



Cambridge City Council Equality Impact Assessment (EqIA)

This tool helps the Council ensure that we fulfil legal obligations of the [Public Sector Equality Duty](#) to have due regard to the need to –

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (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.

Guidance on how to complete this tool can be found on the Cambridge City Council intranet. For specific questions on the tool email Helen Crowther, Equality and Anti-Poverty Officer at equalities@cambridge.gov.uk or phone 01223 457046. Once you have drafted the EqIA please send this to equalities@cambridge.gov.uk for checking. For advice on consulting on equality impacts, please contact Graham Saint, Strategy Officer, (graham.saint@cambridge.gov.uk or 01223 457044).

1. Title of strategy, policy, plan, project, contract or major change to your service:

Comprehensive Equalities and Diversity Policy

2. Webpage link to full details of the strategy, policy, plan, project, contract or major change to your service (if available)

If approved at the Environment and Communities Scrutiny Committee in October, the final agreed policy will be published here: <https://www.cambridge.gov.uk/our-equality-and-diversity-policies-and-plans>

The Committee papers will be published here:

<https://democracy.cambridge.gov.uk/ieListDocuments.aspx?CId=476&MId=3564&Ve r=4>

3. What is the objective or purpose of your strategy, policy, plan, project, contract or major change to your service?

The Council's Comprehensive Equalities and Diversity Policy sets out its commitment to promoting equality and diversity, including through its role as an employer and a provider of services to the public. This EqIA assesses the equality impact of specific provisions in the existing policy and proposed revisions to these provisions.

The Council's current policy states on page 1 that : *"We recognise nine main equality strands as recognised in UK law, giving all equal importance. These are: gender, gender reassignment; race and ethnicity; disability; sexual orientation; age; religion/belief, marriage and civil partnership, pregnancy and maternity".*

The Council's current policy also contains two specific commitments relating to transgender people:

- *We will not exclude transgender people from positions which require a gender-appropriate candidate*
- *Transgender people will not be excluded from gender-appropriate single sex/sex segregated facilities operated by the council*

In light of the legal advice received by the Council, it is proposed that the following changes should be made to the policy:

- a) The word "gender" should be replaced with "sex" in the statement on page 1 of the policy.
- b) The two commitments relating to transgender people should be replaced with the following sentence in the list of key principles on page 1 of the policy:

We will recognise and treat people with the protected characteristic of gender reassignment according to the gender in which they present unless it is necessary, in exceptional circumstances, to use the single sex exemption as a proportionate means to achieve a legitimate aim in line with the Equality Act 2010

4. Responsible Service

Corporate Strategy (although all Council services are responsible for implementing the Policy)

5. Who will be affected by this strategy, policy, plan, project, contract or major change to your service? (Please tick those that apply)

- Residents of Cambridge City
 Visitors to Cambridge City
 Staff

Please state any specific client group or groups (e.g. City Council tenants, tourists, people who work in the city but do not live here):
 This EqIA and the changes made to the revised Comprehensive Equalities and Diversity Policy are most likely to impact on people with protected characteristics of gender reassignment and sex.

6. What type of strategy, policy, plan, project, contract or major change to your service is this? (Please tick)

- New
 Major change
 Minor change

7. Are other departments or partners involved in delivering this strategy, policy, plan, project, contract or major change to your service? (Please tick)

- No
 Yes (Please provide details):
 All services are responsible for implementing the Policy

8. Has the report on your strategy, policy, plan, project, contract or major change to your service gone to Committee? If so, which one?

The Comprehensive Equalities and Diversity Policy will go to the 4th October Environment and Communities Scrutiny Committee in the same item as the Single Equality Scheme 2018 to 2021.

9. What research methods/ evidence have you used in order to identify equality impacts of your strategy, policy, plan, project, contract or major change to your service?

We have not consulted on the proposed changes set out in section 3 above for the revised Comprehensive Equalities and Diversity Policy. This is because they reflect what we are required to do by law. The law provides access to single sex roles, spaces and services for people with the protected characteristic of gender

reassignment.

The EqIA is informed by an assessment of the impact of provisions in the existing policy regarding transgender people's access to single-sex jobs and single-sex facilities since they were introduced in 2010. As part of this assessment, officers have spoken to the managers of all relevant Council services (including: Community Grants; Homelessness Grants; public toilets; toilets, showers and changing rooms in leisure facilities; single-sex sport sessions; and single-sex health and well-being sessions) to identify how the policy has been applied in practice, and whether there have been any complaints or issues raised regarding transgender people accessing single-sex services and facilities.

10. Potential impacts

For each category below, please explain if the strategy, policy, plan, project, contract or major change to your service could have a positive/ negative impact or no impact. Where an impact has been identified, please explain what it is. Consider impacts on service users, visitors and staff members separately.

(a) Age

Note that this refers to any group of people of a particular age (e.g. 32 year-olds) , or within a particular age range (e.g. 16-24 year-olds) – in particular, please consider any safeguarding issues for children and vulnerable adults

No impacts have been identified specific to this equality group.

(b) Disability

Note that a person has a disability if they have a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

No impacts have been identified specific to this equality group.

