



WALTHAM FOREST COUNCIL FULL EQUALITY ANALYSIS (EA) TEMPLATE

Decision Consultation on the introduction of an Adult Social Care Transport Policy

Date 25.11.22

What is an Equality Analysis (EA) for? [Double click here for more information / Hide](#)

The Council must have due regard to its Public Sector Equality Duty (PSED) when making decisions at member and officer level. An EA is the best method by which the Council can provide the evidential analysis to comply with the equality duty, particularly for major decisions. However, the level of analysis required should only be proportionate to the relevance of the duty to the service or decision. Some decisions will require detailed equalities consideration, e.g. a decision on adult

social care provision or reduction of grants to voluntary organisations, whereas the performance of other functions will have less of an equalities impact, e.g. the appointment of committees where only a limited assessment is required. In rare cases, the Courts have said there may be no impact. If you think this may be the case, then you should undertake the EA screening process first to determine if you need to complete this full EA and have a rational basis for this conclusion.

What is the Public Sector Equality Duty (PSED)? [Double click here for more information / Hide](#)

The public sector equality duty (s.149, Equality Act 2010) requires the Council, when exercising its functions, to have “due regard” to the need to:

5. eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited under the Act,
6. advance equality of opportunity between those who share a “protected characteristic” and those who do not share that protected characteristic and
7. foster good relations between persons who share a relevant protected characteristic and persons who do not share it (this involves having due regard, in particular, to the need to (a) tackle prejudice, and (b) promote understanding).

These are collectively referred to in this EA as the equality aims. Advancing equality (the second equality aim) involves having due regard, in particular, to the

need to:

- Removing or minimising disadvantages suffered by people due to their protected characteristic
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people including steps to take account of disabled people’s disabilities *and*
- Encouraging people from protected groups to participate in public life or in other activities where their participation in disproportionately low

NB Please note that, for disabled persons, the Council must have regard to the possible need for steps that amount to positive discrimination, to “level the playing field” with non-disabled persons, e.g. in accessing services through dedicated car parking spaces.

IMPORTANT NOTES:

1. **THIS FRONT SHEET IS AN ESSENTIAL PART OF THE EA – COMPLETE THE TEMPLATE AND SUBMIT IT AS A SINGLE DOCUMENT.**
2. **IN RARE CASES, WHEN COMPLETING THE ASSESSMENT IT MAY BECOME APPARENT THAT THE RECOMMENDATIONS WOULD LEAD TO UNLAWFUL DISCRIMINATION E.G. A PROPOSAL TO PAY MEN MORE THAN WOMEN. IF SO, STOP, RECONSIDER YOUR PROPOSAL AND SEEK ADVICE.**

THE HEAD OF SERVICE OR DIRECTOR WHO IS RESPONSIBLE FOR MEMBER LEVEL REPORTS MUST BE SATISFIED WITH THE FINALISED EQUALITY ANALYSIS AND FOR MAJOR PROPOSALS, IT IS SENSIBLE TO ENSURE YOUR LEAD MEMBER HAS BEEN CONSULTED.



Fostering good relations [Double click here for more information / Hide](#)

Fostering good relations involves having due regard, in particular, to the need to tackle prejudice and promote understanding.

Protected Characteristics [Double click here for more information / Hide](#)

Protected Characteristics defined in the Act are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex and sexual orientation. Marriage and civil partnership are also a protected characteristic for the first equality aim to eliminate discrimination.

Guidance on compliance with the PSED for officers and decision makers [Double click here for more information / Hide](#)

To comply with the duty, the Council must have “due regard” to the three equality aims. This means the PSED must be considered as a relevant factor in a decision alongside other relevant matters such as budgetary, legal, economic and practical implications. What regard is “due” will depend on the circumstances of each proposal and importance of equalities to the decision being taken. Some key principles for compliance during the decision-making process are set out below:

1. The duty is mandatory and important and must be met by the decision-maker and not delegated.
2. EAs must be evidence based and accurate – negative impacts must be fully and frankly identified so the decision-maker can fully consider their impact.
3. There must be an assessment of the practical impact of decisions on equalities, measures to avoid or mitigate negative impact and their effectiveness.
4. There must be compliance with the duty when proposals are being formulated by officers and then by members or officers when taking the decision: the Council cannot rely on an EA produced after the decision is made but sometimes a “provisional” EA is appropriate e.g. before consultation on a proposal.

