



# Equality analysis template 2012

### Things to remember:

Under the Public Sector Equality Duty (PSED) public authorities are required to have due regard to the aims of the general equality duty when making decisions and when setting policies. Understanding the affect of your policies and practices on people with different protected characteristics is an important part of complying with the general equality duty.

Under the PSED the Council must ensure that:

- Decision-makers are aware of the general equality duty's requirements.
- The general equality duty is complied with before and at the time a particular policy is under consideration and when a decision is taken.
- They consciously consider the need to do the things set out in the aims of the general equality duty as an integral part of the decision-making process.
- They have sufficient information to understand the effects of the policy, or the way a function is carried out, on the aims set out in the general equality duty.
- They review policies or decisions, for example, if the make-up of service users changes, as the general equality duty is a continuing duty.
- They take responsibility for complying with the general equality duty in relation to all their relevant functions. Responsibility cannot be delegated to external organisations that are carrying out public functions on their behalf.
- They consciously consider the need to do the things set out in the aims of the general equality duty not only when a policy is developed and decided upon, but when it is being implemented.

Best practice guidance from the EHRC recommends that public bodies:

- Consider all the [protected characteristics](#) and all aims of the general equality duty (apart from in relation to marriage and civil partnership, where only the discrimination aim applies).
- Use equality analysis to inform policy as it develops to avoid unnecessary additional activity.
- Focus on the understanding the effects of a policy on equality and any actions needed as a result, not the production of a document.
- Consider how the time and effort involved should relate to the importance of the policy to equality.
- Think about steps to advance equality and good relations as well as eliminate discrimination.
- Use good evidence. Where it isn't available, take steps to gather it. **As before where practical & proportionate.**
- Use insights from engagement with employees, service users and others can help provide evidence for equality analysis.

Equality analysis should be referenced in equality impact statements in Council reports. Community impact statements are a corporate requirement in all reports to the following meetings: the cabinet, individual decision makers, scrutiny, regulatory committees and community councils.

Community impact statements enable decision makers to identify more easily how a decision might affect different communities in Southwark and to consider any implications for equality and diversity It be referenced in community impact statements in Council reports.

The public will be able to view and scrutinise any equality analysis undertaken. Equality analysis should be written in a clear and transparent way using plain English. It may be published under the Council's publishing of equality information, or if part of a business plan, requested by the public under the Council's Publications Scheme.

Equality analysis should be reviewed after a sensible period of time to see if the affects you expected have occurred. If not then you will need to consider amending your policy accordingly. This does not mean repeating the equality analysis, but using the experience gained through implementation to check the findings and to make any necessary adjustments.

Equality Analysis will not need to go to an Equality and Diversity Panel for feedback, as under the old Equalities and Human Rights Scheme. Community engagement is recommended as part of the development of equality analysis and the Council's Community Engagement Division and FEHRS can assist with this (see section below on community engagement).  
[www.southwarkadvice.org.uk](http://www.southwarkadvice.org.uk)

## Section 2: Equality analysis details

<b>Proposed policy/decision/business plan to which this equality analysis relates</b>		- New Travellers Agreement			
<b>Equality analysis author</b>		Richard George, Service Development Officer			
<b>Strategic Director:</b>		Gerri Scott, Strategic Director of Housing Services			
<b>Department</b>		Housing Services	<b>Division</b>		Community Housing
<b>Period analysis undertaken</b>		April 2012			
<b>Date of review (if applicable)</b>		N/A			
<b>Sign-off</b>	Neil Brown	<b>Position</b>	Head of Housing Services	<b>Date</b>	

## Section 1: Brief description of policy/decision/business plan

1.1 Brief description of policy/decision/business plan
<ol style="list-style-type: none"> <li>1. Through the commencement on the 30<sup>th</sup> April 2011 of Section 318 of the <i>Housing and Regeneration Act 2008</i> the <i>Mobile Homes Act 1983</i> ("the Act") applied to local authority gypsy and traveller sites.</li> <li>2. The provisions of the Act prescribe the form for all new pitch agreements. This means that the Council needs to finalise a new agreement in accordance with the Act to enable it to let new pitches. The Act further provides that any new proposed occupier must receive the new agreements at least 28 days prior to sign up. Until the new form of agreement is in place the Council cannot let any pitches.</li> <li>3. Gypsy &amp; travellers is a specialist area and the development of an accurate, comprehensive and enforceable agreement is vital as once the new agreement is entered into the terms &amp; conditions cannot be varied (even as to rent) without the specific agreement of the parties. Any clarifications or issues must be dealt with on application to the Property Tribunal. Counsel's advice on the content of a model agreement has therefore been considered and included.</li> <li>4. A new agreement has been prepared by the business improvement unit in conjunction with legal services and area management who manage the sites. The new agreement was developed from a national draft developed in conjunction with a network of county councils and other authorities.</li> </ol>

