point	Met or exceeded corporate sickness absence target in the previous 12 months 0 points
CONDUCT	No live formal disciplinary warnings recorded on the	Live formal verbal disciplinary warning recorded on the	Live formal written disciplinary warning recorded on the	Live formal final written disciplinary warning recorded on	

	personal file 16 points	personal file 10 points	personal file 4 points	the personal file 0 points	
INCAPABILITY To include all issues covered by the Council's Capability Procedure	Employee not part of formal Council capability procedure 16 points	Live first formal warning issued under the Council's capability procedure on file 10 points	Live second formal warning issued under the Council's capability procedure on file 4 points	Live third formal warning issued under the Council's capability procedure on file 0 point	
SICKNESS ABSENCE FREQUENCY (see note 2)	No periods of sickness absence in the previous 12 months 16 points	Up to 1 period of sickness absence in a 3 month period or 2 periods of sickness absence in a 6 month period in the previous 12 months 12 points	Up to 2 periods of sickness absence in a 3 month period or 3 periods of sickness absence in a 6 month period in the previous 12 months 8 points	Up to 3 periods of sickness absence in a 3 month period or 4 periods of sickness absence in a 6 month period in the previous 12 months 4 point	More than 4 periods of sickness absence in a 3 month period or 5 periods of sickness absence in a 6 month period in the previous 12 months 0 points
ANY OTHER OBJECTIVE EVIDENCE OF COMPETENCY	To be determined depending on the evidence to be used.				

Note 1: Scores for Type of Work Experience and Qualifications and Skills will be determined against the job description.

Note 2: Absences as a result of a disability that falls under the definition provided by the Disability Discrimination Act 1995 will be disregarded. Likewise absence due to pregnancy will also be disregarded. The Council's sickness absence target is expressed as a number of days per full time equivalent and will therefore need to be calculated pro rata for part timers.

* To be assessed as work experience directly relevant to continuing work only, it is not the employee's length of service in either the post, or with the Council.



GUIDELINES ON THE EMPLOYMENT OF PEOPLE OVER THE AGE OF 65

CITY OF YORK COUNCIL

**GUIDELINES ON THE EMPLOYMENT
OF PEOPLE OVER THE AGE OF 65**

OVERVIEW

These guidelines set out the Council's position with regard to the employment of over 65s and provides guidance on the procedure which allows employees to request to work past their notified retirement age.

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GUIDELINES ON THE EMPLOYMENT OF PEOPLE OVER THE AGE OF 65

1.0 INTRODUCTION

1.1 City of York Council recognises the importance of employing a workforce that has the skills and experience needed to deliver excellent services.

1.2 The Council's Comprehensive Equalities Policy aims:

“to ensure that no one who deals with the Council receives less favourable treatment on the grounds of age.”

Guidance on how to avoid age discrimination is included in the relevant HR process, for instance the Recruitment and Selection Policy, Bullying, Harassment and Discrimination Policy etc. These guidelines provide details of the specific provisions that apply to the employment of over 65s.

1.3 Normal retirement age for Council employees is 65. This is applied equally, regardless of gender, post or directorate.

2.0 SCOPE

2.1 These guidelines apply to all City of York Council employees. They also apply to casual and relief workers (for the purposes of these guidelines the term “employee” should also be read to mean “worker” in this regard).

2.2 The Director of Learning Culture and Children's Services will adapt these guidelines for use by schools with delegated powers and recommend it to Governing Bodies.

3.0 IMPLEMENTATION DATE

3.1 These guidelines will apply from the 1st October 2006.

4.0 REPRESENTATION

4.1 An employee can choose to be accompanied by a trade union representative or colleague at meetings to discuss their request not to be retired.

4.2 Meetings will normally be arranged at mutually convenient times. However if the employee's companion is not available at the proposed

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time for the meeting, the employee can propose an alternative time. If the time is convenient for all parties and is within seven days from the day after that which the employee suggested, the meeting must be rescheduled.

5.0 PERFORMANCE MANAGEMENT AND HEALTH AND SAFETY

5.1 The Council has established performance management processes, for instance the capability, disciplinary and sickness absence management procedures, and health and safety processes, for instance risk assessment. These processes should be applied as stipulated in the relevant process and applied regardless of a person's age. For instance referrals to the Council's occupational health provider should be undertaken based on the Council's sickness absence process i.e. if the person has hit a trigger point etc., or based on a risk assessment of the job in the case of health surveillance.

5.2 These guidelines should therefore be read and applied concurrently with the aforementioned processes and employees must not be subject to these processes based on a stereotyped perception, for instance, that an older person is likely to be ill more often than a younger person. The same applies to health and safety considerations which should be based on the relevant risk assessment identifying risks, not an assumption about the risks based on a person age.

