

Appendix B



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.

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)
The Comprehensive Equalities and Diversity Policy: https://www.cambridge.gov.uk/media/6722/comprehensive-equalities-and-diversity-policy.pdf

Environment and Communities Scrutiny Committee 4 October papers:
<https://democracy.cambridge.gov.uk/ieListDocuments.aspx?CId=476&MId=3564&Ver=4>

Environment and Communities Scrutiny Committee 17 January papers:
<https://democracy.cambridge.gov.uk/ieListDocuments.aspx?CId=476&MId=3565&Ver=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 (the Policy) sets out the Council's 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 impacts of changes to the Policy, which were agreed at the Environment and Community Scrutiny Committee meeting on 4 October 2018. The changes were informed by independent legal advice. These changes were :

- The term 'gender' was replaced with the term 'sex' and the term 'transgender' was replaced with 'the protected characteristic of gender reassignment'. This was because the terms 'sex' and 'gender reassignment' are defined in the Equality Act 2010, whereas 'gender' and 'transgender' are not.

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

- The following commitment was included in 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 services and employment exceptions as a proportionate means to achieve a legitimate aim in line with the Equality Act 2010.*"
- This commitment replaced two previous separate commitments in the Policy, which were:
 - "*We will not exclude transgender people from positions which require a gender-appropriate candidate*" and
 - "*Transgender people will not be excluded from gender-appropriate single sex/sex segregated facilities operated by the council*"

4. Responsible Service

Corporate Strategy (but 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):

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?

A revised version of the Comprehensive Equalities and Diversity Policy was presented to the Environment and Community Scrutiny Committee on 4 October 2018. The Executive Councillor for Communities approved the revised policy at the meeting, including the changes set out in section 3 above.

The Council has since conducted public consultation on the impact that these changes will have on people in Cambridge (further details of this consultation are set out in section 9 below). A report will be presented to Environment and Community Scrutiny Committee on 17 January 2019, which will provide a summary of the consultation findings and proposals for how the revised Policy should be implemented by Council services.

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?

The report to Environment and Community Scrutiny Committee on 4 October 2018 was informed by an assessment of the impact of the commitments in the Policy from 2010 to 2018 regarding transgender people's access to single-sex jobs and single-sex facilities. As part of this assessment, officers spoke to managers of all relevant Council services (including: Community Grants; Homelessness Grants; public toilets; toilets, showers and changing rooms in leisure facilities; single-sex sports sessions; and single-sex health and well-being sessions) to identify how the Policy was applied in practice, and whether there had been any complaints or issues raised regarding transgender people accessing single-sex services and facilities.

At the Committee meeting on 4 October 2018, the Council agreed to undertake a consultation to explore the potential impacts on all equality groups of the changes to the policy set out in section 3 above. The purpose of the consultation was to help inform of the practical implementation of the revised policy by Council services. The consultation was carried out during October and November 2018 and included the following elements:

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?

- Inviting the 24 organisations that responded to the consultation in June 2018 on the Council's new Single Equality Scheme (2018- 2021) to provide feedback on the impacts of the changes in the Policy. The Council received responses from eight organisations that were: Cambridge Rape Crisis, Cambridge Women's Aid, Cambridgeshire County Council, Cambridgeshire Older People's Enterprise, The Encompass Network, The Kite Trust, Lifecraft, and St. John the Evangelist Church.
- Publishing a public consultation survey on the Council's website from 18 October 2018 to 16 November 2018. The Council received 275 responses to the survey.
- Consulting members of the Council's Equalities Panel at a meeting on 19 November 2018.
- Consulting Council staff through a consultation meeting held on 13 November 2018, which was open to any interested member of staff. The meeting was attended by ten staff members.

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

Some responses to the public consultation survey suggested that the Council needs to protect the “safety”, “privacy” and “dignity” of girls, as well as women, when implementing our Policy. However, these respondents did not identify any specific potential impacts that the implementation of the Policy could have on girls that were different from any potential impacts on women.

