

2012

Equality Analysis Guidance and Form



Appendix 4 - Brent Council Equality Analysis Form

1. Roles and Responsibilities:	
<p>Directorate: Regeneration and Growth</p> <p>Service Area: Housing and Employment</p>	<p>Person Responsible:</p> <p>Name: Jon Lloyd-Owen</p> <p>Title: Operational Director, Housing and Employment</p> <p>Contact No: 020 8937 5199</p> <p>Signed: </p>
<p>Name of policy: PFI Project Agreement Revisions</p>	<p>Date analysis started: September 2014</p> <p>Completion date: October 2014</p> <p>Review date: 27 October 2014</p>
<p>Is the policy:</p> <p>Revisions to existing policy</p> <p>New <input checked="" type="checkbox"/> Old <input type="checkbox"/></p>	<p>Auditing Details:</p> <p>Name: Arleen Brown</p> <p>Title: Equality Officer</p> <p>Date: 27 October 2014</p>
<p>Signing Off Manager: responsible for review and monitoring</p> <p>Name: Jon Lloyd-Owen</p> <p>Title: Operational Director, Housing & Employment</p> <p>Date: 27 October 2014</p> <p>Contact No: 0209 937 5199</p> <p>Signed: </p>	<p>Decision Maker:</p> <p>Name individual /group/meeting/ committee:</p> <p>Cabinet</p> <p>Date: 10th November 2014</p>

2. Brief description of the policy. Describe the aim and purpose of the policy, what needs or duties is it designed to meet? How does it differ from any existing policy or practice in this area?

Please refer to stage 2 of the guidance.

In 2008 the council entered into a twenty-year contract under the Private Finance Initiative (PFI) with Brent Coefficient Limited (BCE), a subsidiary of Hyde Housing Group (Hyde). Welfare reform, in particular the housing benefit subsidy limitations for temporary accommodation, mean that rental income is projected to fall substantially short, leading to an annual and increasing deficit over the remaining contract term.

The changes set out in the report to Cabinet are intended to optimise the project's financial performance and minimise the prospective deficit. In particular, the revisions will provide the Council with flexibility over the way in which the 364 units are used and the corresponding rents that can be charged. It will allow the Council to make judgements each year about the appropriate mix of housing benefit-supported temporary accommodation, intermediate and Affordable Rented units, within certain limits, in order to optimise financial performance while contributing to meeting housing need.

At this stage, the report seeks agreement to alter the contract terms to provide flexibility over tenure and rents. Pending further discussion with partners, it is not possible to identify the extent to which changes will need to be made or the number of properties and households that might be affected. In particular, the welfare reform landscape is subject to continuing change and is likely to change further following the general election in 2015. It is impossible to predict whether this will worsen or improve the position, but future decisions will need to be based on prevailing conditions. The earliest point at which changes might affect existing properties and tenants is April 2015 but in practice April 2016 may be a more likely date.

However, it is clear that, if changes occur as set out in the report, there will be impacts on households in occupation at the time and these households will include protected groups, as discussed below.

The Housing Strategy, approved in July 2014, highlights the need to make best use of existing stock and to reduce temporary accommodation use. The Allocation Scheme sets the framework through which permanent housing is allocated and provides for an increased proportion of allocations to homeless households to support a reduction in temporary accommodation use. The PFI stock is, at this stage, part of the temporary accommodation supply and households are placed there under homelessness duties set out in Part VII of the Housing Act 1996. Temporary accommodation should be appropriate and affordable, although households may move between different forms of temporary accommodation. The majority of households in the PFI stock are waiting for permanent accommodation and will generally be able to bid through the Locata choice-based lettings system according to their priority, although the Allocation Scheme also provides for direct offers to be made in appropriate circumstances.

The Tenancy Strategy sets out the council's approach to Affordable Rent and fixed term tenancies. While acknowledging that Affordable Rents may not be genuinely

affordable to some households (including homeless households) on the Housing Register, the Strategy accepts that Affordable Rent will remain the primary source of rented housing under the current funding regime and will therefore be supported in order to deliver the new homes required to meet need. The government's definition of affordable housing has been changed to incorporate a range of options beyond traditional social rents, including Affordable Rent and intermediate rent and low-cost home ownership products and the Strategy operates within this revised approach. The Strategy also provides that five-year fixed terms, with an assumption of renewal after five years in most cases, will be the default tenure within the council and Registered Provider stock.

