

Equality Impact Analysis (EIA)

Possible Reduction in Direct Payment Rate

1 What is the policy looking to achieve?

- 1.1 The council's policy on direct payments includes at paragraph 5.1 how direct payment rates are set. This includes the statement that "the value of the direct payment will be no more than it would cost the council to provide the care package to meet the assessed need". The rate of direct payments is reviewed on at least an annual basis in line with paragraph 5.1.
- 1.2 This equality impact analysis reviews the potential impact on the protected groups of a possible reduction in the hourly rate of direct payments from £12.47 to £12.10 or £12.06, against the public sector equality duty arising from the Equality Act 2010, and against Human and Children's Rights. The possible reduction has arisen as a result of a review of the direct payment rate, linked to the rate at which the council procures home care services, as set out in the direct payments policy (2004).
- 1.3 Only the rate of personal home care is going down because of the renegotiated prices. All other rates are either remaining unchanged or are increasing. No equalities impact assessment is needed on rates which are remaining the same or increasing because it is cost neutral for the service user.
- 1.4 This equality impact analysis relies on Office of National Statistics Mid Year Estimates 2010, census data 2001, RAP 2010-11 as of March 31st 2011 and data generated from the frameworki client data base of 4th October 2011, and other data as given at 2.7.
- 1.5 It is open to all direct payment service users to buy their hours of home care from the agencies which the council now uses and at the same rate that the council pays. The only potential adverse impact which has been identified by the reduction of the rate of the home care hour is that some service users might need to change their carer because of it.
- 1.6 Most people use their direct payments to purchase care from agencies, just as the council does. Service users within this subset would be affected if they have to change carer. However, this would only be a relevant impact if reliance on a particular carer had made them akin to a family member and to change them would have an adverse impact on family life. Because of the nature of the relationship, this would not apply to those who receive their care from an agency.
- 1.7 This equality assessment considers in particular two sub sets of service users in receipt of direct payments. The first of these is those service users who use their direct payments to employ personal assistants. The act of employment is in itself more likely to make a carer akin to a member of the service user's family than merely relying on an agency. Therefore, to change the carer could potentially have an impact on the right to family life, depending on how reliant the user is on that carer and for how long.
- 1.8 The second sub set considered is those service users who use their direct payments to employ personal assistants and who are in receipt of more than 21 hours of home care a week. This equates to three hours a day, normally provided first thing in the morning, last thing in the evening and in the middle of the day. These have been included because the impact is likely to be greatest on those who are most reliant on care and have had the

same carers for the longest period of time. However, the council has no way of knowing how long individual personal assistants have been employed.

- 1.9 This equality impact analysis will also consider the need some service users might have for carers who can meet specific linguistic or cultural needs.

2 Analysis of Potential Impact on Protected Groups

2.1 Sex

2.1.1 **H&F profile** - In H&F there are 165,242 adults, of whom 78,993 (48%) are male and 86,249 (52%) are female.

2.1.2 **Community care profile** - As of 4th October 2011, there were 2,889 people in receipt of community care services, of whom 1,089 (38%) were male and 1,800 (62%) were female.

2.1.3 **Direct payments profile** - As of 4th October 2011, there were 382 people in receipt of a direct payment. Of these, 132 (35%) were male and 250 (65%) were female.

2.1.4 **Direct payments who employ carers profile** - As of 4th October 2011, there were 190 people in receipt of a direct payment who employed carers directly. Of these, 67 (35%) were male and 123 (65%) were female.

2.1.5 **Direct payments who employ carers and have care packages of 21 hours + per week** - As of 4th October 2011, there were 76 people in receipt of a direct payment who employed carers directly and had care packages of 21 hours + per week. Of these, 26 (34%) were male and 50 (66%) were female.