5. Officers and members making a decision where there is an equality impact must give conscious and open minded consideration to the impact of the duty on the decision, e.g. be prepared to change or amend a decision although negative equalities impacts does not stop a decision being made (see 7).
6. The duty is **not**, however, to achieve the three equality aims but to take them into account when making the final decision – therefore, **the duty does not stop difficult but justifiable decisions being made.**
7. The decision maker may take into account countervailing (i.e. opposing) factors that may objectively justify taking a decision which has negative impact on equalities, e.g. financial targets, value for money or service needs.
8. The duty is ongoing: EAs should be reviewed over time and there should be evidence of how impact will be monitored after the decision.
9. The above is a general guide to this changing area of law. You should also refer to the Council’s EA Page <http://forestnet.lbwf.gov.uk/index/residents-first/equalities/equality-analysis.htm> for more detailed guidance, and specific advice from the Council’s Equalities Lead should be sought on complex issues.

What to do if your proposal is scheduled for Cabinet/Committee? [Double click here for more information / Hide](#)

The EA should be appended to the Cabinet or Committee report and the key findings from it should be set out in the “Equalities Implications” section of the report. This will ensure that the decision-makers are made fully aware of any equality impacts and/or any mitigation action proposed prior to making a decision.

NOTE: Failure to complete an EA and implications section adequately or at all is likely to result in the deferral of consideration of the report as it places in doubt the legality and effectiveness of the overall decision.

The Proposals *Click and hover over the questions to find more details on what is required*

1. What is the Proposal?

To introduce a Transport Policy for people assessed as having eligible needs under the Care Act (2014).

The data used within this analysis was obtained from Business Intelligence Team on 27.6.22, and therefore reflects the people receiving adult social care services on those dates. There are some caveats that need to be acknowledged:

- Only Council-organised transport for travelling to day care facilities is shown on the Council's recording system. Information on transport for provision such as respite is not available.
- There were only 57 records on the system that had Council-organised transport to day care; the majority of these (86.0%) consists of people accessing the Council's inhouse learning disability or dementia services. This is out of a total of 203 service users with a directly commissioned adult day care provision, and is likely to be an under-representation of the actual number of people receiving Council-organised transport. Most private sector providers incorporate any transportation costs within the overall day care tariff, which appears to have led to the transport element not being reflected on the Council's recording system; we would expect more than 28.1% of people in receipt of a day care package to be accessing transport. If the Transport Policy is adopted by Cabinet then this will help to clarify the situation, since it will require the transport costs to be separated from the day care provision cost and make it easier to isolate the relevant records.
- This Equality Analysis does not include people accessing day care with a direct payment, since the breakdown of information required is not recorded on the Council's recording system. From an exercise undertaken by the Integrated Commissioning Team in 2020, there were 189 people using direct payments to access day care. Whilst acknowledging that this information is two years old, it does indicate that we only have a partial data set, one that is heavily skewed to those accessing Council-run services for which you cannot use a direct payment for. If the numbers of people using a direct payment for day care continued to remain consistent, then the data set used within this analysis would only comprise of approximately 50% of the actual numbers accessing Council-organised adult day care provision.

2. What are the recommendations?

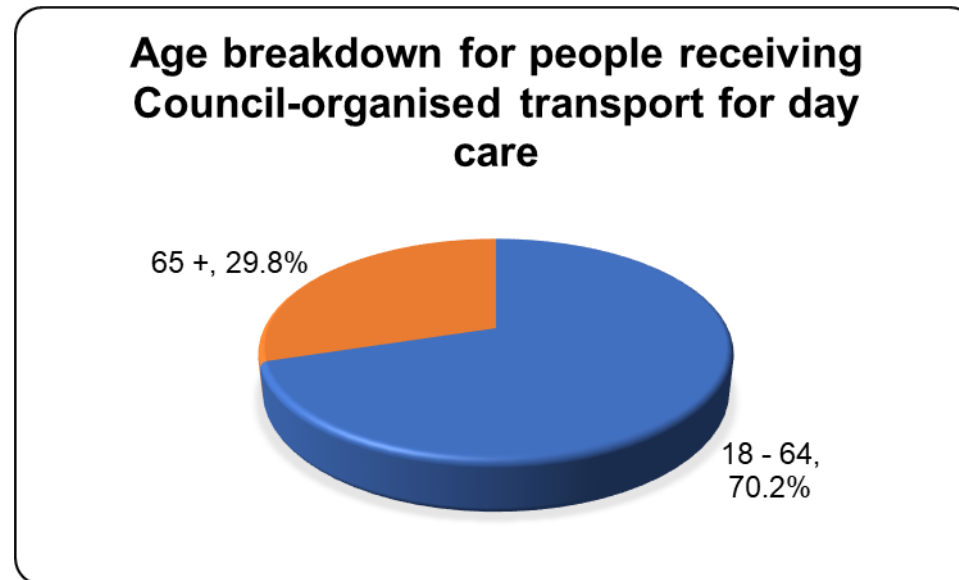
For Cabinet to agree the introduction of a Transport Policy to rationalise the provision of Council-organised transport.