6.0 INFORMING AN EMPLOYEE OF THEIR DATE OF RETIREMENT

6.1 City of York Council operates a normal retirement age of 65. The Council is legally obliged to inform an employee of their date of retirement between six and 12 months before their intended retirement date. This applies each time an individual nears a retirement date, including dates that has been set as a result of extending an employee's retirement over the age of 65.

6.2 The letter informing the employee of their date of retirement must also advise them of their right to request not to be retired.

6.3 Every quarter HR will supply local line managers with a list of employees who are due to retire in the next six months in order that line managers can advise the employee accordingly, using the standard letter that is contained in appendix A. At the same time HR will also supply a list of those employees within a year of normal retirement age in order to help the planning process.

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GUIDELINES ON THE EMPLOYMENT OF PEOPLE OVER THE AGE OF 65

7.0 EXCEPTIONS TO RETIREMENT

7.1 Employees have the right to request not to be retired. If an employee wishes to continue working past their notified date of retirement they must write to their line manager. The letter must state whether they propose that the employment should continue indefinitely, for a stated period or until a stated date. Only one request can be made in relation to any one intended date of retirement.

7.2 The Council is committed to considering the employee's request not to be retired. In order to do so, upon receipt of such a request the employee's line manager will hold a meeting with the employee to discuss their request. Appendix B contains a standard letter informing an employee of a meeting to discuss a request not to retire.

7.3 After the meeting the line manager will write to the employee stating:

- If the request is accepted, that the request has been accepted and whether the employment will continue indefinitely or for a stated period*;
- If the request is refused, that the Council still wishes to retire the employee, together with the date when the dismissal will occur.

* If the employee has requested to stay for a stated period.

7.4 This procedure must be repeated each time an individual nears an extended point for retirement as well as when they are nearing 65.

8.0 REASONS FOR REFUSAL

8.1 In the majority of cases there will be no reason to refuse a request from an employee to continue working past their notified date of retirement and the general assumption should be to agree a request unless there is a genuine and non-discriminatory reason not to do so.

8.2 Any reason to refuse a request based on the employee's age is likely to be discriminatory, for instance if there is a stereo-type based perception that someone over the age of 65 will not be able to continue to perform in the job, or if there is a perception that it may not be safe for them to do so that is not supported by objective risk assessment and medical evidence.

GUIDELINES ON THE EMPLOYMENT OF PEOPLE OVER THE AGE OF 65

8.3 Provided that the above procedure has been followed, legally a retirement at the notified date of retirement will be an automatically fair dismissal. However in order for this to be the case, retirement must be the genuine reason for the dismissal and it can not be used as an excuse to dismiss an employee who may not be performing adequately, even if that employee has reached their notified date of retirement. Matters of under performance are dealt with using for instance, the sickness absence procedure, capability procedure, disciplinary procedure etc. and these processes apply to all employees regardless of age. This policy is not to be used in place of good performance management practice and managers should be aware that they may be required to demonstrate to an Employment Tribunal that the retirement of the employee was the only reason for their dismissal, if challenged.

9.0 APPEAL

9.1 Employees can appeal against the decision to refuse a request to continue working. Appeals must be made to the Chief Officer responsible for the service, must be in writing, setting out the grounds of appeal, be dated and be submitted as soon as is reasonably practicable after the line manager's original decision.

9.2 Upon receipt of an appeal the Chief Officer will hold a meeting within a reasonable period after the date of the notice of appeal at which their request will be discussed.

9.3 After the meeting the Chief Officer will write to the employee stating:

- If the request is accepted, that the request has been accepted and whether the employment will continue indefinitely or for a stated period;
- If the request is refused, that the Council still wishes to retire the employee, together with the date when the dismissal will occur.

9.5 In the case of a request to continue working being made by a Chief Officer, appeals will be heard by the Chief Executive.

9.6 No further right of appeal exists. Complaints or grievances submitted will not be progressed, investigated or considered.

10.0 RECORDS

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10.1 Records and associated documentary evidence and correspondence, will be held on the employee's personnel file.

11.0 MONITORING AND REVIEW

11.1 These guidelines will be monitored on an on-going basis through the operation of a database held by the Head of Human Resources.

11.2 These guidelines will be reviewed periodically as necessary.



GUIDELINES ON THE EMPLOYMENT OF PEOPLE OVER THE AGE OF 65

Appendix A

Standard letter informing an employee of their retirement

<<date>>

Dear XXX

Notification of retirement

I am writing to inform you that you will retire from the Council on the <<insert date>>. However you have the right to request not to be retired at this time.

