

ENVIRONMENTAL SUPPLEMENTARY PLANNING DOCUMENT

ESPD EQUALITIES IMPACT ASSESSMENT

February 2022

Table of Contents

1. Introduction	2
2. The Council's Equality Duty	3
3. City Plan EqIA	5
4. Westminster's equality profile, characteristics and key issues	6
5. Key environmental issues affecting people living in Westminster	15
6. Results of Environmental Supplementary Planning Document Equality Impact Assessment Screening	17
Appendix 1: Legal Framework and Key Legal Principles	20

1. Introduction

- 1.1 Westminster City Council adopted a new City Plan in April 2021 which sets out the council's vision for the City of Westminster for the period 2019-2040. The City Plan 2019-2040 forms Westminster's principal planning policy document. It will be used to determine planning applications in the city and will guide development across the city over the long term.
- 1.2 The Environmental Supplementary Planning Document (ESPD) is a new document which provides guidance for developers on how they can meet the environmental policies within the City Plan 2019-2040. The ESPD does not introduce new planning policies into the development plan, it is however, a material planning consideration. In providing such guidance, the SPD seeks to ensure that all new development complies with current planning policy and contributes to the council's commitment to deliver measurable environmental improvements across the City.
- 1.3 Consultation on the ESPD took place 17th May - 28th June 2021; a period of six weeks. A range of stakeholders were invited to comment, including the development industry, statutory consultees such as Historic England and the Environment Agency, and local people including Amenity Societies and Neighbourhood Forums.
- 1.4 This document sets out the Equalities Impact Assessment (EqIA) for the ESPD. This document relates to the EqIA assessment of the City Plan 2019-2040, which considered the environmental policies which are the subject of the ESPD.
- 1.5 The Public Sector Equality Duty requires public bodies to have due regard for the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities. The purpose of the EqIA is to consider the likely impact of the ESPD on the protected characteristics defined by the Equalities Act 2010, and where required, taking proportionate action to improve or mitigate potential impacts of the policies.
- 1.6 The impact of the ESPD is city wide. It will have an impact on everyone who lives, works, or visits Westminster. This includes businesses, local services, communities, land owners and developers.

2. The Council's Equality Duty

2.1 Under the Equalities Act 2010 the council has a "Public Sector Equality Duty".

This means that in taking decisions and carrying out its functions it must have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the 2010 Act;

- to advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it; and to
- foster good relations between persons who share a relevant protected *characteristic and those who do not share it.*

2.2 The council is also required to have due regard to the need to take steps to take account of disabled persons' disabilities even where that involves more favourable treatment; to promote more positive attitudes toward disabled persons; and to encourage participation by disabled persons in public life. The 2010 Act states that "having due regard" to the need to promote equality of opportunity involves in particular having regard to:

- the need to remove or minimise disadvantages suffered by persons sharing a protected characteristic;
- take steps to meet the needs of persons sharing a protected characteristic that are connected with it;
- take steps to meet the needs of persons who share a protected characteristic that are different from those who do not; and
- encourage persons with a protected characteristic to participate in public life or any other activity in which participation by such persons is disproportionately low.

2.3 The courts have held that "due regard" in this context requires an analysis of the issue under consideration with the specific requirements set out above in mind. It does not require that considerations raised in the analysis should be decisive; it is for the decision-maker to decide what weight should be given to the equalities implications of the decision.

2.4 The council must therefore consider whether or not there is potential for the draft Environmental Supplementary Planning Document (ESPD) to result in a less favourable outcome on any group with a protected characteristic including:

- gender;
- race or ethnicity (including refugees, asylum seekers, migrants, gypsies and travellers);
- disability (consider different types of physical, learning or mental disabilities);
- sexual orientation/s;
- age (particularly children, under 21s and over 65s);
- gender re-assignment;
- pregnancy and maternity;
- religion or belief;

- marriage and/or civil partnership; and
- people on low incomes (this category is not included in the 2010 Act but is a characteristic the Council wished to consider).

2.5 The equalities implications of the environmental policies in the Westminster City Plan 2019-2040 have already been assessed as part of the [Integrated Impact Assessment](#) (IIA) which has been carried out since 2017 and has iteratively informed and guided policy development.

3. City Plan EqIA

- 3.1 The Equality Impacts Assessment (EqIA) for the draft City Plan 2019-2040 was carried out as part of the Integrated Impact Assessment (IIA) of the draft City Plan.
- 3.2 The IIA considered the likely impacts of the draft City Plan using a series of objectives that reflect the current social, economic and environmental issues affecting Westminster. These objectives are presented in the IIA Framework¹. Detailed appraisal questions were developed for each objective to help the assessment. IIA objectives and appraisal questions together form the IIA Assessment Framework.
- 3.3 The scoping of the IIA Framework was consulted upon in 2017 and the full IIA Framework subject to statutory consultation alongside the Regulation 19 publication draft consultation of the City Plan in 2019. The IIA Framework was updated and refined in light of comments received, including the objectives and appraisal questions. The IIA Framework takes account of specific priority objectives from the council's Equality Objectives 2016-2020 and potential impacts on persons sharing one or more of the protected characteristics.
- 3.4 The City Plan EqIA pulls together baseline data on the protected characteristics and sets out any identified likely impact of the proposed City Plan Policies which could have a more pronounced effect on people with protected characteristics. These are referred to as "differential impacts" and could be positive or negative. When a likely negative impact has been identified, the EqIA sets out any mitigation measures that have been taken.