	Male Life Expectancy in Years	Female Life Expectancy in Years
H&F	78.1	84.3
London	78.6	83.1
England	78.3	82.3

Sex	H&F Popn	Community Care SU	Direct Payments SU	Direct Payments SU who employ PAs	Payments SU who employ PAs with 21+
Male	78993	1089	132	67	26
Female	86249	1800	250	123	50
	165242	2889	382	190	76

Sex	H&F Popn	Community Care SU	Direct Payments SU	Direct Payments SU who employ PAs	Payments SU who employ PAs with 21+
Male	48%	38%	35%	35.3%	34.2%
Female	52%	62%	65%	64.7%	65.8%
	100%	100%	100%	100%	100%

2.1.6 The percentage of women in receipt of community care services, direct payments and direct payments service users who are employers of carers and direct payments service users who are employers of carers and have care for 21+ hours of care per week ranges from 62% to 66% and so there is very little variation. This compares to 52% of borough

residents being female. This variation is consistent with service users being older residents of the borough.

2.2 Age

2.2.1 H&F profile – The ONS Mid Year Estimates 2010 for H&F indicate that there were 137,779 adult borough residents aged 18+ years. Of the 137,779, 87% were aged 18-64; 6% were aged 65-74; 4% were aged 75-84 and 2% were aged 85+.

2.2.2 Community Care profile - As of 4th October 2011, there were 2,889 adults in receipt of community care services. Of the 2,889 37% were aged 18-64; 17% were aged 65-74; 24% were aged 75-84 and 22% were aged 85+.

37% of community care service users were aged 18-64 whereas 87% of the local population were in this age group.

63% of community care service users were aged 65+ whereas 13% of the local population were in this age group.

17% of community care service users were aged 65-74 compared to 6% of the local population.

24% of community care service users were aged 75-84 compared to 4% of the local population.

22% of community care service users were aged 85+ compared to 2% of the local population.

Community care service users are significantly older than the general population in LBH&F. This is to be expected within this cohort of adults, as disabilities and impairments often occur as a result of the ageing process.

2.2.3 Direct Payments profile - As of 4th October 2011, there were 382 adults in receipt of direct payments. Of these 382, 57% were aged 18-64; 14% were aged 65-74; 13% were aged 75-84 and 15% were aged 85+.

57% of direct payment service users were aged 18-64 whereas 37% of community care service users and 87% of the local population were in this age group.

43% of direct payment service users were aged 65+ whereas 63% of community care service users and 13% of the local population were in this age group.

The under 65 age group accounted for over half of direct payment service users.

The direct payment service users were significantly older than the general population but significantly younger than community care service users as a group.

2.2.4 Direct payments who employ carers profile - As of 4th October 2011, there were 190 adults in receipt of direct payments who directly employed their own carer. Of these 190, 69% were aged 18-64; 14% were aged 65-74; 11% were aged 75-84 and 7% were aged 85+.

69% of direct payment service users who employed their own carer were aged 18-64 compared to 57% of direct payment service users, 37% of community care service users and 87% of the local population.

The direct payments service users who employed carers were younger still than the direct payments service users.

2.2.5 Direct payments who employ carers with care packages of 21 hours per week or over profile - As of 4th October 2011, there were 76 adults in receipt of direct payments who directly employed their own carer and had care packages of 21+ hours per week. Of these 76, 51 or 67% were aged 18-64; 10 or 13% were aged 65-74; 10 or 13% were aged 75-84 and 5 or 7% were aged 85+.

67% of direct payment service users who employed their own carer and had care packages of 21+ hours per week were aged 18-64. This is compared to 69% of direct payment service users who employed their own carer, 57% of direct payment service users, 37% of community care service users and 87% of the local population. There was no significant difference between direct payments service users who employed their carers and those with 21+ hours of care per week aged 18-64.

Age	H&F Adult Actual	Community Care SU	Direct Payments SU	Direct Payments SU who employ PAs	Payments SU who employ PAs with 21+
18-64s	120,298	1057	217	131	51
65-74s	8,845	502	55	26	10
75-84s	5,858	681	51	20	10
85+	2,778	649	59	13	5
	137,779	2889	382	190	76

Age	H&F Adult Actual	Community Care SU	Direct Payments SU	Direct Payments SU who employ PAs	Payments SU who employ PAs with 21+
18-64s	87.3%	37%	57%	69%	67%
65-74s	6.4%	17%	14%	14%	13%
75-84s	4.3%	24%	13%	11%	13%
85+	2.0%	22%	15%	7%	7%
	100%	100%	100%	100%	100%

2.3 Race

2.3.1 **H&F profile** – The groups in the borough as per 2001 census data are as set out in the table below:

2.3.2 **Community care profile** – Overall, there was a degree of consistency between the general population of the borough and people in receipt of community care services. Two groups stand out from the others below, because they are the largest group over represented and under-represented in the Community Care profile as compared to the Borough Profile. These are Black Caribbean which are comparatively over represented and White British which are comparatively under represented.