3. Who is affected by the Proposal? *Identify the main groups most likely to be affected by the recommendations, directly and indirectly.*

The people affected by the proposal will be Waltham Forest residents aged 18 and over who have eligible needs pursuant to the Care Act (2014), their carers and their families. Also provider services, both in-house and external, and social workers.

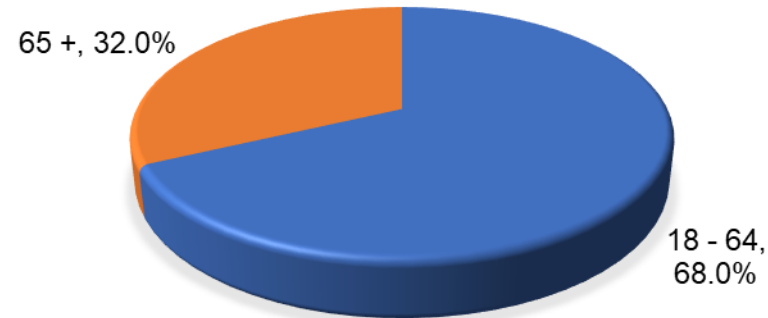
Age

The age breakdown for those people receiving Council-arranged transport for day care is shown below:



This aligns with the age breakdown for those receiving an adult day care package, with or without transport, as shown below:

Age breakdown for people receiving an adult day care package



What is the proposal’s impact on the equalities aims? Look for *direct impact* but also evidence of *disproportionate impact* i.e. where a decision affects a protected group more than the general population, including *indirect impact*

It is likely that this policy will have a disproportionate effect on those aged 18-64 than for those aged 65 and over, since greater number of them will be subject to the assessments outlined within the Transport Policy.

This discrepancy in the application of the policy may be related to the Primary Support Reason (PSR) recorded on the record for those attending day activities with Council-organised transport. For those aged 18 – 64, everyone had a PSR that mentioned a learning disability. For those aged 65 and over, there was a greater variation in the PSRs, but these were generally for conditions for which age is prominent risk factor, for example memory and cognition (70.6%) and personal care and support (11.8%). People with a learning disability generally have a lower life expectancy than the general population, 14 years lower for males and 17 years lower for females¹, and we can expect fewer to still be in receipt of services when aged 65 and over (there was only one person receiving transport ages over 65 with a PSR of learning disability support).

What actions can be taken to avoid or mitigate any negative impact or to better advance equality and foster good relations?

There is no mitigation available for this disproportionate effect on those aged 18 – 64, compared with those aged 65 and over, since it reflects the wider demographic trends associated with those with an adult day care package, based on meeting eligible needs as defined within the Care Act (2014).

In addition, there is evidence from several studies that people with intellectual disabilities have an increased risk of developing dementia compared to the general population. It is possible that people's PSR may change from one pertaining to a learning disabilities to one relating to memory and cognition as a dementia progresses. However, this is theoretical and cannot be evidenced within the data².

There is also an increased risk of frailty associated with older age, and the resultant restrictions this can have on mobility, many older people's services are often delivered at home. For example, of the people accessing the Council's in-house dementia service, 61.2% receive home visits and do not attend day activities.

Therefore, a greater number of service users aged 18 – 64 will be affected by the introduction of this policy since there are fewer people aged 65 and over who are recorded as using Council-arranged transport to attend day services on the Council's system.

Disability

The Equality Act 2010 states that someone is disabled if:

- they have a physical or mental impairment
- that impairment has a substantial and long-term adverse effect on your ability to carry out normal day-to-day activities³.