¹ See Integrated Impact Assessment, section 1.4, Table 1.

4. Westminster's equality profile, characteristics and key issues

4.1 The council produced an Equality Impact Assessments Evidence Base in 2020, which has been used as a baseline for this assessment. This section presents headline figures with regards to the protected characteristics defined by the Equalities Act 2010.

Population, age and gender

4.2 Based on the 2019 mid-year estimates released by the Office for National Statistics in June 2020, Westminster has an estimated full-time resident population of 261,317. Compared to the London average, Westminster has:

- a lower proportion of younger (0-19) residents (London – 24.7% v Westminster – 20.9%)
- a higher proportion of working-age (20-64) residents (London – 63.2% v Westminster – 66.6%)
- a slightly higher proportion of older-age (65+) residents (London – 12.1% v Westminster 12.5%)

Figure 1. Population (Source: Westminster City Council Mid-Year Estimates, 2020)

ONS MYE 2020

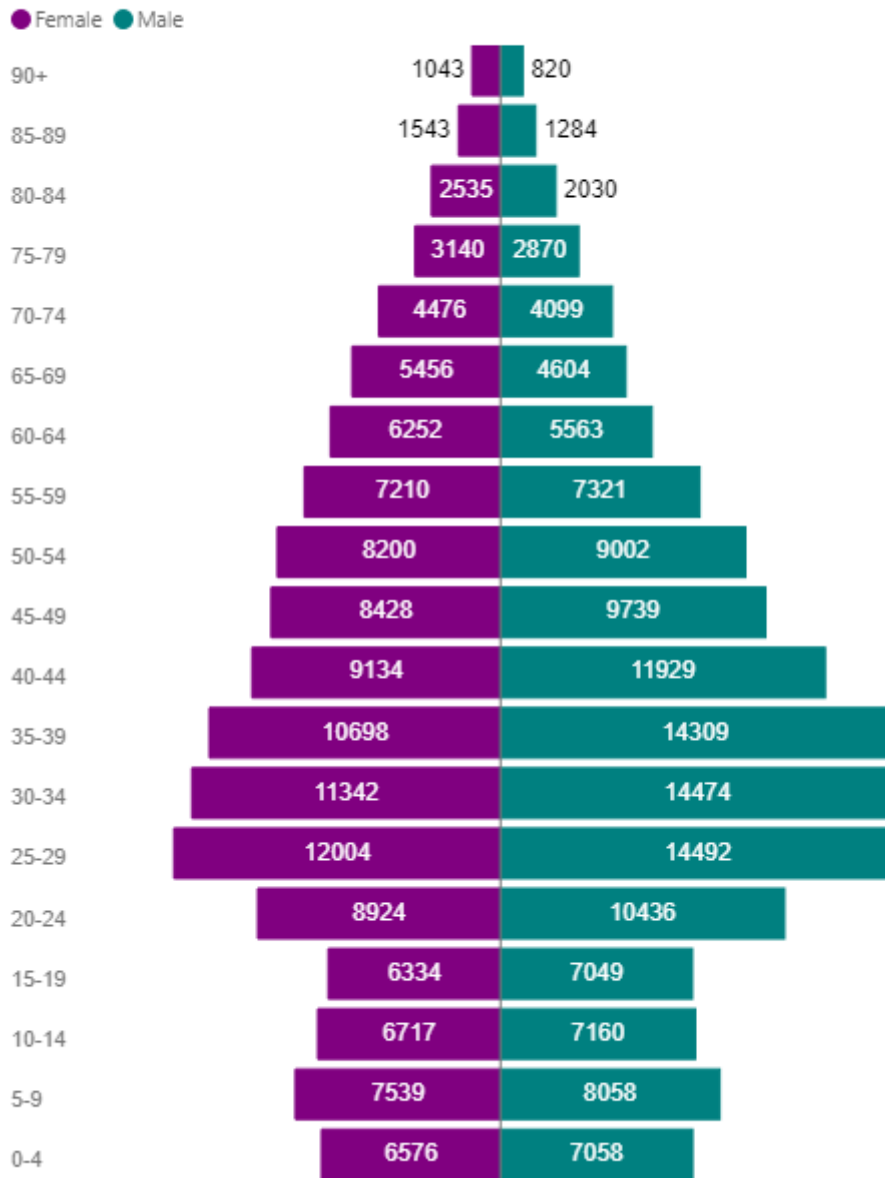
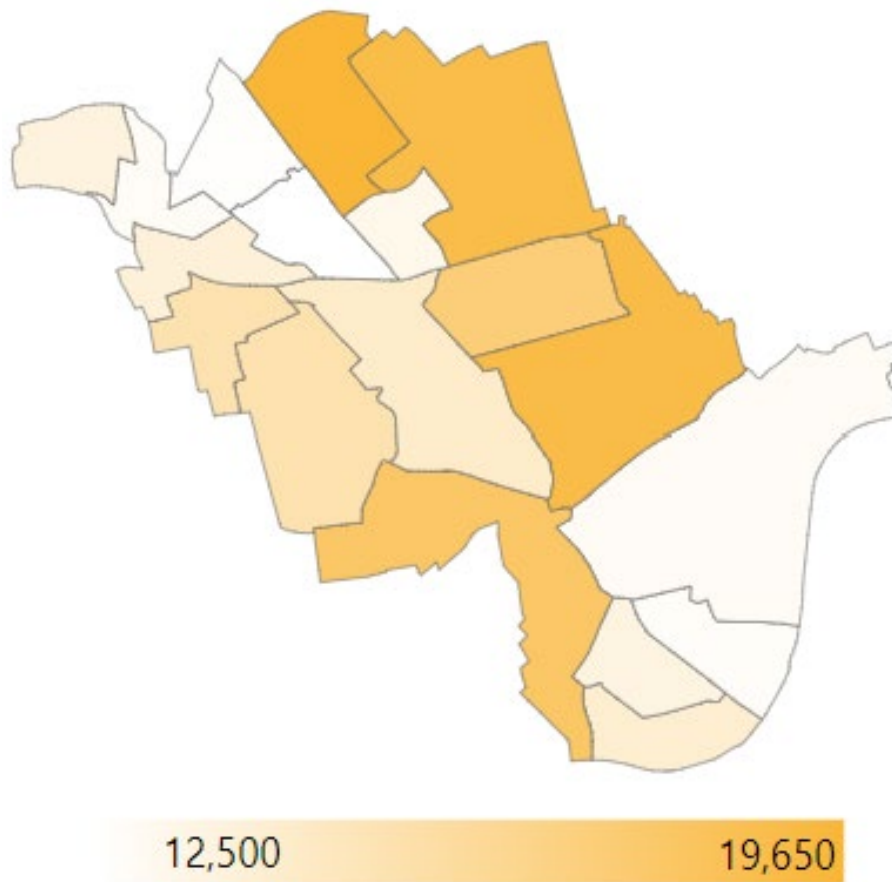