With regard to safety of young people, including girls, our services, and services undertaken by third parties on our behalf, are required to have safeguarding policies.

One respondent asked the Council that it does not reinforce gender stereotypes in applying its Policy, which could increase inequalities between girls and boys (and then women and men).

(b) Disability

The response to the public consultation did not identify any specific impacts for this equality group. However, the proposals set out in the Committee report on 19 January 2019 for implementing the Policy in Council-owned leisure centres may have a negative impact for disabled people.

In leisure centres (Cherry Hinton Leisure Village Centre, and King's Hedges Learner Pool) which only have open-plan female or male changing rooms, it is proposed that disabled changing rooms can be used by any member of the public who requires a private self-contained space to change and shower. This could potentially mean that, on occasions, a disabled person wishing to use the disabled changing rooms may have to wait, if they are already occupied by a member of the public requiring a private changing space.

(c) Gender reassignment

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 changes are consistent with the law.

Independent 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 Council (as a public 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. The revised wording of the Council's Policy is consistent with this requirement.

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 the Council (as a service provider), in exceptional cases, to provide a different service to a transsexual person, or exclude a transsexual person from a service altogether. However, the Council would only be able to exclude transsexual people from separate-sex or single-sex services where this is a "proportionate means of achieving a legitimate aim" and it is "objectively justified". The revised wording of the Council's policy is consistent with this exception.

(c) Gender reassignment continued

Some respondents to the public consultation survey shared concerns that the wording of the previous Policy was more inclusive for transgender people. They suggested that the wording of the new provision could be interpreted as meaning that the Council no longer is as supportive of transgender people. Some people felt that this might lead transgender people to be concerned about their safety in using single sex facilities that they have always used in case they are challenged in doing so by other members of the public. One voluntary organisation we consulted with supported this view:

People would feel threatened or worried because they may not know how the policy would be implemented, or recognise that the policy could be manipulated to discriminate against transgender people. If you can communicate your intentions and the way in which this policy would be enacted in real life examples, people will be more likely to understand and a potential situation could be averted. It would be a good idea to emphasise that the policy is only a statement and the importance lies in how this commitment will be executed.

The Equalities Panel supported the need for the Council to set out clearly how the Policy will be applied in this context. One member of the Panel shared their understanding of the legal position in light of this:

My understanding of the legal position is that a decision to exclude trans people from a particular service would need to be taken, and justification given, ahead of time rather than retrospectively. The current confusion means that trans people are less likely to use services in Cambridge, which is a negative impact.

In response to this feedback, the Council has clarified its current approach to applying the revised Policy to current single-sex services and facilities that it provides. This is detailed in section 6 of the report to Environment and Community Scrutiny Committee on 17 January 2018. The report states that the Council's current approach is for transsexual people to continue to be able to use current facilities according to their acquired gender, including public toilets, toilets in community centres, or leisure centre facilities (including toilets, changing rooms and showers).

For leisure facilities which only have open plan male showers (including Abbey Leisure Complex, Cherry Hinton Village Leisure Centre, Kings Hedges Learner Pool, and Parkside Pools) we are undertaking a facilities audit to look into the feasibility of adding a cubicle to these areas. This will help meet the needs of any services users who require more privacy, including transsexual men and cis men.

Stakeholder organisations that responded to the consultation also felt that there was a lack of clarity related to how we will continue to protect the rights of transgender people more broadly. One organisation said:

"In our opinion, the change in language can be seen as a step backward as it does not outline the specific ways the Council intends to protect the rights of the transgender community. By referring to transgender people as people with 'the characteristic of gender reassignment', it may end up confusing the matter rather than making your aim to protect

(c) Gender reassignment continued

transgender people clear.”

Another organisation acknowledged that the Council needed to change terminology from ‘gender’ to ‘sex’ in order to reflect legislation but expressed they “*are concerned that this could be perceived as a less progressive step and the proposed changes from ‘gender’ to ‘sex’ could be seen to limit the definition and could exclude the non-binary community.*”

The Council is committed to tackling discrimination and promoting equality for all equality groups, including transgender people more broadly. The Council funds The Kite Trust and the Encompass Network through its Community Grants to support transgender people. As part of the Safer Spaces project, the Council will also be working with Encompass Network to identify how it can more proactively meet needs of all transgender people.