3. Describe how the policy will impact on all of the protected groups:

Depending on final decisions, in the short term the policy may affect households currently occupying the units provided under the PFI contract and, in the longer term, may affect the way in which these units are let to future tenants. The properties are currently occupied by households owed a duty under homelessness legislation and in future will continue to be used in this way, with the potential for some lets to other groups on the housing register.

Specifically, the proposals that may impact on households currently resident or moving into relevant accommodation in the future are:

- Changes to the current requirement to convert a number of properties from temporary accommodation use to social rented housing
- To provide for temporary accommodation units to be let at intermediate rents
- Conversions to be to Affordable rather than Social rent at the end of the contract

Other proposals in the report have no direct impact on households and are concerned with the financial arrangements as they affect the partners.

In summary, these changes will affect rent levels in individual properties, as set out in the report. This will mean that properties may cease to be affordable, either to households currently in occupation or to some households who might have taken up occupation in the future. Affordable and intermediate rents will not be affordable to some households, in particular those claiming Housing Benefit and subject to the overall benefit cap.

Any changes may therefore affect the future housing choices of affected households. This is already the case to some extent since Affordable Rent is the main source of new rented housing and is not, as outlined above, affordable to some households, who will need to secure properties at social or target rents. The additional factor introduced by this policy is the potential impact on the temporary accommodation currently occupied by some households in the PFI stock. Where a property is converted to Affordable or intermediate rent, households unable to afford the increase may need to move to alternative temporary accommodation or into permanent housing.

The Council has around 3,300 households in temporary accommodation, with 364 units in the PFI scheme representing around 11% of the total temporary accommodation supply. Partly as a result of the welfare reforms, the proportion in employment has risen significantly of late and approximately 20% of these households are currently in paid work. 128 of 364 households accommodated in the PFI units are receiving Working Tax Credit, indicating a higher level of employment than the overall average, although further investigation is needed to identify those for whom Affordable or intermediate rents would be affordable.

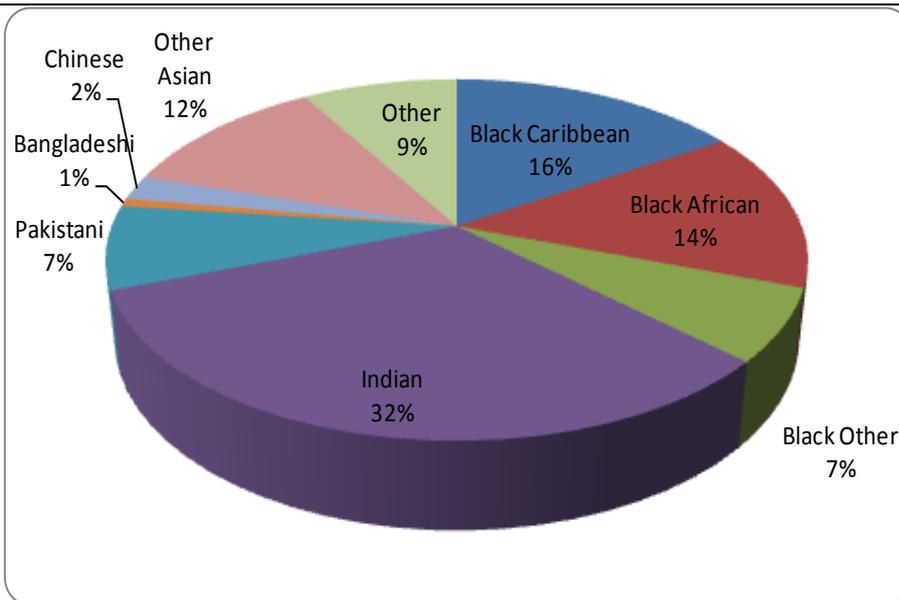
On the basis of the data available, the profile of households accommodated in the PFI units broadly matches the overall profile of homeless households as set out in the following section. It is therefore likely that households that may need to move to alternative accommodation will also reflect this profile, although the final position will depend on the particular circumstances of individual households. Overall, BAME households and households headed by women are likely to be most affected since they are over-represented among homeless households and those on the Housing Register, as well as among those unemployed. The impact is also likely to be greater for larger households, since they are impacted more severely by welfare reform. Within this group, BAME households are also over-represented.