Figure 2. Concentration of Residents (Source: Westminster City Council Mid-Year Estimates, 2020)

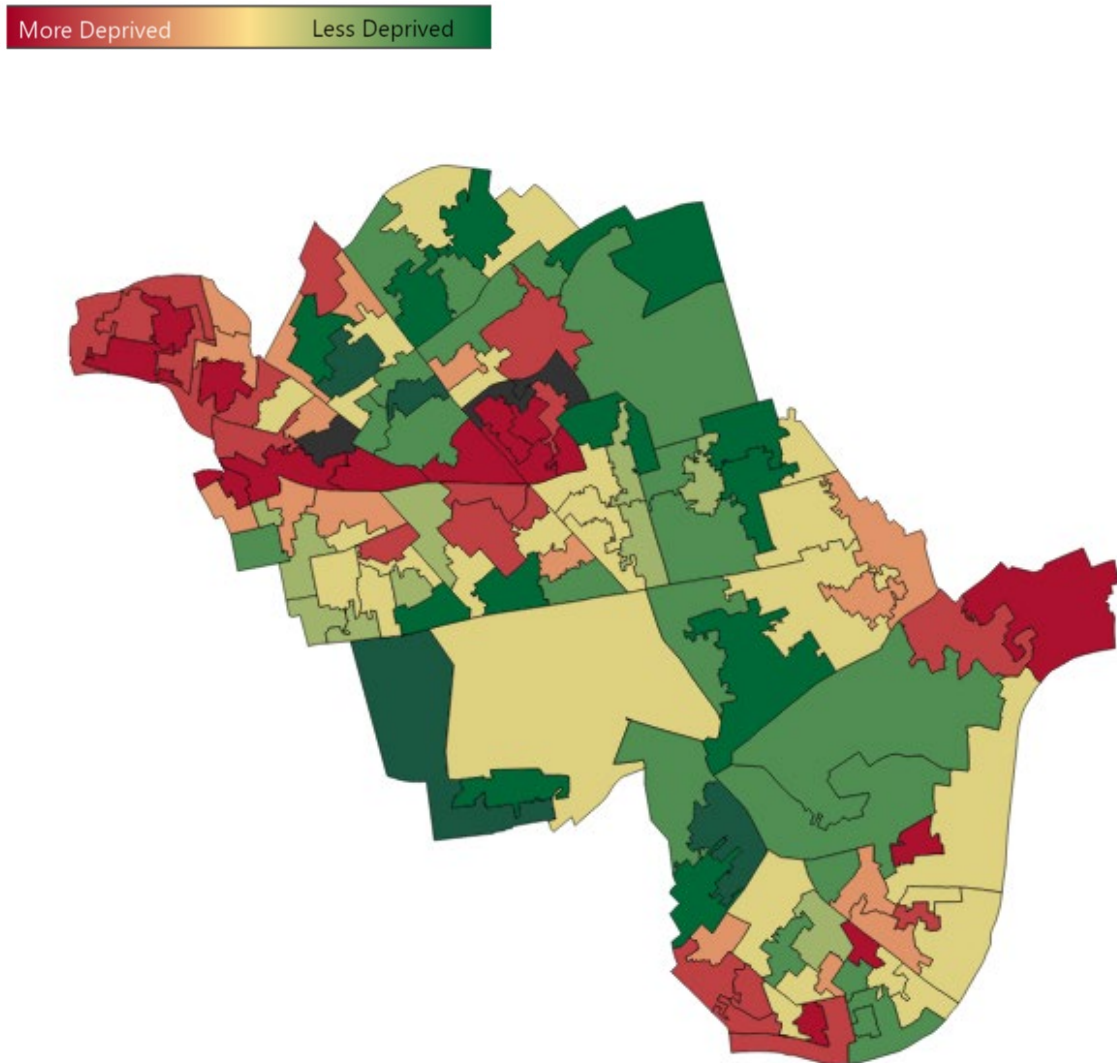


4.3 The churn rate in Westminster continues to be extremely high. Around 26% of people arrived or left the city in a single year in 2019/20.

Deprivation

4.4 Since 2015, Westminster has seen large decreases (12%) in the proportion of neighbourhoods that are highly deprived, according to the 2019 Index of Multiple Deprivation (IMD). Westminster is the 8th most deprived English local authority for its Living Environment domain score. The most deprived wards are Church Street, Queen's Park, Harrow Road, Westbourne and Churchill.

Figure 3. Index of Multiple Deprivation (Composite Rank)(Source: DCLG 2019)



Disability

4.5 It is estimated that the number of disabled persons in Westminster is as set out in Figures 4 and 5.

Figure 4. Estimated number of people aged 18-64 with a disability, 2019 (Source: [PANSI, 2018](#))

Indicator	Number	% (as a % of 18-64s)