2.3.3 **Direct payments profile** - the Black African group is over represented compared to the community care service users and the White British is under represented compared to the community care service users.

2.3.4 **Direct payments who employ carers profile** - The Black African group is over represented compared to the direct payments service users and the White British is under represented compared to the direct payments service users.

2.3.5 **Direct payments who employ carers with care packages of 21 hours per week or over profile** – The White British group is over represented compared to the direct payments who employ carers group and this reduces its under representation overall. Overall, this group still remains significantly under represented compared to the population and community care service users.

Race	H&F Popn	Community Care SU	Direct Payments SU	Direct Payments SU who employ PAS	Direct Payments SU who employ carers with 21+ packages
Any Other Asian Background	1,878	111	20	13	5
Any Other Black Background	1,791	109	21	12	3
Any Other Ethnic Group	3,307	141	14	9	3
Any other Mixed Background	1,650	22	4	2	1
Any other White Background	24,710	215	33	17	6
Bangladeshi	1,011	6	0	0	0
Black African	8,072	142	38	26	11
Black Caribbean	8,534	345	38	14	4
Chinese	1,303	2	1	1	1
Indian	2,733	61	7	5	3
Not yet obtained	0	64	0	0	0
Pakistani	1,711	29	6	3	3
Unknown	0	0	4	2	0
White and Asian	1,609	0	1	0	0
White and Black African	1,033	8	5	4	0
White and Black Caribbean	2,008	23	4	2	0
White British	95,909	1367	162	65	29
White Irish	7,983	244	24	15	7
	165,242	2889	382	190	76

Race	H&F Popn	Community Care SU	Direct Payments SU	Direct Payments SU who employ PAS	Direct Payments SU who employ carers with 21+ packages
Any Other Asian Background	1%	4%	5%	7%	7%
Any Other Black Background	1%	4%	5%	6%	4%
Any Other Ethnic Group	2%	5%	4%	5%	4%
Any other Mixed Background	1%	1%	1%	1%	1%
Any other White Background	15%	7%	9%	9%	8%
Bangladeshi	1%	0%	0%	0%	0%
Black African	5%	5%	10%	14%	14%
Black Caribbean	5%	12%	10%	7%	5%
Chinese	1%	0%	0%	1%	1%
Indian	2%	2%	2%	3%	4%
Not yet obtained	0%	2%	0%	0%	0%
Pakistani	1%	1%	2%	2%	4%
Unknown	0%	0%	1%	1%	0%
White and Asian	1%	0%	0%	0%	0%
White and Black African	1%	0%	1%	2%	0%
White and Black Caribbean	1%	1%	1%	1%	0%
White British	58%	47%	42%	34%	38%
White Irish	5%	8%	6%	8%	9%
	100%	100%	100%	100%	100%

2.4 Service User Group

2.4.1 H&F profile

Comparable data regarding the prevalence of disability and sensory impairment within the local population was not available. The disability register provides some data but not comparable data as it does not capture all those with a disability or sensory impairment.

2.4.2 Community care profile

The cohort of people in receipt of community care services was analysed by service user group. As of 31st March 2011, of the 2889 people in receipt of community care services 1832 (63%) were frail elderly; 458 (16%) were disabled people; 236 (8%) were people with learning disabilities; 325 (11%) were people with a mental health need and 38 (1%) were people with a drug and alcohol misuse related need. For clarity, addiction to, or dependency on, alcohol, nicotine, or any other substance are not disabilities for the purposes of the Equality Act 2010, (other than in consequence of the substance being medically prescribed) [HM Office for Disability Issues: A12, p11].