What is the proposal's impact on the equalities aims? Look for *direct impact* but also evidence of *disproportionate impact* i.e. where a decision affects a protected group more than the general population, including *indirect impact*

Everyone affected by the introduction of a Transport Policy will be termed as 'disabled' under the Equality Act's definition, since they would have been assessed as having eligible needs under the Care Act (2014). This would therefore exclusively affect people with this characteristic.

A potential for unequal treatment based on the level of someone's disability has been identified within the Policy, between those accessing Council transport and being financially assessed for this under its charging policy⁴, and those who qualify for the Council-funded Freedom Pass. The latter

What actions can be taken to avoid or mitigate any negative impact or to better advance equality and foster good relations?

The introduction of a Transport Policy is intended to be a positive development, since it would clarify a process by how Council-arranged transport is to be allocated. Previously there was no clarity as to how this was arranged, leading to potentially unequitable provision.

The Transport Policy will allocate Council-arranged transport provision based on need, with those with greater need being prioritised over those who can find alternate methods of travelling to their day care, social activities or respite.

enables people to travel for free on most public transport in London 24 hours a day, and National Rail services after 9.30 a.m. during the week and all day at weekends and public holidays.

If the nature of someone's disability results in them being unable to access public transport for free using the Freedom Pass, then they may be financially assessed and have to contribute towards the cost of their transport for meeting their eligible needs under the Care Act. However, a person who is able to use a Freedom Pass could potentially travel to a similar provision for meeting their Care Act eligible needs for free.

Despite the aims of this policy being positive, it is recognised that it may cause anxiety for those who are assessed as not necessarily requiring Council-arranged transport and suggesting alternative transportation methods. However, a transition plan will be co-produced between them, their carer(s) and the social worker to enable them to build up the confidence and develop any new skills required. This would also be a beneficial outcome for the policy since it would lead to greater independence, positive risk-taking and an opportunity to develop life skills.

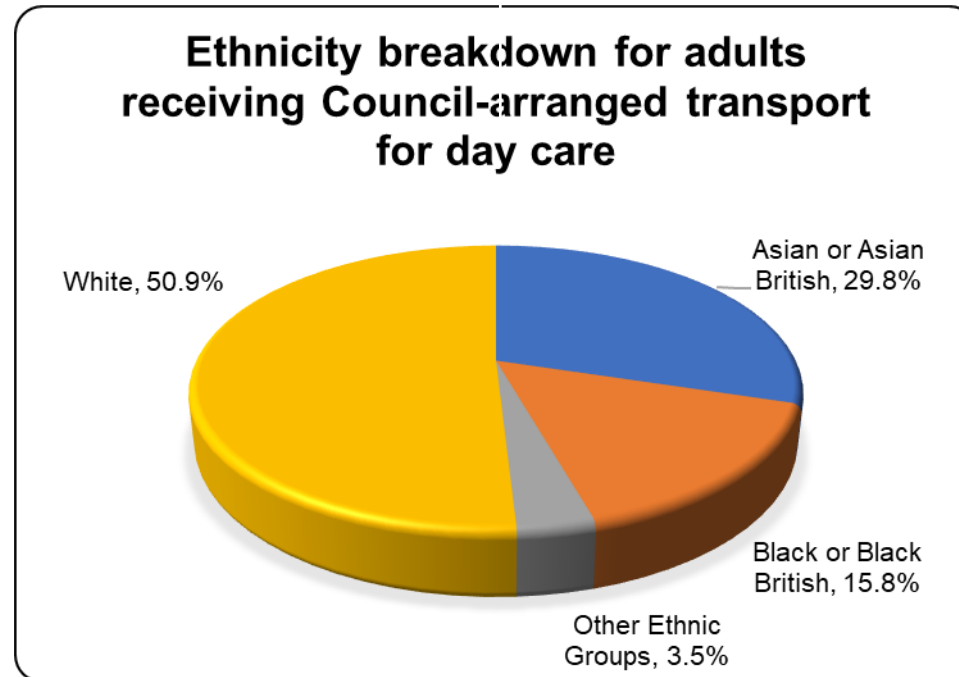
The mitigation for any potential inequitable provision between those able to use a Freedom Pass, and those who are financially assessed for transport, will be to review each individual on a case-by-case basis, with individualised solutions being identified where appropriate.

Pregnancy and Maternity

There is no data available for this protected characteristic.