People aged 18-64 estimated to have impaired mobility	8,155	4.4%
People aged 18-64 estimated to have a moderate or serious personal care disability	7,216	4.0%
People aged 18-64 estimated to have a common mental disorder	32,141	17.9%
People aged 18-64 estimated to have a learning disability	4,235	2.4%

Figure 5: Estimated number of people aged 65+ with a limiting long-term illness or disability, 2019 (Source: [POPPI, 2018](#))

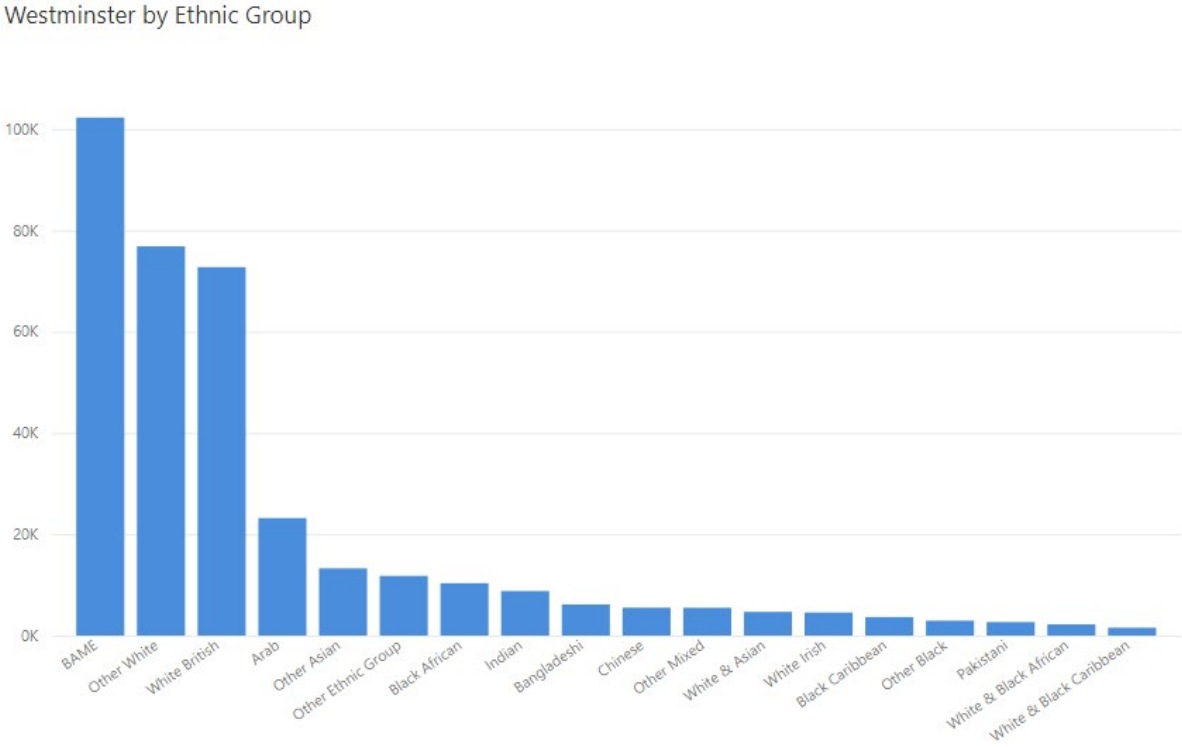
Indicator	Number	% (as a % of over 65s)
Total Population aged 65 and over with a limiting long-term illness	14,063	43%
Total population aged 65 and over predicted to have a learning disability	656	2.0%

Ethnicity

4.6 According to GLA projections, 58% of Westminster’s population is White British and Irish or Other White, while the remaining 39% is from a different ethnic background. The largest ethnic group is Arab, followed by Mixed and Other Asian. The most ethnically diverse wards were Church Street, Queen’s Park, Harrow Road and Westbourne.