However, it is important to stress that the available data is not complete, either in terms of ethnicity or other factors and the key finding from the initial assessment is that it will be necessary to undertake further work to obtain a complete picture of the households currently in occupation, as well as any moving into the stock in future, to assess the potential impacts in full. In addition to providing information on protected characteristics, this will need to include information on household make-up and household income to support an assessment of suitable housing options.

Please give details of the evidence you have used:

58% of Brent residents identified themselves as from a BAME group in the 2011 Census, broken down as shown in the chart below. These figures provide the basis for analysis of any divergence between the general population figures and other data with regard to ethnicity.

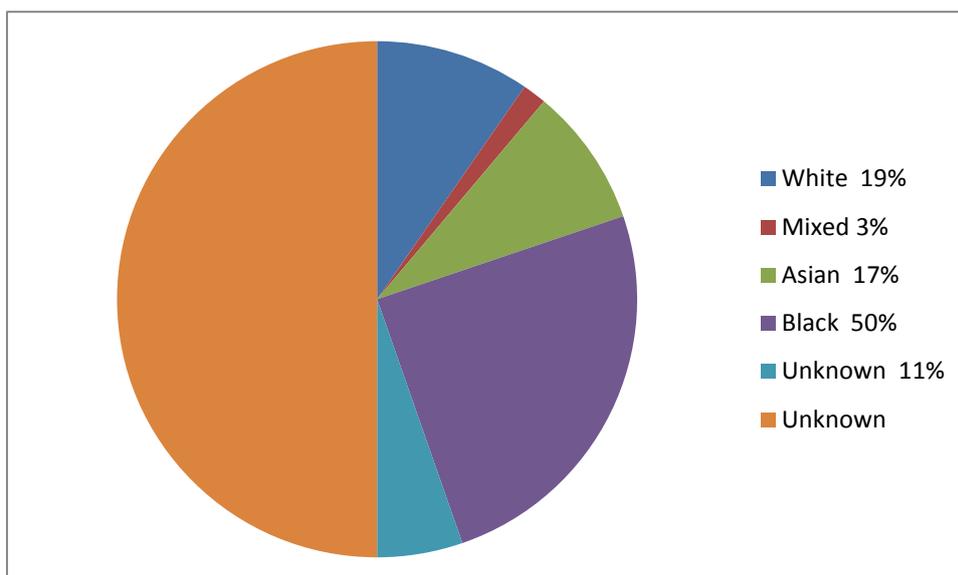
BAME Groups (Proportion of the overall 58% total)



Households from ethnic minority groups are disproportionately likely to become statutorily homeless, reflecting greater exposure to risk factors such as poverty, deprivation and overcrowding. For example, households with a White head (including both White British and other White ethnic groups) comprised 67% of all households in London in 2011, but just 38% of households accepted as statutorily homeless in 2012/13. Black or Black British households comprised 13% of all London households in 2011 but 37% of those accepted as homeless in 2012/13.

Brent's ethnic mix is both more diverse than London as a whole and includes a greater proportion of BAME households, but shows a similar pattern in the disproportionate numbers of BAME households experiencing housing problems.