The independent legal advice stated that we needed to change terminology used in our Policy to reflect the protected characteristics in the Equality Act 2010. This included using the “protected characteristic of gender reassignment”, which is defined in the Equality Act, rather than “transgender”, which is not. The law assumes non-binary people will access single-sex or separate-sex services according to their sex.

(d) Marriage and civil partnership

No impact has been identified specific to this equality group

(e) Pregnancy and maternity

No impact has been identified specific to this equality group

(f) Race

No impact has been identified specific to this equality group

(g) Religion or belief

Some respondents to the public consultation survey suggested that providing access to single-sex facilities or services for people with the protected characteristic of gender reassignment may have implications for cis women of any religion that requires them to be covered in the presence of anyone with male biological anatomy. Some of these women may be more likely to use single-sex sports sessions or health 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.

The report to Environment and Community Scrutiny Committee on 17 January 2019 identifies a need to carry out separate equality impact assessments (EqIAs) for the current women's swimming sessions at Abbey Pool (which the Council commissions in part) and the women's health and wellbeing sessions (which the Council provides directly). EqIAs for these services are needed to clarify the purpose of the sessions, which has changed over time, and identify how the Council can best meet the needs of different protected characteristics.

(h) Sex

It is not expected that the proposed changes to the Council's policy set out in section 3 will have a significant impact on women, as the changes are consistent with the law.

As set out in section 3 above, the word "gender" was replaced with "sex" in the revised Policy approved at Environment and Community Scrutiny Committee on 4 October. This change was to ensure that the policy is consistent with the wording of the Equality Act 2010 and that it is lawful.

Some responses to the public consultation survey were supportive of this change in wording. However, many of the responses to the public consultation survey expressed confusion related to the difference in meaning between 'gender' and 'sex'.

(h) Sex continued

The definition of ‘sex’ in the Equality Act 2010 “is a reference to a man or to a woman”. Gender is not defined in the Equality Act 2010, but in the glossary of terms that accompanied the government’s Gender Recognition Act 2004 consultation, gender is defined as: *“often expressed in terms of masculinity and femininity, gender refers to socially constructed characteristics, and is often assumed from the sex people are registered as at birth”*.

The Council currently provides a number of separate-sex or single-sex services for women. This is consistent with the exceptions in the Equality Act 2010, which allow service providers (including local authorities) to provide separate-sex or single-sex services, provided specific conditions are met. The separate-sex and single-sex services provided by the Council include:

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

Independent 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 Council (as a public 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. The revised wording of the Council’s Policy is consistent with this requirement.

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 report states that the Council’s current approach is for transsexual people to continue to be able to use current facilities according to their acquired gender, including public toilets, toilets in community centres, or leisure centre facilities (including toilets, changing rooms and showers).

The Equality Act 2010 includes an exception that permits the Council (as a service provider), in exceptional cases, to provide a different service to a transsexual person, or exclude a transsexual person from the service altogether. However, the Council would only be able to exclude 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 revised wording of the Council’s policy is consistent with this exception.

(h) Sex continued

The majority of the respondents to the public consultation survey expressed concerns regarding how the Council will protect the “safety”, “privacy” and “dignity” of women and girls when using the same toilets as transsexual people who might have male physiology. Respondents raised this concern most frequently in relation to public toilets, but also with regard to other single-sex services provided by the Council.

In response to this feedback, the Council has clarified its current approach to applying the revised Policy to current single-sex services and facilities that it provides. This is detailed in section 6 of the report to Environment and Community Scrutiny Committee on 17 January 2018. The report states that the Council’s current approach is for transsexual people to continue to be able to use current facilities according to their acquired gender, including public toilets, toilets in community centres, or leisure centre facilities (including toilets, changing rooms and showers).