2.4.3 Direct payments profile

The cohort of people in receipt of a direct payment was analysed by service user group. As of 4th October 2011, of the 382 people in receipt of direct payments, 163 (43%) were frail elderly; 156 (41%) were people with a physical disability; 47 (12%) were people with learning disabilities and 16 (4%) were people with a mental health need.

There are proportionately fewer frail older people in the direct payments group compared to the community care service user group (43% of direct payments service users compared to 63% of community care service users).

There are proportionately more disabled people in the direct payments service user group than in the community care group (41% of direct payments service users compared to 16% of community care service users).

Otherwise, people with learning disabilities in receipt of a direct payment were slightly over represented and people with mental health needs were slightly under represented in this cohort compared to those in receipt of community care services.

2.4.4 Direct payments who employ carers profile

The cohort of people in receipt of a direct payment and who directly employ carers was analysed by service user group. As of 4th October 2011, of the 190 people in receipt of direct payments who employ their own carer, 54 (28%) were frail older people; 110 (58%) were disabled people; 22 (12%) were people with learning disabilities and 4 (2%) were people with mental health needs

There are proportionately fewer frail older people in this group compared to the direct payments group (28% of direct payments service users who employ carers compared to 43% of direct payment service users).

There are proportionately more disabled people in this group than the direct payments service user group (58% of direct payments service users who employ carers compared to 41% of direct payments service users).

People with learning disabilities accounted for 12% of this cohort and 12% of the direct payment cohort. People with mental health needs accounted for 2% of this cohort and 4% of the direct payment cohort, so further under represented in this cohort.

2.4.5 Direct payments service users who employ personal assistant with care packages of 21+ hours per week profile

The cohort of people in receipt of a direct payment who employ personal assistant with care packages of 21+ hours per week was analysed by service user group. As of 4th October 2011, of the 76 people in this cohort, 23 (30%) were: frail older people; 43 (57%) were disabled people; 9 (12%) were people with learning disabilities; and 1 (1%) were people with a mental health need.

Frail older people accounted for 30% of this cohort (23 service users), compared to 28% of direct payment service users employing their own personal assistant and so remained the same.

Disabled people accounted for 57% of this cohort (43 service users), compared to 58% of direct payment service users employing their own personal assistants and so remained the same.

Service User Group: LD, MH, OP, PD, D&A	Community Care SU	Direct Payments SU	Direct Payments SU who employ PAs	Payments SU who employ PAs with 21+ packages
Learning disabilities	236	47	22	9
Mental health	325	16	4	1
Frail elderly	1832	163	54	23
Disabled people	458	156	110	43
Drugs and Alcohol	38	0	0	0
	2889	382	190	76

Service User Group: LD, MH, OP, PD, D&A	Community Care SU	Direct Payments SU	Direct Payments SU who employ PAs	Payments SU who employ PAs with 21+ packages
Learning disabilities	8%	12%	12%	12%
Mental health	11%	4%	2%	1%
Frail elderly	63%	43%	28%	30%
Disabled people	16%	41%	58%	57%
Drugs and Alcohol	1%	0%	0%	0%
	100%	100%	100%	100%

2.5 Other protected characteristics where comparative data is not available

The remaining protected characteristics are: Gender Reassignment; Marriage and Civil Partnership, Pregnancy and Maternity; and Sexual Orientation.

There is no data for these groups in the depth as given above for: Age; Disability; Race; and Sex. This is due to factors such as those required for the census, and the changing law with regard to these groups, which are now afforded greater protection. As such, the remainder of this section of the EIA addresses more broadly the potential impacts on these groups, in order to provide some analysis and will not attempt to draw conclusions where there is no data on which to base them.

2.5.1 Gender Reassignment and Lesbian, Gay, Bisexual and Heterosexual People

'In 2005, the Department for Trade and Industry published a figure of 6% as the percentage of LGBT people in the general population...the number of LGBT people in

London is thought to be anywhere between 6% and 10% of the total population, increased by disproportionate levels of migration.’

The 2001 census recorded 568 people (or 1.1% of couples), aged 16 and over, living as same sex couples in Hammersmith and Fulham. In 2009 there were 49 civil partnerships in this borough. Data on heterosexuality as such is also not collated although given the estimated numbers of LGBT people, it appears that the majority of the population is heterosexual. Data on transgendered or transitioning people was not available.