If you wish to continue working past the above date you must write to me stating that you do not wish to retire on this date and if you are proposing that your employment should continue indefinitely, for a stated period or until a stated date.

If you require any further information on this matter please do not hesitate to contact me or refer to the Council's guidelines on the employment of people over 65 which can be found in the Human Resources Manual of Policies and Procedures on CouncilNet or are available from me.

Yours sincerely

<<line manager>>



GUIDELINES ON THE EMPLOYMENT OF PEOPLE OVER THE AGE OF 65

Appendix B**Standard letter informing an employee of a meeting to discuss a request not to retire**

<<date>>

Dear XXX

Request not to retire

I am writing to inform you that after receiving your request not to be retired that there will be a meeting to discuss your request.

The meeting will be held on *[insert date]* at *[insert time]* at *[insert location]*.

You have a right to be accompanied at the meeting by a fellow worker or a trade union representative. Your companion may be someone that you have chosen, but they must work for City of York Council. Your companion can address the meeting but not answer questions on your behalf although you may confer with your companion during the meeting.

After the meeting if it is decided to continue your employment beyond the intended retirement date of *[insert date]* you will receive written notification reflecting these agreed changes to your contract.

If no agreement is reached you will receive further notification confirming your intended retirement date and informing you of your right to appeal.

Yours sincerely

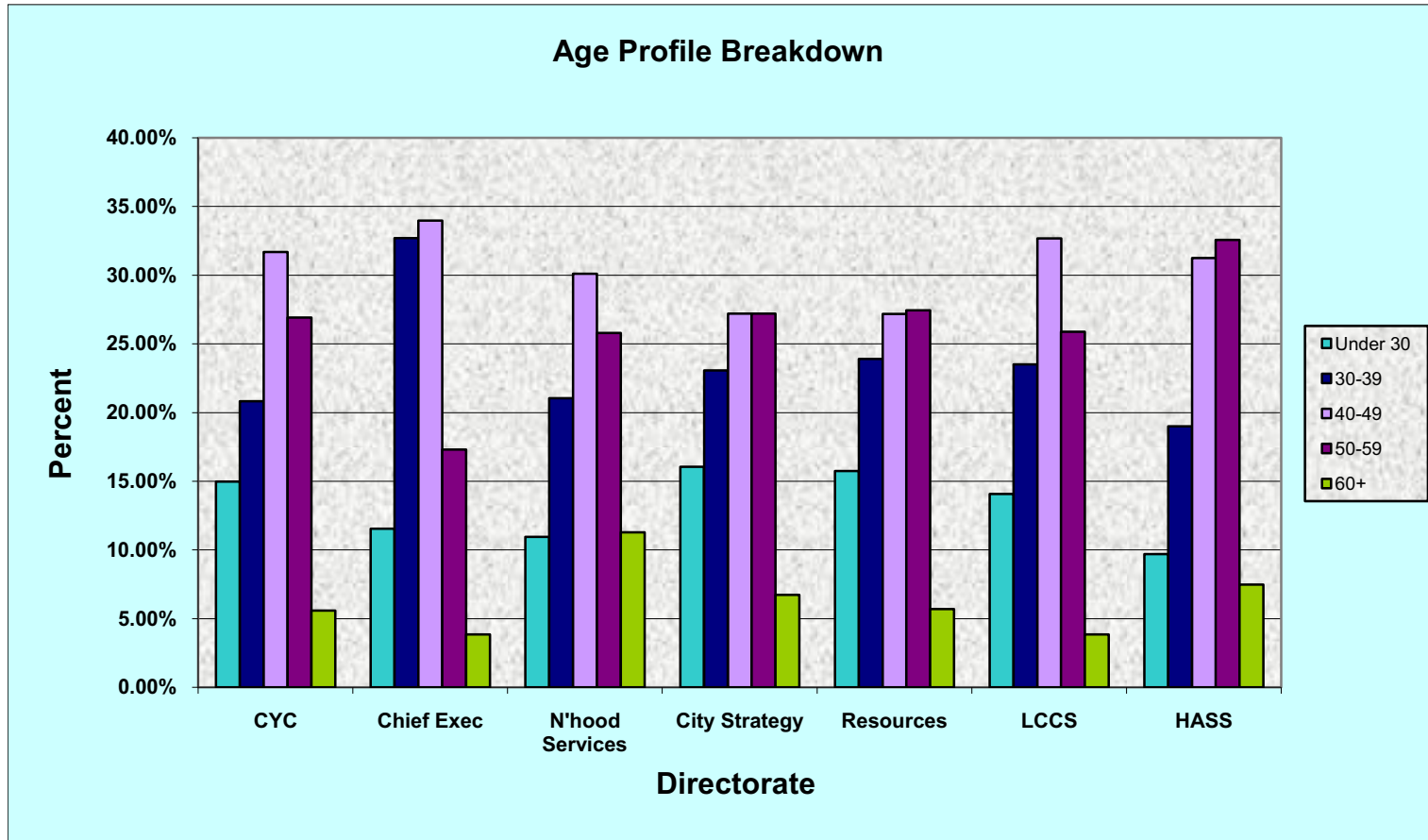
<<line manager>>

City of York Council's current age profile, broken down by directorate.

ANNEX 3

Age	CYC	Chief Exec	N'hood Services	City Strategy	Resources	LCCS	HASS
Under 30	14.98%	11.54%	10.96%	16.06%	15.76%	14.09%	9.70%
30-39	20.82%	32.70%	21.04%	23.06%	23.91%	23.50%	19.00%
40-49	31.68%	33.97%	30.09%	27.20%	27.17%	32.67%	31.25%
50-59	26.92%	17.31%	25.80%	27.20%	27.44%	25.88%	32.57%
60+	5.60%	3.85%	11.29%	6.74%	5.70%	3.86%	7.48%

Actual Numbers							
Age	CYC	Chief Exec	N'hood Services	City Strategy	Resources	LCCS	HASS
Under 30	1120	18	99	62	58	627	118
30-39	1557	51	190	89	88	1046	231
40-49	2369	53	279	104	100	1454	380
50-59	2013	28	233	105	101	1152	396
60+	419	6	102	26	21	172	91
Total	7478	156	903	386	368	4451	1216





Social Inclusion Working Group

17th January 2007

Report of the Head of Performance Improvement

Applications for funding to support effective community involvement in the Social Inclusion Working Group.

Summary

1. The York Racial Equality Network (YREN) hosts a regular community forum that sends representatives to the Social Inclusion Working Group (SIWG). They have applied for financial support to help improve the effectiveness of the Black and Minority Ethnic community's involvement in the work of the SIWG. The application is outlined in appendix A.