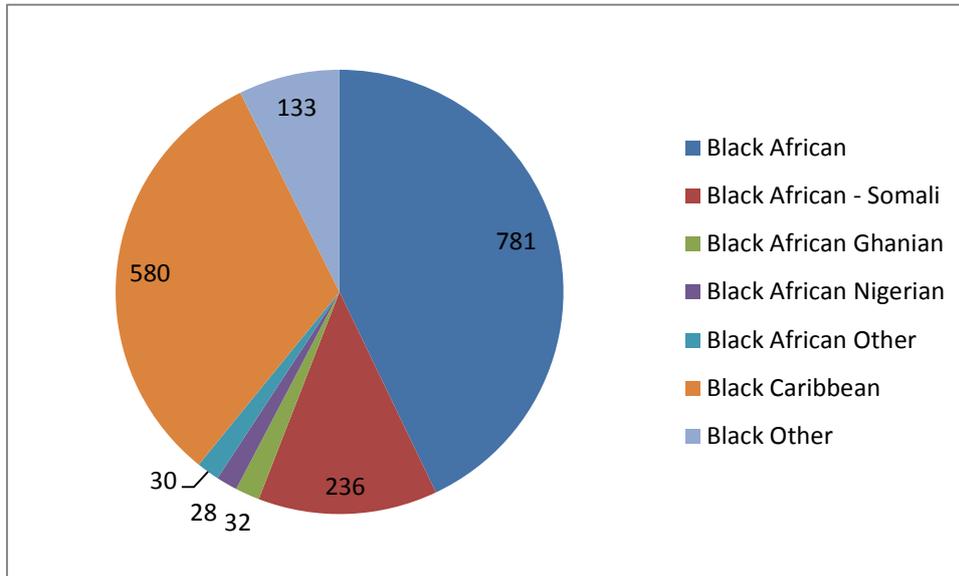
Households in Temporary Accommodation



The chart shows the broad ethnicity of household in temporary accommodation. BAME groups as a whole make up 81% as opposed to 58% of the total in the general population, while the Black group makes up 50% of the total but 37% of the overall population (note that all percentages have been rounded to the nearest whole number here and elsewhere in this section) and

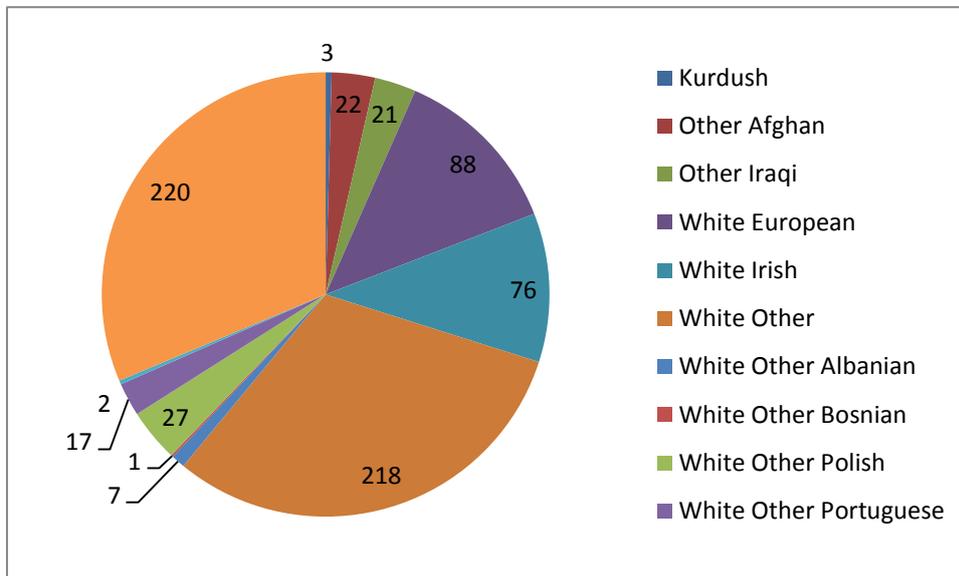
Breaking down the total above indicates that, among the broad Black category, Black African households are over-represented, with a particularly high number of Somali households.

Black Households in Temporary Accommodation



It is also worth noting that, among the broad White category, White UK households make up a relatively small proportion of the total compared to the general population.