## Section 2: Overview of service users and key stakeholders consulted

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2. Service users and stakeholders	
<b>Key users of the department or service</b>	Jeffery, Paul, Travellers Officer Akinsola, Olayinka, Resident Services Manager
<b>Key stakeholders were/are involved in this policy/decision/business plan</b>	Sarah Scott, Senior Lawyer Legal Counsel Southwark Gypsies and Travellers on existing sites and those on the waiting list Southwark Travellers Action Group

## Section 3: Pre-implementation equality analysis

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This section considers the potential impact (positive and negative) of proposals on the key 'protected characteristics' in the Equality Act 2010 and Human Rights, the equality information on which above analysis is based and mitigating actions to be taken.

<b>Age</b> - Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).
<b>Potential impacts (positive and negative) of proposed policy/decision/business plan</b>
<p>The agreement would apply to all travellers applying for pitches on Southwark Council sites allocated in accordance with the allocations policy.</p> <p>The agreement in itself would have no negative impacts in terms of age.</p> <p>The agreement says <i>you must not discriminate, intimidate, harass or abuse anyone because of their ethnic background, sex, sexuality, religious beliefs, <b>age</b> or disability.</i></p> <p>The agreement reinforces that discrimination should not take place due to age.</p>
<b>Equality information on which above analysis is based</b>
Information is based on officer knowledge of the travellers currently occupying Southwark's sites as we do not hold age details of all the current occupants and those wanting to apply for pitches.

<b>Mitigating actions to be taken</b>
None.

**Disability** - A person has a disability if s/he has 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.

**Possible impacts (positive and negative) of proposed policy/decision/business plan**

The agreement would apply to all travellers applying for pitches on Southwark Council sites allocated in accordance with the allocations policy.

The agreement says *you must not discriminate, intimidate, harass or abuse anyone because of their ethnic background, sex, sexuality, religious beliefs, age or **disability**.*

The agreement reinforces that discrimination should not take place due to a disability.

Some disabled occupants could potentially fail to keep some of the obligations of the agreement due to the nature of their disability.

**Equality information on which above analysis is based**

The information is based on external information and officer knowledge of the travellers currently occupying Southwark's sites as we do not hold specific information on occupants' disabilities. The Disability Rights Commission estimates that one in five adults will have a disability, so approximately nine of the occupiers on the site would be expected to have a disability assuming they are not joint agreements.

**Mitigating actions to be taken**

The traveller's officer is to ensure that residents understand the obligations of the agreement at sign up. The traveller's officer will need to signpost to appropriate support agencies and work with other services to ensure that adequate support is provided where appropriate to make sure that disabled residents are able to keep the obligations of the agreement.

**Gender reassignment** - The process of transitioning from one gender to another.

**Possible impacts (positive and negative) of proposed policy/decision/business plan**

The agreement would apply to all travellers applying for pitches on Southwark Council sites allocated in accordance with the allocations policy.

<p>The draft agreement is not clear that residents should not <i>discriminate, intimidate, harass or abuse anyone because</i> of gender reassignment and therefore not clearly promoting non discriminatory behaviours, making it harder to take action in terms of the agreement where discriminatory behaviour takes place.</p>
<p><b>Equality information on which above analysis is based.</b></p>
<p>Gender reassignment is becoming increasingly common but it still a relatively small number of the UK population. However, we recognise that the agreement should ensure that it has a positive impact on residents who have or are going through gender reassignment. We do not currently hold information on gender reassignment so this analysis is based on officer knowledge of the travellers currently occupying Southwark's sites.</p>
<p><b>Mitigating actions to be taken</b></p>
<p>The agreement should be amended to make it clear that residents should not <i>discriminate, intimidate, harass or abuse anyone because of <b>gender reassignment</b></i>.</p>

<p><b>Marriage and civil partnership</b> - Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters. <b>(Only to be considered in respect to the need to eliminate discrimination.)</b></p>
<p><b>Possible impacts (positive and negative) of proposed policy/decision/business plan</b></p>
<p>The agreement has no impact on marriage and civil partnership, as grounds for signing up and the basis are not contained within the agreement (joint occupants are allowed and do not discriminate in terms of marriage or civil partnership). The grounds for succession are contained in law under the mobile homes act.</p>
<p><b>Equality information on which above analysis is based</b></p>
<p>We hold limited information on marital or civil partnership status so officer knowledge of the travellers currently occupying Southwark's sites was used for the analysis.</p>
<p><b>Mitigating actions to be taken</b></p>
<p>None.</p>

**Pregnancy and maternity** - Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

**Possible impacts (positive and negative) of proposed policy/decision/business plan**

The agreement would apply to all travellers applying for pitches on Southwark Council sites allocated in accordance with the allocations policy.