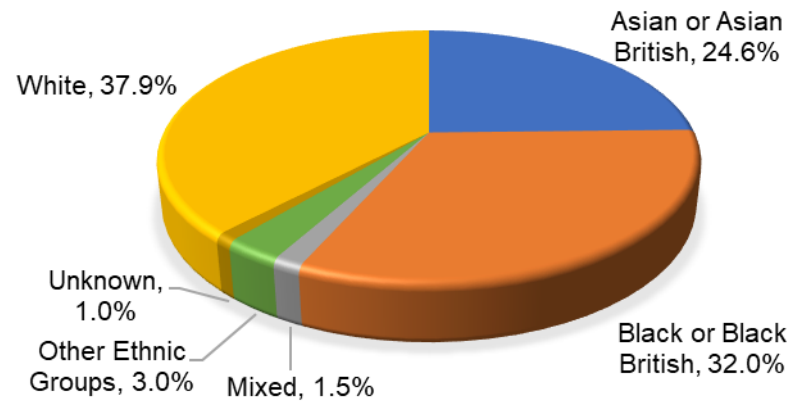
Race

They breakdown by ethnicity of the 57 people in receipt of Council-arranged transport is shown below:



The breakdown for the 203 people accessing adult day care packages is shown overleaf:

Ethnicity breakdown for adults receiving a day care package



There is a disparity between the ethnicity of adults receiving day care in general, and those recorded as receiving Council-organised transport. Most prominent is the fact that 32.0% of adults in receipt of day care are black or black British, whilst accounting for only 15.8% of those who are receipt of Council-arranged transport. 37.9% of adults in receipt of day care are white, they in turn account for 50.9% of packages with Council-arranged transport.

The reason for this disparity is not readily apparent within the data provided. There is a higher percentage of people with black or black British ethnicity who are attending the in-house provision, which accounts for most of the people listed as receiving Council-arranged transport. Of this in-house provision, there are similar percentages of both cohorts accessing the home visiting service for dementia support, which doesn't use transport.

As discussed in Section 1, we strongly suspect that the data we are basing this analysis on is under-reporting the level of transport usage by including it within the overall day care provision. This is further compounded by the fact that information regarding day care purchased with a direct payment, potentially approximately 50% of the total number of people accessing day care overall, is not available. Direct payment information from 2020 indicated that 27.5% of the people listed were accessing day care that catered especially for the black and black British communities, including a dementia day service that provides transport. The lack of recent detailed information about this cohort is likely to further distort the data set used within this analysis.

What is the proposal's impact on the equalities aims? Look for *direct impact* but also evidence of *disproportionate impact* i.e. where a decision affects a protected group more than the general population, including *indirect impact*

The impact of the proposed Adult Transport Policy would be beneficial since it will require assessors to state the reasons for the allocation of Council-arranged transport on the support plan. This will therefore clarify the disparity of allocation between the different ethnic groups noted above. It

What actions can be taken to avoid or mitigate any negative impact or to better advance equality and foster good relations?

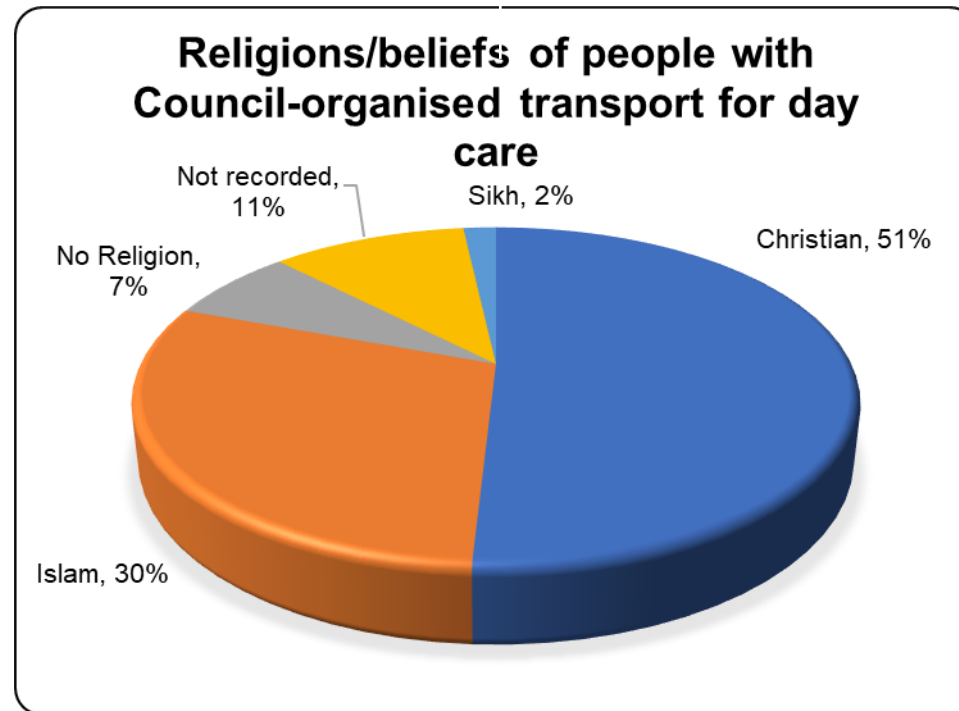
No further action needs to be taken since the introduction of the policy would advance equality by clarifying the process for allocating transport and require the decision-making process to be recorded. This would allow for any apparent discrepancies of allocation between different ethnic groups to be