(c) Gender Reassignment

Legal advice received by the Council states that, where a service is being lawfully provided on a separate-sex or single-sex basis, the Equality Act 2010 requires that in general the service provider should allow people with the protected characteristic of gender reassignment (also referred to as “transsexual” people in the Act) to access services according to their acquired gender. Gender reassignment, for the purposes of the Act, does not refer to a medical process. It is a personal process (that is, moving away from the sex to which a person was assigned at birth to that person’s preferred or acquired gender).

The Equality Act 2010 includes an exception that permits service providers, in exceptional circumstances, to provide a different service to a transsexual person, or exclude a transsexual person from the service altogether. The Explanatory Notes to the Equality Act 2010 state that excluding transsexual people from separate-sex or single-sex services needs to be a “proportionate means of achieving a legitimate aim” and has to be “objectively justified”. The Council could also not apply a blanket policy; it would need to consider applying the exception on a case-by-case basis and carefully consider the implications of doing so.

It is difficult to assess the impact in practice of the commitments in the existing policy on people with the protected characteristic of “gender reassignment”, or the wider group of people who would identify as being “transgender” (including non-binary and gender fluid people). This is because the Council does not routinely monitor usage of separate-sex or single-sex services by people with particular protected characteristics.

The assessment carried out recently by Council officers identified the following separate-sex and single-sex services where the provisions regarding transgender people in the Council’s existing policy would apply to people with the protected characteristic of gender reassignment:

- **Community grants** - The Council does not require grant recipients to apply the Council’s policy. They are required to have equality and diversity policies in place which comply with the law. Transgender people have rarely accessed services provided by women’s organisations funded through the Community Grants, and they have tended to seek help through one-to-one support rather than in a group setting.
- **Homelessness grants** - The City Council has funded outreach services for Cambridge residents who are victims of domestic violence (through our homelessness grants), including one-to-one and group sessions. The City Council service manager is not aware of any transgender people accessing these services.
- **Public toilets** – The Council has a mixture of toilet provision at 20 different locations including male, female and unisex toilets, depending on the constraints of the site. We do not have any data on whether transgender people have accessed single-sex toilets. This is because the toilets are open-access and the Council does not manage who uses the toilet facilities. Only 2 of the facilities are staffed, and this is only for purpose of maintenance and cleaning.

- **Public toilets in community centres** - There is a mixture of different toilet provision at Council-owned community centres, including male, female and unisex toilets, depending on the constraints of the site. In community centres where single-sex toilets are available, when requested, community centre staff have directed transgender people to the single-sex toilets that the transgender person would feel are suitable for them. .
- **Toilets, showers and changing rooms in leisure facilities** - Most showers and toilets at Council leisure facilities are male or female, but there is a mixture of unisex, male and female changing facilities. Leisure centre staff have directed transgender people, when requested, to use the facilities that the transgender person would feel are suitable for them.
- **Single sex sports sessions** – The Council runs some single-sex sports sessions, including women-only swimming classes. The service manager is aware of very few instances of transgender people accessing women-only or men-only classes.
- **Health and well-being sessions** – the Council provides health and wellbeing sessions for women who are low on confidence and struggling to access services. The service manager is not aware of any instances of transgender people accessing these sessions.

The Council has not received any positive feedback or complaints from transgender people accessing the services above 2010. The only exception is for toilets, showers and changing rooms in leisure facilities, where the City Council service manager and the relevant GLL managers have received some positive feedback from transgender people regarding unisex changing facilities at some leisure centres.

With regards to single sex positions, the Council's Human Resources service has confirmed that since 2010 the Council has not used the legal clause enabling us to recruit a person of a particular sex to a role where there is a 'Genuine Occupational Requirement' (Schedule 9, Paragraph 1 of the Equality Act 2010). As a result, there have been no instances since 2010 when the commitment in the policy regarding access to "gender appropriate" positions for transgender people could have been applied. Therefore, no impact has been identified from this commitment in the policy.

It is not expected that the proposed changes to the Council's policy set out in section 3 will have a significant impact on people with the protected characteristic of gender reassignment, as the proposed changes are consistent with the law. The Equality Act 2010 requires that in general the Council should allow people with the protected characteristic of gender reassignment to access separate-sex or single-sex services according to their acquired gender. The Council would legally only be able to apply the exception to exclude people with the protected characteristic of gender reassignment in exceptional circumstances and on a case-by-case basis.

The two existing commitments in the Council's Comprehensive Equality and Diversity Policy commit the Council to providing access for "transgender" people to single-sex services and facilities provided by the Council. This effectively provides access for a wider group of people, including non-binary and gender fluid people, who do not fall within the protected characteristic of gender reassignment. The

proposed changes to the policy could have a negative impact on non-binary and gender fluid people. The changes mean that they would only be able to access single-sex or separate-sex services according to their sex, which would be consistent with the law.

(c) Marriage and civil partnership

No impacts have been identified specific to this equality group.

(d) Pregnancy and maternity

No impacts have been identified specific to this equality group.

