

Informal Pre-Scrutiny meeting

Notes of meeting held at 2pm on Tuesday 4 February 2025

Attendance:

O&S Committee Members - Cllrs Sanders (Chair), Radford (Vice-Chair), Bullivant, Cox, Dawson, Hall, Hayes, Major, Nuttall, Rogers, Rollason, Ryan, Smith, Swain & J Taylor

Other members (observers) – Cllrs Parrott, Palethorpe, Hooke, Atkins, MacGregor, Bradford & P. Parker

Barrister – Jonathan Ward, Magdalen Chambers

Officers – Paul Woodhead, Amanda Pujol, Rebecca Hewitt & Kay Fice

The meeting had been arranged for Overview & Scrutiny members to review the Notice of Motion (NoM) referred from Council regarding the Equality Act and Council compliance. The Barrister and head of Legal would provide advice, answer questions and clarify understanding as part of the briefing.

The NoM originally submitted by Cllr J Taylor, requested O&S to set up a working group to review the relevant policies, call independent experts/witnesses and gather such evidence as it considers appropriate to:

1. Agree a definition of single sex spaces, for males and females owned or managed by TDC and any appropriate service provision
2. Consider whether the Council's policies discriminate against anyone on the grounds of protected characteristic, unless lawful and proportionate. This includes those with the protected characteristic of Gender reassignment
3. Make any recommendations to the Council as it considers appropriate

Areas for consideration:

- What are the Council's legal obligations
- Is the Council compliant with the Act
- Does the Council need to agree a definition of single sex spaces
- What guidance/policies exist
- If not, what does the Council need to action/implement

At the start of the meeting, it was stated that the information covered during the briefing must remain confidential and was legally privileged. No recording would be permitted, and members were asked to close laptops/iPads.

Copies of the written response from the Barrister were distributed to the members of the Overview & Scrutiny Committee (and subsequently returned at the end of the briefing) and time given for the document to be read

Comments/questions raised included the following:

- Reference was made to a case in Manchester City Council and guidance from UKACT but officers clarified that was not a Teignbridge Document or Policy
- Paul Woodhead stated that the Council is not acting unlawfully within the Equality Act and clarified that under the law the test is not 'right or wrong' but has to be 'reasonable in the circumstances'. Cllr Taylor challenged on this point as there is no single sex policy in place, but the Barrister explained that the existence of a policy was not the only way to evidence compliance. There is no requirement for the Council to have a single sex policy, but it must comply with the Equality Act
- Some of the gender recognition issues were very specific and complex and awaiting definition from the supreme court
- Regarding comments made that men were accessing female changing facilities, there is no evidence of this being raised through complaints at the centres or to the Council
- The Barristers advice in paragraph 96, demonstrates that claims that the Council EIA form is inadequate is not valid
- As a reminder to all those present, the status of the changing facilities at each of the Centres was clarified:
 - Dawlish: Male/Female/Unisex
 - Newton Abbot: Wet side - Male/Female Cubicles/Family
Dry side - Male/Female Cubicles/Unisex
 - Broadmeadow:
 - The refurbishment works will deliver Male, Female, and Village cubicle based changing and a unisex accessible wet room and toilet.
- At Broadmeadow there were floor to ceiling walls/doors and the design had been consulted on-
 - The Council undertook a consultation with the community prior to the Broadmeadow designs
 - The refurbishments at Broadmeadow aimed to allow more flexible space and make the centre more inclusive for a range of people with protective characteristics
 - Single sex changing provision has always been part of the design for Broadmeadow
 - Devon and Cornwall Police designing out crime specialist staff reviewed the proposals and gave feedback on design
 - Staff training will be provided before the Broadmeadow facility re-opens
- The issue of EIAs were raised again and claims that users of other areas e.g. Forde House were being put at risk. It had not been raised as a concern by users or the Barrister.

- It was recognised that there would be different EIAs depending on the circumstances and that this was an area that the council continued to develop within the current capacity of officers
- A question was raised - what is the definition of a single sex space? There is ongoing work by the South-West Equality Network, Bristol has a single sex policy, and the Devon Equality Network is considering whether a similar policy should be developed in Devon. The Barrister supported a considered approach to this issue as there could be accusations of unreasonably fettering discretion if rushed
- It was suggested that paragraphs 88 onwards were prioritised focussing on actions to ensure that women are safe
- Officers highlighted paragraph 90 regarding legitimate aims and stressed that there was no police evidence or officer evidence to support concerns
- Concerns were expressed that Broadmeadow could be being used as a vehicle to promote ideology
- One member had personal experience of the benefits of village changing
- At the public consultation regarding Broadmeadow there was more feedback on the communal areas from the 5 people and a few councillors who attended
- From the 350,000 visits last year, no reported issues or concerns
- Guidance and training continue to be provided for staff with officers committed to providing training and guidance to officers once Broadmeadow reopens
- Exemplary staff at the Leisure centre are feeling 'tested'
- Paragraphs 88 – 90 are operational and linked with the training and development of the Policy and involved the police in the design JT confirmed public consultation on the design (including changing areas) was completed and supported
- 91 Officers will ensure training and guidance is in place before we reopen the site.
- 92 an observation
- 93 – 96 are operational and in hand, in place, endorsing and EIA. Officers confirmed training will be provided
- 97 Officers are reviewing
- 98 no comments
- Advised that the Council was at risk of further action if staff asked those using male/female facilities to prove their sex
- Rebecca Hewitt was thanked for supporting Leisure Centre staff and Chairs of Committees
- Those present had found the report from Counsel comprehensive and thanked the officers for giving them the opportunity to receive this briefing.

It was agreed that the salient points would be brought to the next meeting of the formal Overview & Scrutiny Committee for the Committee to consider how it wishes to respond to the NoM.