will also require transport provision to be costed separately within the Council's recording system, and therefore providing a more accurate data set.

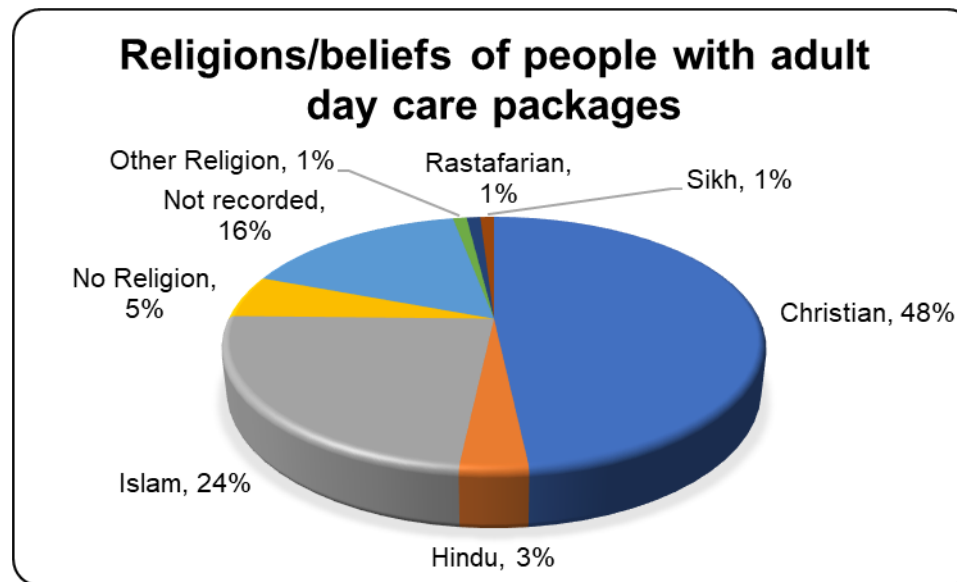
more fully explored.

Religion or Belief

The religions/beliefs of people with Council-organised transport for day care is shown below:



The religion/beliefs of people with day packages (with or without Council-organised transport) is shown overleaf:



The percentages of people with differing religions and beliefs receiving adult day care packages appear to be equitably reflected in those receiving Council-organised transport provision.

What is the proposal's impact on the equalities aims? Look for *direct impact* but also evidence of *disproportionate impact* i.e. where a decision affects a protected group more than the general population, including *indirect impact*