(e) Race

Note that the protected characteristic 'race' refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

No impacts have been identified specific to this equality group.

(f) Religion or belief

Providing access to single-sex services facilities or services for people with the protected characteristic of gender reassignment may have implications for women of a religion that requires them to be covered in the presence of men. Some of these women may be more likely to use single-sex sports sessions, like swimming sessions, for this reason, and it has been suggested that they might not attend sessions if they are also attended by people undergoing gender reassignment with male physical attributes.

However, we do not currently have any evidence of this being the case. Since we have had the two provisions in the policy regarding transgender people, Council officers have not received any complaints regarding transgender people using single-sex sports sessions we run or our single sex facilities.

(g) Sex

It is proposed that the word “gender” should be replaced with “sex” in the statement on page 1 of the Council’s Comprehensive Equalities and Diversity Policy. This change would ensure that the policy is consistent with the wording of the Equality Act 2010 and would ensure that it is lawful.

Legal advice received by the Council states that, where a service is being lawfully provided on a separate-sex or single-sex basis, the Equality Act 2010 requires that in general the service provider should allow people with the protected characteristic of gender reassignment (also referred to as “transsexual” people in the Act) to access services according to their acquired gender. Gender reassignment, for the purposes of the Act, does not refer to a medical process. It is a personal process (that is, moving away from the sex to which a person was assigned at birth to that person’s preferred or acquired gender).

The Equality Act 2010 includes an exception that permits service providers, in exceptional circumstances, to provide a different service to a transsexual person, or exclude a transsexual person from the service altogether. Excluding transsexual people from separate-sex or single-sex services needs to be a “proportionate means of achieving a legitimate aim” and has to be “objectively justified”. The Council could also not apply a blanket policy; it would need to consider applying the exception on a case-by-case basis and carefully consider the implications of doing so.

As set out in the section on “gender reassignment” above, the Council currently provides a number of separate-sex or single-sex services for women, including:

- Community Grants to women’s organisations;
- Homelessness Grants to organisations providing outreach support for women who have experienced domestic violence;
- public toilets;
- toilets, showers and changing rooms in leisure facilities;
- single-sex sport sessions; and
- single-sex health and well-being sessions.

The assessment carried out recently by Council officers identified no impact on people with the protected characteristic of “sex” from the commitments regarding “transgender” people in the council’s existing Equalities and Diversity Policy. Specifically, service managers have not received any complaints regarding transgender people accessing the identified the separate-sex and single-sex services listed above. It is possible that if service users did have any concerns, they may not have reported them, but it is impossible to assess whether this is the case.

It is not expected that the proposed changes to the Council’s policy set out in section 3 will have a significant impact on people with the protected characteristic of sex.

(h) Sexual orientation

No impacts have been identified specific to this equality group.

(i) Other factors that may lead to inequality – in particular – please consider the impact of any changes on low income groups or those experiencing the impacts of poverty

None identified

11. Action plan – New equality impacts will be identified in different stages throughout the planning and implementation stages of changes to your strategy, policy, plan, project, contract or major change to your service. How will you monitor these going forward? Also, how will you ensure that any potential negative impacts of the changes will be mitigated? (Please include dates where possible for when you will update this EqIA accordingly.)

The Council plans to sign up to the live Safer Spaces project (we have already been signed up to the pilot project). Safer Spaces also has a function for public to feedback on experience of using service as an LGBTQ person. Through Safer Spaces we can identify any negative impacts any changes to the provisions could have related to different Council services' implementation of the Policy. We can then work to mitigate or prevent impacts where we are able to do so in line with legislation using advice from Encompass and our Legal Service.

In deciding whether the policy needs to be reviewed in future, we will take into account any future changes to the law. For example, the government is currently consulting on proposals to reform the Gender Recognition Act 2004, including reviewing the legal recognition process of gender (for further information see: <https://www.gov.uk/government/consultations/reform-of-the-gender-recognition-act-2004>). The consultation is also looking into the following related to the Equality Act 2010:

“We know that concerns have been expressed about how any change to the GRA might have an impact upon these protections in the Equality Act [referring to the Single Sex Exemption] and we want to find out more about this. We are also interested in understanding how the current process of legally changing gender impacts upon those who have a protected characteristic under the Equality Act 2010.”

Nevertheless, the government has also said: *“To be clear – this consultation focuses on the Gender Recognition Act; we are not proposing to amend the Equality*

Act 2010 and the protections contained within it. We do realise, however, that there are concerns about interactions between the two Acts and we want to use this consultation as a way of gathering these views.”

12. Do you have any additional comments?

N/a

13. Sign off

Name and job title of lead officer for this equality impact assessment:
Helen Crowther, Equality and Anti-Poverty Officer, Corporate Strategy

Names and job titles of other assessment team members and people consulted:

- Andrew Limb, Head of Corporate Strategy
- Antoinette Jackson, Chief Executive
- David Kidston, Strategy and Partnerships Manager, Corporate Strategy
- Tom Lewis, Head of Practice, Legal Services

Date of EqIA sign off: 5th September 2018

Date to be published on Cambridge City Council website: 24th September 2018