The draft agreement is not clear that residents should not *discriminate, intimidate, harass or abuse anyone because* of pregnancy and maternity and therefore not clearly promoting non discriminatory behaviours, making it harder to take action in terms of the agreement where discriminatory behaviour takes place.

**Equality information on which above analysis is based**

We do not hold details on pregnancy and maternity on our travellers' sites. Information is based on officer knowledge of the travellers currently occupying Southwark's sites.

**Mitigating actions to be taken**

The agreement should be amended to make it clear that residents should not *discriminate, intimidate, harass or abuse anyone because* of pregnancy or because of breastfeeding.

**Race** - Refers to the protected characteristic of Race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

**Possible impacts (positive and negative) of proposed policy/decision/business plan**

Romany Gypsies and Irish Travellers are recognised as having a protected characteristic under the Equality Act 2010. In accordance with section 149 of the Equality Act 2010, the council has had due regard to the needs of these protected groups in formulating the new traveller site policy. The agreement applies only to council traveller sites and any applicant must confirm that they are part of the travelling community to be considered for a pitch under the allocations policy.

The agreement requires that:

*The sole or at least one of the joint occupiers under this pitch agreement confirms, by entering into this agreement, that they are a gypsy or a traveller within the definition made under the Housing Act 2004.* This gives protection for the pitches to be used for gypsies and travellers.

The sites are currently divided on racial grounds and are really seen as family sites. There is



a potential that travellers placed in different traveller groups under the allocations policy groups may be at risk. This risk is assessed under the allocations policy. However the new agreement has a positive impact in managing any discrimination that takes place.

*You must not discriminate, intimidate, harass or abuse anyone because of their **ethnic background**.*

*You must not use or threaten to use violence against any other person lawfully allowed to live on the site so that they may be or are prevented from continuing to live peaceably on the site.*

**Equality information on which above analysis is based**

Race Relations Case Law recognises English Romany Gypsies, and Irish Travellers as ethnic minorities. Two of the sites are currently Irish Travellers with one site at Ilderton with one side of English travellers and the other Irish travellers. This is based on officer knowledge of the sites. Romany Gypsies and Irish Travellers are recognised as having a protected characteristic under the Equality Act 2010.

**Mitigating actions to be taken**

The agreement is not currently clear that it means RACE, so this should be added to the reasons to align the agreement to the protected characteristic.

In terms of the agreement there is no further mitigating actions. However, area housing staff in line with the requirements of the allocations policy will need to fully assess the risks when allocating pitches and take action allowed through the agreement where racial discrimination takes place. Under the allocations policy risk assessments are required where violence or discrimination is a perceived risk.

**Religion and belief** - Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

**Possible impacts (positive and negative) of proposed policy/decision/business plan**

The agreement has a positive impact as it makes it clear that discrimination should not take place on religious grounds.

*You must not discriminate, intimidate, harass or abuse anyone because of their **religious beliefs***

**Equality information on which above analysis is based**

The council does not hold information on the religion of the travellers. Information is based on officer knowledge of the travellers currently occupying Southwark's sites.
<b>Mitigating actions to be taken</b>
None.

<b>Sex</b> - A man or a woman.
<b>Possible impacts (positive and negative) of proposed policy/decision/business plan</b>
<p>The agreement would apply to all travellers applying for pitches on Southwark Council sites allocated in accordance with the allocations policy. Men and woman are both equally able to apply and therefore the agreement would apply equally to them both.</p> <p>The new agreement has a positive impact in managing any discrimination that takes place.</p> <p><i>You must not discriminate, intimidate, harass or abuse anyone because of their <b>sex</b>.</i></p>
<b>Equality information on which above analysis is based</b>
The Women and Equality Unit estimate that 51% of the population are female and 49% are male. The sites have women, men and joint occupiers with whom we hold agreements.
<b>Mitigating actions to be taken</b>
None.