4.7 Italy is the most prevalent country of origin outside of Britain followed by French, Irish, Spanish and Portuguese.

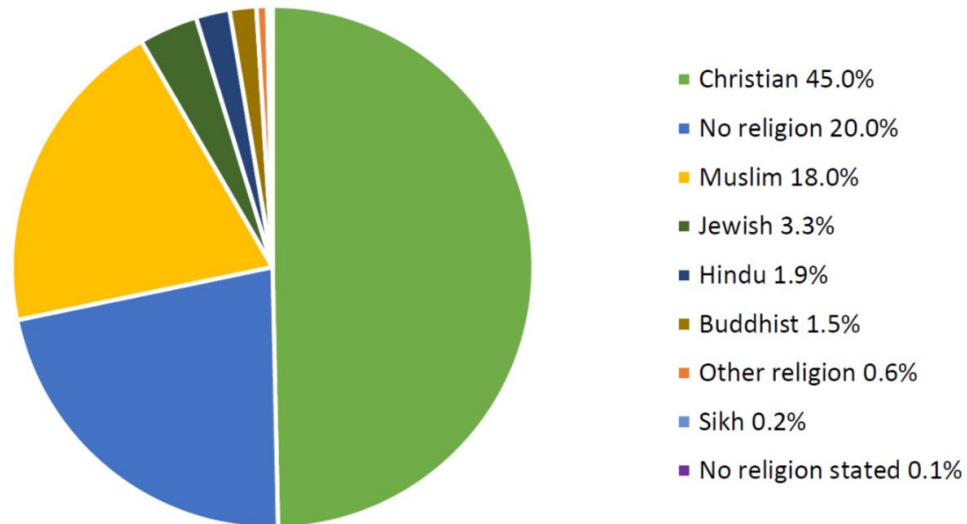
Figure 6. Westminster by ethnic group (Source: GLA population projections, 2016)



Religion

4.8 The two largest religions in Westminster are Christian (45%) and Muslim (18%), followed by no religion (20%).

Figure 7. Religions. Source: Census, ONS, 2011



Sexual Orientation and Gender Reassignment

4.9 The ONS (2020) has estimated that there are about 10,700 LGB residents in Westminster, about 5.5% of the borough's population. About 10.5% of the population answered "other" or "don't know or refuse" when asked about their sexual orientation. The 2021 Census included questions that distinguish between respondents' sex and gender. As part of this, it will ask respondents aged 16 and over if their gender is the same as the sex they were registered as at birth. This information will be available once the results of the 2021 census are published.

4.10 There are LGBT people who are young and old, disabled and from different faiths and ethnicities who live and work in the city and use the services that the Council provides. A report from GALOP reminds us '[t]he movement for lesbian, gay, bisexual and trans equality is often thought of as separate to struggles for race, gender, disability, age, class or faith equality. [...] However, that ignores the fact that LGBT people exist within every community, identity group, faith and background; and that people from all those groups exist within LGBT communities. Many people with intersectional identities live happy and fulfilled

lives but the fact remains that many face heightened discrimination and exclusion.’²

Pregnancy and maternity

4.11 The General Fertility Rate (GFR) is the number of live births per 1,000 women aged 15-44. The GFRs have been calculated using the 2018 mid-year population estimates. The Total Fertility Rate (TFR) is the average number of live children that a group of women would bear if they experienced the age-specific fertility rates of the calendar year in question throughout their childbearing lifespan.

4.12 Fertility rate in Westminster is lower than England and Wales overall, and is reflective of the relatively low number of children and young people living in the borough compared to other boroughs.

Figure 8. Births and fertility rates (Source: ONS, 2018)

	Live births	General Fertility Rates	Total Fertility Rates
Westminster	2,510	43.9	1.16
London	120,673	60.2	1.63
England	625,651	59.2	1.70

Marriage and civil partnership

4.13 The 2021 census asked a question about marital status to all residents aged 16 and over. These figures will be available once the results of the 2021 census are published. Figure 9 shows the marital status of Westminster’s residents in 2011.