Background

2. In July the Social Inclusion Working Group invited community forums to apply to the Group for financial support if this was needed to facilitate more effective involvement of the community in the Group's work. The Equalities team has a budget of £7,240 which the SIWG can recommend is spent on its identified priorities. These, as agreed at the July meeting, are:

A. Making meetings accessible and inclusive

The budget could be used to make meetings accessible and inclusive for the community representatives attending. This could be to pay for interpretation or to cover transport or child care expenses.

B. To support engagement with wider community

The budget could be used to help the community forums to inform the members of the community they represent of the work of the SIWG and to seek their views.

C. To facilitate forum meetings

Some forums have few if any resources and holding accessible and inclusive meetings can be difficult. The budget could be used to help pay for venue hire, publicity etc.

D. To support initiatives prioritised by the Group

The SIWG may wish to support wider community involvement initiatives, research the needs of particular groups or to facilitate the development of a new community project.

Options

3. The application from YREN for the BME Citizen's Open Forum participation in the SIWG, the Older People's Assembly (OPA) and the Lesbian, Gay and Bisexual Forum (LGBF) can be summarised as follows:

Amount Requested £	Purpose	Summary of what funding would pay for
480	A - Making meetings accessible and inclusive	Child care, transportation and interpretation costs
500	B - To support engagement with wider community	Research, development, design and hosting of website (one year)
Total	980	

Analysis

4. The applications for financial support meet the criteria established by the SIWG in July. If met in full the funding would leave over £2,000 in this financial year for other initiatives that the SIWG may wish to prioritise.
5. YREN have in their application outlined how they would intend to report back to the Social Inclusion Working Group on how they have spent any funding they are given by the Group and how effective this has been at improving engagement with the wider community.

Corporate Objectives

6. The emphasis of the SIWG is to improve the effectiveness of the organisation in meeting the diverse needs of its customers. The applications for funding from the community forums participating in the Group are designed to enhance the wider community's engagement. Hence the main corporate priority that this paper address are:
- Improve our focus on the needs of customers and residents in designing and providing services.

Implications

Financial Implications

7. If the funding application is supported by the SIWG then the total expenditure will be £980.

Equalities Implications

8. The funding applications, if met, will support the effective engagement of disadvantaged communities in the Council's decision making process.