<b>Sexual orientation</b> - Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes
<b>Possible impacts (positive and negative) of proposed policy/decision/business plan</b>
The agreement would apply to all travellers applying for pitches on Southwark Council sites allocated in accordance with the allocations policy regardless of their sexual orientation.

The new agreement has a positive impact in managing any discrimination that takes place.

*You must not discriminate, intimidate, harass or abuse anyone because of their sexuality.*

#### **Equality information on which above analysis is based**

The council does not hold information on the sexual orientation of the travellers. Over half (51 per cent) of gay men, 61 per cent of lesbians and a quarter (25 per cent) of bisexual people felt that they had experienced disadvantage as a result of their sexual Orientation. Equalities and human right commission online survey 2009.

#### **Mitigating actions to be taken**

The agreement currently says *you must not discriminate, intimidate, harass or abuse anyone because of their sexuality*, this will be changed to sexual orientation to align the agreement to the protected characteristics.

## **Human Rights**

### **Possible impacts (positive and negative) of proposed policy/decision/business plan**

The agreement gives residents a security of tenure afforded under the mobile homes act as it applies to council travellers sites. This gives travellers an increased security from licences that were previously used by Southwark and is more in line with security given to tenants.

The council is also under a duty through the Human Rights Act 1998 to 'facilitate the gypsy way of life' in relation to ethnic gypsies. By providing security in the agreement the council helps facilitate this way of life.

The council takes its responsibilities seriously and also recognises that Romany Gypsies and Irish Travellers are ethnic minorities that experience poor social outcomes and discrimination. It, therefore, wants changes to policy in relation to these groups to promote equality and reduce discrimination.

Many of terms of this agreement bring parity with other tenants of the council both in terms of rights and behaviours expected in the express terms of the agreement.

The agreement stipulates that:

*You shall not be absent from your pitch for a continuous period of more than six weeks without first notifying us and not more than a total of ten weeks in any twelve month period. The Council will only permit a temporary absence of more than 6 weeks if you apply in writing to request that your pitch be reserved for your return and you meet any reasonable conditions the Council imposes in accordance with its policy adopted from time to time.*

Whilst the council has a responsibility to 'facilitate the gypsy way of life' it must also ensure that the pitches are well utilised. The Department for Communities and Local Government Gypsy and Traveller Site Management Good Practice Guide (July 2009) recommends that periods of short-term absence from a pitch e.g. for seasonal work or holidays, should be permitted within the agreement. The maximum period is at the landlord's discretion but they recommend a period of less than eight weeks is likely to be unduly restrictive.

<b>Equality information on which above analysis is based</b>
This new agreements are in response to the European Court of Human Rights (ECtHR) judgment in the case of Connors v United Kingdom in 2004 that the lack of procedural safeguards to eviction on local authority Gypsy and Traveller sites breached article 8 of the Convention (right to respect for private, family and home life).
<b>Mitigating actions to be taken</b>
None, the agreement allows for a security for travellers as directed in case law and later in statute.

### Section 3: Further actions and objectives

5. Further actions			
Based on the initial analysis above, please detail the key areas identified as requiring more detailed analysis or key mitigating actions.			
Number	Description of Issue	Action	Timeframe
1	It is not clear under the agreement that occupiers should not <i>discriminate, intimidate, harass or abuse</i> for all of the protected characteristics.	Change term in the agreement so that it is clear that residents should not <i>discriminate, intimidate, harass or abuse</i> for all of the protected characteristics.	Completed prior to the report going for a decision.
2	Area housing staff in line with the requirements of the allocations policy will need to fully assess the risks when allocating pitches and take action allowed by the agreement where discrimination, intimidation, harassment or abuse takes place.	Under the allocations policy risk assessments are required where a risk of violence or discrimination is a perceived risk.	As and when necessary.
3	Some disabled occupants could potentially fail to keep some of the obligations of the agreement due to the nature of their disability.	The traveller officer is to ensure that residents understand the obligations of the agreement at sign up. The traveller officer will need to signpost to appropriate support agencies and work with other services to ensure that adequate support is provided where appropriate to ensure that disabled residents are able to keep the obligations of the agreement.	As and when necessary.
4			
5			
6			
7			

**5. Equality objectives (for business plans)**

Based on the initial analysis above, please detail any equality objectives that you will set for your department/service.

**Not applicable as the EQIA only covers a new agreement and not a service.**

Objective	Lead officer	Current performance (baseline)	Targets		
			2012/13	2013/14	2014/15