Figure 9: Marital status of Westminster residents (aged 16+) (source: [ONS, 2011](#))

	Total	%
All usual residents aged 16+	186, 812	100%

² Antjoule, N. (2014) LGBT Intersections – A Charity Perspective, GALOP

Single (never married or never registered a same-sex civil partnership)	95, 694	51.2%
Married	60, 903	32.6%
In a registered same-sex civil partnership	1,539	0.8%
Separated (but still legally married or still legally in a same-sex civil partnership)	6, 404	3.4%
Divorced or formerly in a same-sex civil partnership which is now legally dissolved	14,804	7.9
Widowed or surviving partner from a same-sex civil partnership	7, 468	4.0%

4.14 The figure below detail the number of marriages and civil partnerships that occurred in Westminster in 2018 (civil partnerships) and 2017 (marriages). The number of civil partnerships has gradually declined since the Marriages (Same Sex Couples) Act 2013 made provision for the marriage of same-sex couples in England and Wales, either in a civil ceremony or on religious premises.

Figure 10. Marriages and Civil Partnerships in Westminster (Source: Westminster Register Office, ONS, 2018, 2020)

	Total civil partnerships	Opposite sex	Female	Male
Civil Partnerships	23	-	4	19
Marriages	1,922	1,780	34	108

5. Key environmental issues affecting people living in Westminster

5.1 A full scoping report was carried out as part of the City Plan Integrated Impact Assessment (IIA). Figure 11 highlights key findings from the IIA Scoping report and from the Council’s Equality Objectives Evidence Base that are relevant for the purpose of the ESPD Equality Impacts Assessment.

Figure 11. Summary of key issues and characteristics

<p><u>Air Quality</u></p>	<ul style="list-style-type: none"> • Poor air quality, due to complex urban environment. Parts of Westminster have some of the worst air quality levels in the country. • Growing population could lead to higher numbers of people exposed to poor air quality, resulting in significant health service implications.
<p><u>Local Environmental Impacts</u></p>	<ul style="list-style-type: none"> • Westminster’s noise levels exceed WHO guidelines and are unlikely to decrease without direct intervention. • Road traffic the main source of noise, however most complaints received in 2016/17 were about noise from residential premises.
<p><u>Green infrastructure and open space</u></p>	<ul style="list-style-type: none"> • Expansive green network but shortage of open space, with some neighbourhood being deficient in open space and access to play space for children. • Only 65% of Westminster’s open space offers free access to the public
<p><u>Flooding</u></p>	<ul style="list-style-type: none"> • Subject to flood risk, particularly from surface water flooding.
<p><u>Carbon and greenhouse gas emissions</u></p>	<ul style="list-style-type: none"> • Westminster has some of the highest carbon emissions of any local authority in the UK due to its built up nature and 24 hour activity. • Unlike other parts of the country, Westminster’s carbon footprint not linked to large scale industrial activity but rather cumulative impact of smaller occupiers, with approximately 75% of emissions from commercial occupiers, 15% from domestic users and 10% from transportation.
<p><u>Heat and power networks</u></p>	<ul style="list-style-type: none"> • Existing District Heating Undertakings provide opportunities for efficient energy supply and carbon reduction.
<p><u>Waste</u></p>	<ul style="list-style-type: none"> • One of the lowest household recycling and composting rates in London, reflecting high proportion of households (over 90%) living in flats. • Construction sector the largest source of waste in London. • Street cleaning and commercial services make up 60% of the municipal waste stream. • Lack of available sites to meet waste apportionments.

<p><u>Heritage</u></p>	<ul style="list-style-type: none"> • Unique built and cultural heritage. Over 11,000 listed buildings and structures • Over three quarters of the city falling within conservation areas. • One UNESCO World Heritage Site, which is at risk of inclusion in the list of endangered sites. • Three scheduled ancient monuments • A legacy of good quality accessible and secure streets but need frequent management.
<p><u>Water</u></p>	<ul style="list-style-type: none"> • Water stressed area. Water consumption significantly higher than average for England and Wales.

6. Results of Environmental Supplementary Planning Document Equality Impact Assessment Screening

Scale of effect		Definition
++	Major positive	The draft policy has a likely major positive impact on the protected characteristic.
+	Minor positive	The draft policy has a likely minor positive impact on the protected characteristic.
N	Neutral	The draft policy does not have a likely differential impact on the protected characteristic (but might have a likely positive impact across protected characteristics).
-	Minor negative	The draft policy has a likely minor negative impact on the protected characteristic.
--	Major negative	The draft policy has a likely major negative impact on the protected characteristic.