Risk Management

9. There is a risk that money paid to the community forum is not spent in accordance with the purpose outlined in the application or the criteria established by the SIWG. Similarly there is a risk that the way the money is spent will not achieve the intended outcome. The Forum will however be asked to enter into an agreement with the Council to spend the money as intended, and to report back to this Group in a year's time on how the money has been spent. The Equalities Team will work closely with the forum concerned to provide advice and support as appropriate to ensure that the funding is effective.

Recommendations

10. Members are asked to:

Consider the funding application made by the York Racial Equality Network and to advise that it is met in full.

Reason: The funding application meets the criteria established by the SIWG and the budget to support this work for 2006/7 has sufficient resources to meet this expenditure.

Contact Details

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Equalities Officer
Chief Executives
551704

Chief Officer Responsible for the report:
Kevin Banfield
Head of Performance Improvement

Report Approved Date 9th January 2007

Wards Affected: *List wards or tick box to indicate all*

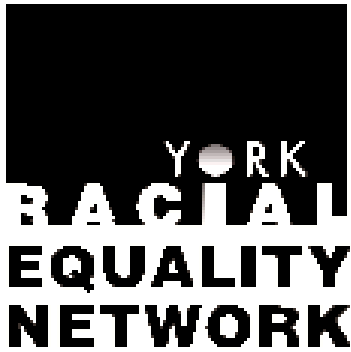
All

For further information please contact the author of the report

Annexes

Annex A - Application for financial support to facilitate effective community involvement – York Racial Equality Network

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ANNEX A

York Racial Equality Network
(YREN)
The Gate House
49 Cemetery Road
York
YO10 5AJ

Tel: 01904 642600
Email: yren@onetel.com

11th December 2006

City Of York Council Social Inclusion Working Group

Application for financial support to facilitate effective community involvement

Name of Forum:	York BME Citizens' Open Forum
Contact details:	Rita Sanderson
Total amount of funding requested:	£980

**The SIWG identified three areas where community forums
may apply for funding to support effective involvement.
Please explain how the application meets one or more of these.**

<p>A. Making meetings accessible and inclusive</p> <p>The budget could be used to make meetings accessible and inclusive for the community representatives attending. This could be to pay for interpretation or to cover transport or child care expenses.</p>	<p>Part of the budget would be used to cover transport and child care costs for those individuals that would be unable to attend without such support. A transparent reimbursement policy will be researched and produced. Should interpretation be required (although limited), the budget would provide basic interpretation costs.</p>
--	---

<p>B. To support engagement with wider community</p> <p>The budget could be used to help the community forums to inform the members of the community they represent of the work of the SIWG and to seek their views.</p>	<p>Part of the budget would be earmarked for the development of a website intended to advertise the work of the York Racial Equality Network, promote the forum and inform the BME community and others of the work of the SIWG and seek their views. A website has a potentially wide audience. However, this will not be the sole means of communication as not all members of the community have internet access; the forum will also utilise York Racial Equality Network's connections.</p>
---	--

Please provide details of what the funding would pay for:		
Item	Value	Purpose
<i>Example:</i> Printing	<i>Example:</i> £200	<i>Example:</i> To print 250 newsletters 4 times a year.
(A) Child care, transportation and interpretation costs	£480	Making meetings accessible and inclusive
(B) Research, development, design and hosting of website (one year)	£500	To promote the forum and inform the BME community and others of the work of the SIWG.

For how long would the funding support more effective involvement?		
From	To	Number of meetings or newsletters
Dec 06	Dec 07	3 + subgroups as appropriate

<p>The Social Inclusion Working Group will need to be able to check that this financial support has improved the effectiveness of community involvement in its work.</p> <p>How will you provide information / reports to the SIWG?</p>
<p>The website will be developed and accessible by all members of the SIWG and the community as a whole. Forums notes/minutes will be presented to the SIWG meetings. With regard to the completed database, copies of</p>

communications (as appropriate) will be readily available to members of the SIWG (under the provisions of the Data Protection Act).

Do you currently receive financial support from any other source to facilitate community involvement?*
If so please summarise here:

Value	Source	Purpose of funding	Period that funding covers
<i>Example:</i> £2,000	<i>Example:</i> City of York Council	<i>Example:</i> For community development and involvement	<i>Example:</i> April 05 to March 07

Do you expect to receive financial support from any other source in the future to facilitate community involvement?*
If so please summarise here:

Value	Source	Purpose of funding	Period that funding covers
<i>Example:</i> £2,000	<i>Example:</i> City of York Council	<i>Example:</i> For community development and involvement	<i>Example:</i> April 07 to March 09

*Please note that the Social Inclusion Group cannot fund something that has already taken place or where funding from another source exists for that purpose.

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