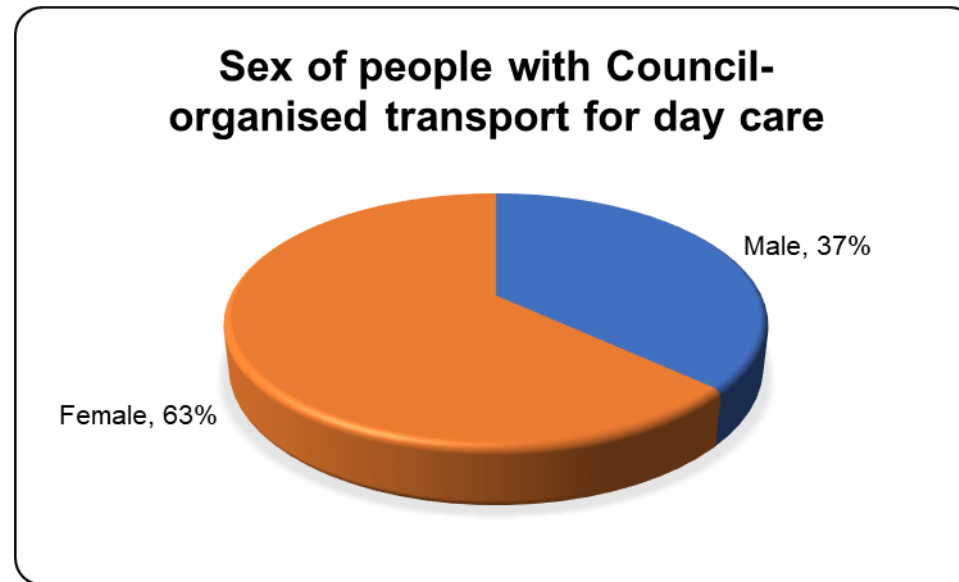
As with the other equalities characteristics, it is anticipated that impact of the proposed Adult Transport Policy would be beneficial since it will require assessors to state the reasons for the allocation of Council-arranged transport on the support plan.

What actions can be taken to avoid or mitigate any negative impact or to better advance equality and foster good relations?

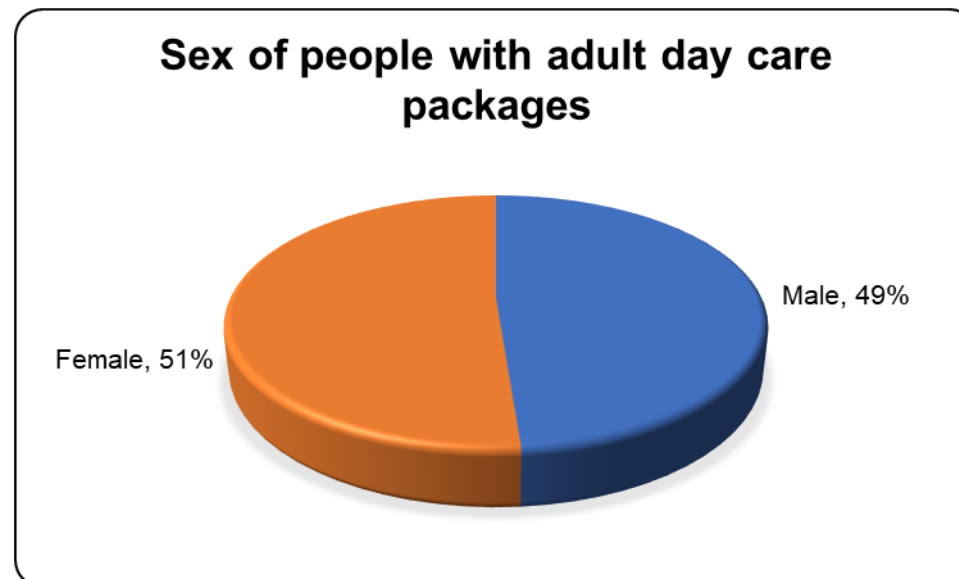
Since the allocation of transport appear equitable with regards to this characteristic, and that the introduction of a Transport Policy is anticipated to be beneficial, there is no mitigation required.

Sex

The breakdown by sex for people accessing day care with Council-organised transport is shown in the table below:



The equivalent breakdown for everyone in receipt of an adult day care package is shown below:



The data shows that a disproportionate proportion of females receive Council-arranged transport than males for day care when compared to those receiving day care overall. This may be caused by an over-representation of data for people attending in-house services (discussed in Section 1). The Markhouse Centre runs a specialised Day Service for Asian Women, which is currently supporting ten people who receive Council-funded transport, and this may affect the gender balance, since they accounts for 17.5% everyone within the cohort of those receiving Council-arranged transport. The effect of this cohort on the overall sex-balance may be minimised if we had data from other non-Council providers.

What is the proposal’s impact on the equalities aims? Look for *direct impact* but also evidence of *disproportionate impact* i.e. where a decision affects a protected group more than the general population, including *indirect impact*

As with the other equalities characteristics, it is anticipated that impact of the proposed Adult Transport Policy would be beneficial since it will require assessors to state the reasons for the allocation of Council-arranged transport on the support plan.

What actions can be taken to avoid or mitigate any negative impact or to better advance equality and foster good relations?