Impact of Environmental Supplementary Planning Document on Equalities Categories

Policy	Equalities categories									City Plan Policy Analysis	ESPD Analysis
	Gender	Race	Disability	Sexual Orientation	Age	Pregnancy and Maternity	Religion or belief	Marriage and/or Civil Partnership	People on low incomes		
Environment policies	Gender	Race	Disability	Sexual Orientation	Age	Pregnancy and Maternity	Religion or belief	Marriage and/or Civil Partnership	People on low incomes		
33. Air quality	N	N	++	N	++	++	N	N	N	The policy ensures new development does not have any adverse impact on, and seeks to improve, air quality. This contributes to the creation of healthy homes, improving quality of life and addressing health inequalities. This is expected to have a positive impact across all protected characteristics, particularly sensitive receptors including those with disabilities, children and young people, old people and pregnant women.	<p>The ESPD identifies the main sources of air pollution, sets out when Air Quality Assessments are required, and their content, and when Air Quality Neutral and Air Quality Positive should be achieved, provides examples of mitigation measures, and signposts other contributing strategies.</p> <p>The ESPD provides additional guidance on the application of City Plan Policy 33 but does not go beyond the policy requirements. The City EqIA analysis for this policy is therefore the same for the ESPD.</p> <p>No equalities issues on air quality were raised during the ESPD consultation.</p>
34. Local environmental impacts	N	N	++	N	++	++	N	N	N	The policy ensures exposure to a range of negative environmental impacts of development are minimised, which contributes to improved quality of life. This is expected to have a positive impact across all protected characteristics, particularly sensitive receptors including those with disabilities, children and young people, old people and pregnant women.	<p>The ESPD sets out what impact assessments are required and when, identifies standards and mitigation for lighting levels, noise and vibration, odour, and signposts other contributing strategies.</p> <p>The ESPD provides additional guidance on the application of City Plan Policy 34 but does not go beyond the policy requirements. The City EqIA analysis for this policy is therefore the same for the ESPD.</p> <p>A number of representors raised equalities issues related to shisha smoking and felt that that Westminster is unfairly focusing on just shisha smoking activities mainly undertaken by people with protected characteristics under the Equalities Act 2010; in particular people of the Islamic faiths, and/or, from a family background connected with North Africa, the Levant and Middle East. The City Plan policy does not intend to prohibit shisha smoking or disadvantage any protected group in doing so and the draft</p>

												ESPD has been amended to clarify the reasons behind the policy on Shisha smoking and to set out what applicants should submit alongside an application for a new shisha use.
35. Green infrastructure	N	N	+	N	+	+	N	N	N	<p>The policy protects and supports the enhancement of Westminster's green infrastructure network, which is expected to provide a series of physical and mental wellbeing to all, including improved air quality, noise attenuation, access to nature, opportunities for leisure and play, and enhanced public realm and townscapes. This is expected to have a positive impact across all protected characteristics, particularly sensitive receptors including those with disabilities, children and young people, old people and pregnant women.</p> <p>There might be some conflicts between protecting and enhancing the City's green infrastructure networks and improving accessibility for those with mobility issues, particularly those with a disability, older people and pregnant women.</p> <p>The council seeks to work with applicants to ensure the delivery of open spaces that are publicly accessible to all, including people with mobility issues, particularly those with physical disabilities. Other policies in the City Plan, particularly Policy 44 'Public Realm', further ensure that the public realm is inclusive and accessible to all. By doing so, the City Plan mitigates a potential negative impact on these protected characteristics. Overall, it is considered that the policy will provide benefits for all, particularly on sensitive receptors.</p>	<p>The ESPD describes key policies such as Urban Greening Factor and Biodiversity Net Gain and where to find further guidance on how to achieve these, provides examples of green infrastructure such as green roofs and walls, SuDS and trees and provides information on priority habitats and species.</p> <p>The ESPD provides additional guidance on the application of City Plan Policy 35 but does not go beyond the policy requirements. The City EqIA analysis for this policy is therefore the same for the ESPD.</p> <p>No equalities issues on green infrastructure were raised during the ESPD consultation.</p>	
36. Flood risk	N	N	++	N	++	++	N	N	N	<p>The policy requires developments to be safe for their lifetime from the risk of flooding. This contributes to healthy homes and workplaces.</p> <p>This is expected to have a positive impact on all protected characteristics, particularly sensitive receptors including those with disabilities, children and young people, older people and pregnant women.</p>	<p>The ESPD provides information on tidal and ground water flooding, sets out appropriate types of SuDS for Westminster and sets out when site-specific flood risk assessments are required, and their content.</p> <p>The ESPD provides additional guidance on the application of City Plan Policy 36 but does not go beyond the policy requirements. The City EqIA analysis for this policy is therefore the same for the ESPD.</p> <p>No equalities issues on flood risk were raised during the ESPD consultation.</p>	
37. Energy	N	N	N	N	N	N	N	N	N	<p>Positive, non-differential impact.</p> <p>The policy requires development proposals to reduce energy demand and carbon emissions and sets efficiency standards for developments. This contributes to reducing carbon emissions which affect the environment and contribute to worsening air pollution and connected adverse impacts on health. The policy is considered to benefit people across all equality groups.</p>	<p>The ESPD sets out the aim for net zero carbon and how to achieve it, including the energy hierarchy, when energy assessments are required, their content and where to find further guidance on these and provides information on Whole Lifecycle Carbon Assessments, when these are required and where to find further guidance on these.</p> <p>The ESPD provides additional guidance on the application of City Plan Policy 37 but does not go beyond the policy requirements. The City EqIA analysis for this policy is therefore the same for the ESPD.</p> <p>No equalities issues on energy were raised during the ESPD consultation.</p>	