The Council’s overall approach is based on ensuring that people with protected characteristics have the opportunity to access facilities and sessions that meet their needs, and to do so safely. Service managers have not received any complaints over the past 8 years regarding transgender people accessing 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. In relation to public toilets specifically, the Council does not have evidence from CCTV, the Police or complaints made to Council Officers that safety of anyone using our public toilets is an issue.

The existing toilet facilities provided by the Council provide privacy for people using toilets. In all our public toilet facilities there are cubicles available for going to the toilet in privacy. This includes men’s toilet facilities, some of which have urinals in a communal space. Similarly, in all our leisure centres, there are cubicles in both the male and female toilets for people requiring more privacy.

In leisure centre changing rooms and showers, there are a range of options for women, men and transsexual people in using the facilities (including options for people wanting greater privacy for whatever reason). Most changing rooms offer cubicles which provide privacy for people when changing (e.g. swimming changing rooms at Parkside Pools and Abbey Pools). Abbey and Parkside pools also offer the option of gender neutral changing villages with cubicles.

Even in facilities where changing rooms are open plan (e.g. Kings Hedges Learner Pool, Cherry Hinton Village Centre, Abbey and Parkside gyms) options are available for people wanting more privacy. Options are to use changing rooms elsewhere in the venue that consist of cubicles, or to use the self-contained disabled changing rooms. (For the facilities with open plan female and male changing rooms, disabled changing rooms do not require a radar key for access in case individuals want private space).

(h) Sex continued

All leisure centres offer cubicles for privacy, except for some men's showers that are currently open plan in four venues (Abbey Leisure Complex, Cherry Hinton Village Leisure Centre, Kings Hedges Learner Pool, and Parkside Pools). In these venues, we will undertake an audit to look into the feasibility, related to costs and space, of introducing options of cubicle showers for men and transsexual men wanting greater privacy. This will help meet the needs of any services users who require more privacy, including transsexual men and cis men.

The Council also provides some single-sex sport sessions that are open to either women or men. Most of these sports sessions are not specifically directed at people who may be vulnerable and do not require physical contact. No safety concerns have been identified for transsexual women and women to take part in the women's sessions, and transsexual men and men to take part in the men's sessions. Therefore, our policy to enable transsexual people to take part in sessions according to their acquired gender will remain the same.

The report to Environment and Community Scrutiny Committee on 17 January 2019 identifies a need to carry out separate equality impact assessments for the current women's swimming sessions at Abbey Pool (which the Council commissions in part) and the women's health and wellbeing sessions (which the Council provides directly). EqIAs for these services are needed to clarify the purpose of the sessions, which has changed over time, and identify how the Council can best meet the needs of different protected characteristics.

(i) Sexual orientation

No impacts have been identified specific to this equality group.

(j) 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.)

Respondents to the consultation survey, Council staff and voluntary organisations felt it would be important for the Council to consult with service users, including transsexual people and women, if it were to consider applying the exceptions to any services or facilities in future.

For the women's swimming sessions (that the Council commissions in part) and the Women's Health and Wellbeing sessions, the Council shall carry out an equality impact assessment (EqIA) in order establish how it can best meet the needs of different equality groups through each service. The Council shall also consult with services users to develop evidence on this.

In leisure centres with open plan male showers (Abbey Leisure Complex, Cherry Hinton Village Leisure Centre, Kings Hedges Learner Pool, and Parkside Pools), we will undertake an audit to look into the feasibility, related to costs and space, of introducing options of cubicle showers. This will help meet the needs of any services users who require more privacy, including transsexual men and cis men.

12. Do you have any additional comments?

No

13. Sign off

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

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: 6 January 2019

Date of next review of the equalities impact assessment: Early 2019 for Abbey Pool Women's

Swimming sessions and Women's Health and Well-Being sessions

All EqIAs need to be sent to Helen Crowther, Equality and Anti-Poverty Officer. Has this been sent to Helen Crowther?

Yes

No

Date to be published on Cambridge City Council website: 7 January 2019