There is some evidence to suggest that as some LGBT people get older, they fear they must hide their sexuality or gender identity [Kairos in Soho].

2.5.2 Marriage and Civil Partnership

The law does not require service providers to take into account the impact of what they do on married people and civil partners. The law does require public authorities to have due regard to the need to eliminate unlawful discrimination against someone because of their marriage or civil partnership status.

However, if a service is provided to married people, protection from sexual orientation discrimination requires that the same service and standards must also be provided to people who are civil partners. In this case, direct payments are not offered in a different way and so there will be no impact on this group with regard to the potential changes in payments per hour.

2.5.3 Pregnancy and Maternity

Data is not collected on this group for adult social care. However, ONS data for 2010, detailing live births by usual area of residence, gives the following data (numbers and percentages):

Age of mother at birth								
All ages	Under 18	Under 20	20-24	25-29	30-34	35-39	40-44	45+
2,773	18	69	300	521	964	740	165	14

Age of mother at birth								
All Ages	Under 18	Under 20	20-24	25-29	30-34	35-39	40-44	45+
63.6	8.6	19.9	40.2	51.1	107.3	100.6	27.0	2.7

It is not often the case in the cohort of Direct Payments service users of any category, that women who are pregnant or who have just given birth are service users. However, this could occur and should the potential changes in payments per hour have the potential to have an adverse effect on a service user with the protected characteristic. Consideration should then be given to whether paragraph 8.1 of the Direct Payments Policy was applicable.

2.6 Human Rights and Children's Rights

The policy has the potential to engage Article 8, the right to respect for private and family life, which is a qualified right. Qualified rights may be interfered with in order to protect the rights of other people or the public interest.

The policy applies to adults only.

2.7 Documents and Data Reviewed

- Census 2001
- HM Office for Disability Issues, *Equality Act 2010 Guidance. Guidance on matters to be taken into account in determining questions relating to the definition of disability*, May 2011
- Kairos in Soho, *London's LGBT Voluntary Sector Infrastructure Project*, 2007
- Office of National Statistics Mid Year Population Estimates 2010
- Live Births by Usual Area of Residence, 2010 (From table 2a: <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-222793>)
- RAP 2010-11, Current Community based service users as at 31 March 2011
- Framework I as at 4th October 2011 current users (all elements)

No new research was carried out for this EIA.

2.8 Consultation

No consultation was carried out for this equalities impact assessment.

3 Analysis of impact(s) and outcome(s), and reducing any adverse impacts

- 3.1 From this analysis it is clear that there may be people for whom the possible new rate of £12.10 or £12.06 should not apply. This applies to two groups of people. What characterises the first group is that they are people for whom their carer has become part of their family life and their carer is not affordable at the rate of £12.10 or £12.06 per hour. The above analysis sets out what is likely to result in a carer becoming part of a service user's family life. What characterises the second is that they may have cultural or linguistic needs which require a specialist agency or carer which may not be affordable the new rate.
- 3.2 It is not possible from the analysis of the protected groups to ascertain into which protected groups either of these two categories would belong. Any decision not to apply the new rate would have to be taken on a case by case basis.
- 3.3 The council's direct payments policy at paragraph 8.1 makes provision for the council to "be responsive to exceptional situations". Direct payment service users who might be especially affected by a change in carer arising from a reduced direct payment rate would have the opportunity to claim that theirs was an exceptional case. The conditions outlined above and similar conditions might be those which the council consider exceptional. The council would be able to review on a case by case basis claims of exceptionality and where necessary make an exceptional adjustment to the direct payment rate for such individuals. It is also the case that, if dissatisfied, service users have recourse to the statutory adult social care complaints procedure and, if still dissatisfied, to the Local Government Ombudsman.

4 Decision to Which This Equalities Impact Assessment Applies

Decision of Assistant Director Adult Social Care to advise direct payments service users of the likely change in direct payment rates in 2012/13. The letter to be sent in October 2011 warning of this probable change of rates.

Angela Jenkinson
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