38. Waste management	N	N	N	N	N	N	N	N	N	Positive, non-differential impact. The policy protects all existing waste management and recycling sites and requires new developments to make appropriate provisions for managing waste deposit and collection. The policy is considered to benefit people across all equality groups.	The ESPD includes standards for on-site waste storage facilities and sets out when Waste Management Plans and Circular Economy Statements are required, and their content. The ESPD provides additional guidance on the application of City Plan Policy 38 but does not go beyond the policy requirements. The City EqIA analysis for this policy is therefore the same for the ESPD. No equalities issues on waste management were raised during the ESPD consultation.
Design and Heritage policies	Gender	Race	Disability	Sexual Orientation	Age	Pregnancy and Maternity	Religion or belief	Marriage and/or Civil Partnership	People on low incomes		
39.D Sustainable Design	N	N	N	N	N	N	N	N	N	Positive, non-differential impact. The policy sets out a people-centred approach to new buildings and public realm, which promotes exemplary design. It requires new developments to create inclusive and accessible spaces and places, which incorporate design measures to reduce the opportunity for crime and anti-social behaviour, also contributing to the reduction of fear of crime. The policy also ensures all developments are of high-quality standards, contributing to the creation of high-quality homes, and that they incorporate inclusive design principles, contributing to enhancing health and wellbeing. These are expected to have a positive impact on all protected characteristics.	The ESPD describes potential retrofitting opportunities in Westminster's buildings, and when these are suitable for historic buildings. It also provides links to best practice measures for both residents and developers. The ESPD provides additional guidance on the application of City Plan Policy 39.D but does not go beyond the policy requirements. The ESPD also reflects Policy 40 inasmuch as retrofitting provides an opportunity to conserve and enhance historic buildings but it does not go beyond the policy requirements. The City EqIA analysis for these policies is therefore the same for the ESPD. No equalities issues on retrofit and sustainable design were raised during the ESPD consultation.
40. Westminster's heritage	N	N	-	N	-	-	N	N	N	The policy seeks to conserve and enhance Westminster's heritage assets and encourages development to optimise the positive role of the historic environment, including for cultural value and public enjoyment. There may be some conflict between protecting heritage assets and being able to improve accessibility for those with mobility issues, particularly those with a disability, older people and pregnant women.	
46. Basement developments	N	N	N	N	N	N	N	N	N	Positive, non-differential impact. The policy requires basement developments to be designed and constructed to minimise the impact at construction and occupation stages on the surrounding area, and to incorporate measures to safeguard structural stability. The policy is considered to benefit people across all equality groups.	Basements are considered as part of the ESPD chapters on local environmental impacts, flood risk and green infrastructure. The ESPD provides additional guidance on the application of City Plan Policy 46 as it relates to flood risk and green infrastructure, but does not go beyond the policy requirements. The City EqIA analysis for this policy is therefore the same for the ESPD. No equalities issues on basements were raised during the ESPD consultation.

Appendix 1: Legal Framework and Key Legal Principles

1. The Council is subject to the Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010. The PSED provides (as relevant):

(1) A public authority must, in the exercise of its functions, have due regard to the need to—

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(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.

...

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

(a) tackle prejudice, and

(b) promote understanding.

(6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

(7) *The relevant protected characteristics are -*

- *sex;*
- *race;*
- *disability;*
- *sexual orientation...*
- *age;*
- *gender reassignment;*
- *pregnancy and maternity;*
- *religion or belief;*

2. A helpful summary of the obligations arising under the s.149 of the Equality Act 2010 duty was provided by McCombe LJ in R (Bracking) v Secretary of State for Work and Pensions [2013] EWCA Civ 1343 at paragraph [26]. In particular, the courts have emphasised the following key principles:

- i. the PSED is “**continuing**” and “**non-delegable**”;
- ii. the PSED is a duty to have regard to the need to (a) eliminate unlawful discrimination; and (b) advance equality of opportunity and (c) foster good relations between people with protected characteristics and those without it.
- iii. The PSED is **not a duty to achieve any of those things** or to take certain steps. It is not even a duty to avoid steps which be retrograde as far as those aims are concerned. The PSED is, above all, concerned with **confronting decision makers with the indirectly discriminatory effect of their decisions** and ensuring that these effects are considered in the decision making process.
- iv. The duty can be owed to **groups of people or to a single person**.
- v. An important evidential element in the demonstration of the discharge of the duty is the recording of the steps taken by the decision maker in seeking to meet the statutory requirements;
- vi. the assessment of any adverse impacts of a decision on persons with protected characteristics and the ways in which such risk may be eliminated must be assessed **before** a decision is taken;
- vii. “**Due regard**” means having “**proportionate regard**” appropriate in all the circumstances. Decision makers are not expected to explore every last possible differential impact of a proposed decision. (*R (Baker) v SCLG* [2008] EWCA Civ 141 at [31]);
- viii. The duty must be exercised in substance, with rigour and an open mind (*London Borough of Hackney v Haque* [2017] EWCA Civ 4 at [22]). Mere reference to the duty may not be enough. Alternatively, a failure to reference the duty may not be determinative if in substance impacts

have been considered (*R (McDonald) v Kensington and Chelsea Royal LBC* [2011] UKSC 33 at [24]);

- ix. There is **no statutory duty to carry out EIA** (*R (Cordant Group Plc) v SSB/S* [2010] EWHC 3442 (Admin) at [72]) but in practice, EIAs provide a very useful way to evidence that the PSED has been discharged.

**CITY
PLAN
2019 – 2040**



City of Westminster