Since the allocation of transport appear equitable with regards to this characteristic, and that the introduction of a Transport Policy is anticipated to be beneficial, there is no mitigation required.

Sexual Orientation and Gender Reassignment

No data is available for this characteristic.

Marriage and Civil Partnership

No data is available for this characteristic.

Additional Impacts on Advancing Equality & Fostering Good Relations [Double click here to add impact / Hide](#) [Check box if NOT applicable](#)

Conclusion

Consider the Guidance below and set out your conclusions from the equalities analysis of the 8 protected characteristics. If there are negative equalities impacts, but you think that the proposals should still proceed in the current or amended form, explain what the objective justification for this is, providing evidence as

appropriate. If it is helpful, refer to other documents e.g. the Cabinet report. You may find it helpful to identify one of the 4 outcomes below as being closest to your current proposals. (Use your conclusions as a basis for the “Equalities Implications” in the Cabinet report.)

This analysis has concluded that...

The problems around the reliability of the data set used for this analysis has been discussed in Section One, and any conclusions must acknowledge these limitations.

This analysis has shown that some cohorts sharing protected characteristics appear to be disproportionately in receipt of Council-arranged transport for day care when compared to those receiving day care overall. Most strikingly, people sharing black and black British ethnicity are underrepresented in those receiving transport, while people with white ethnicity are over-represented. The reasons for this are unclear but may be related to issues around the quality of the data set used within this analysis, highlighted in Section 1. In addition, a greater proportion of females are in receipt of Council-arranged transport than males, despite both genders being equally represented when looking at day care provision as a whole. The latter may result from the over-representation of Council-run services within the data, whereby the Markhouse Centre runs a Day Service for Asian Women, which necessarily excludes male participation.

A potential for unequal treatment based on the level of someone’s disability has been identified on page 6 and the mitigation outlined.

The introduction of an adults Transport Policy will enable us to better understand the reasons for transport being provided on an individual scale, since it would require an assessment to be undertaken and the reasoning for decisions to be stated on the Support Plan. This will allow for any inequitable provision to be addressed with confidence in the supporting data, and also will allow for the causes to be highlighted. The policy would also require any transport elements to be costed separately from any day care package: this would allow for a more robust data set to be produced that isn’t over-representative of in-house services.

Outcome of Analysis *Check one that applies*

Outcome 1

No major change required when the assessment has not identified any potential for discrimination or adverse impact and all opportunities to advance equality have been taken.

Outcome 3

Outcome 2

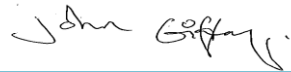
Adjustments to remove barriers identified by the assessment or to better advance equality. Are you satisfied that the proposed adjustments will remove the barriers identified?

Outcome 4

Continue despite having identified some potential for adverse impacts or missed opportunities to advance equality. In this case, the justification should be included in the assessment and should be in line with the duty to have 'due regard'. For the most important relevant policies, compelling reasons will be needed. You should consider whether there are sufficient plans to reduce the negative impact and/or plans to monitor the actual impact.

Stop and rethink when an assessment shows actual or potential unlawful discrimination.

Signed off by Head of Service:



Name: John Giffney

Date: 28 November 2022

¹ NHS Digital, 2020. *Health and Care of People with Learning Disabilities, Experimental Statistics: 2018 to 2019 [PAS]* [online] available at <https://digital.nhs.uk/data-and-information/publications/statistical/health-and-care-of-people-with-learning-disabilities/experimental-statistics-2018-to-2019/condition-prevalence#:~:text=Based%20on%202018%2D19%20data,life%20expectancy%20of%2067%20years.> [accessed 21.6.22]

² The British Psychological Society, 2015. [online] *Dementia and People with Intellectual Disabilities. Guidance on the assessment, diagnosis, interventions and support of people with intellectual disabilities who develop dementia/* [accessed 30.6.22]. Available from: <https://www.bps.org.uk/sites/bps.org.uk/files/Member%20Networks/Faculties/Intellectual%20Disabilities/Dementia%20and%20People%20with%20Learning%20Disabilities%20%282015%29.pdf>

³ The Equalities Act 2010. (c.1). [Online] London: The Stationery Office [accessed 21.6.22]. Available from: <https://www.legislation.gov.uk/ukpga/2010/15/contents>

⁴ The London Borough of Waltham Forest, 2020. *Fairer Contributions Policy for Non-Residential Care and Support and Personal Budgets* [accessed 24.11.22]