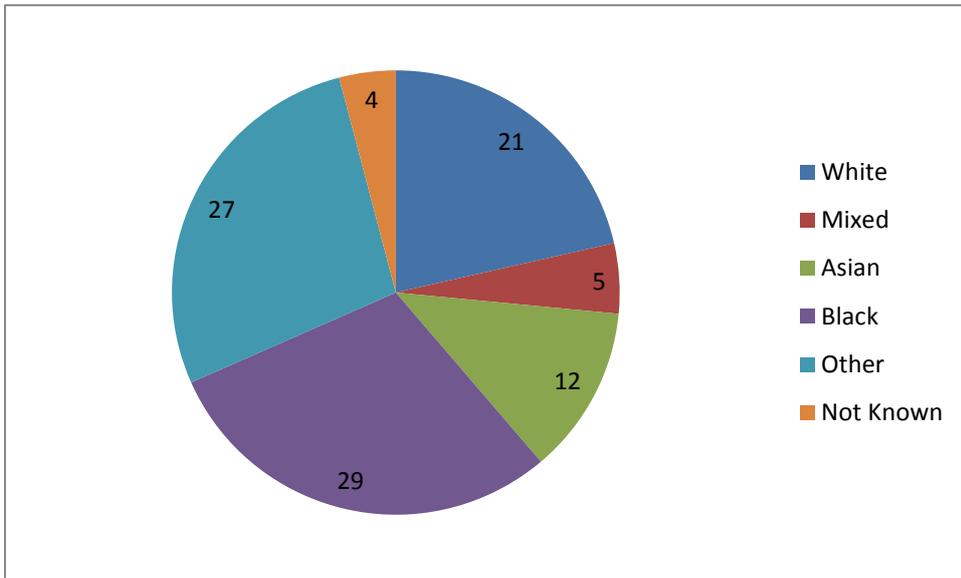
White Households in Temporary Accommodation



Although there has been much publicity concerning the impact of migration from eastern Europe, numbers of households from this group are small compared to their presence in the general population (although it should be noted that it is difficult to obtain accurate figures for the total number of such migrants).

The Housing Needs Register shows a similar pattern, in which BAME groups are over-represented in comparison to the general population.

Housing Register by Ethnicity: %



Data on the ethnic breakdown of the current occupants of the PFI properties is incomplete, but demonstrates a broadly similar pattern to the data above. Actual numbers are as set out in the chart below.

Black African	82 (22.5%)
Black Caribbean	46 (12.6%)
White Irish	8 (2.2%)
White UK	21 (5.8%)
White Other	21 (5.8%)
Asian Pakistani	6 (1.6%)
Asian Indian	15 (4.1%)
Asian Other	36 (9.9%)
Other	65 (17.9%)
Unknown	64 (17.6%)

4. Describe how the policy will impact on the Council's duty to have due regard to the need to:

(a) Eliminate discrimination (including indirect discrimination), harassment and victimisation;

The policy aims to ensure that all households are placed in suitable and affordable accommodation according to their particular needs

(b) Advance equality of opportunity;

The policy aims to ensure that all households are placed in suitable and affordable accommodation according to their particular needs as noted above.

(c) Foster good relations

It is not anticipated that the policy will have any particular impact on the duty to foster good relations

5. What engagement activity did you carry out as part of your assessment?

Please refer to stage 3 of the guidance.

i. Who did you engage with?

Engagement to date has been limited to the partners in the PFI project since the focus has been on identifying a viable financial solution.

Once a way forward has been agreed, engagement with the affected households will take place.

ii. What methods did you use?

Meetings with partners

iii. What did you find out?

Discussions identified the need to change the contractual arrangements as noted in the report.

iv. How have you used the information gathered?

To inform the proposals set out in the report

v. How has it affected your policy?

Discussions with partners have shaped the policy but, as noted above, this has not included engagement with affected households at this stage.

6. Have you identified a negative impact on any protected group, or identified any unmet needs/requirements that affect specific protected groups? If so, explain what actions you have undertaken, including consideration of any alternative proposals, to lessen or mitigate this impact. Please refer to stage 2, 3 & 4 of the guidance.

This assessment identifies a potential for a negative impact in so far as affected households may need to move to alternative accommodation that will remain affordable to them. Initial indications suggest that Black African and Black Caribbean households (especially larger families) are more likely to be affected as they are the largest single groups, although proportions may vary depending on the individual circumstances of households and there is a need for further work to assess this as noted earlier.

Given the financial pressures on the council and the fiduciary duty owed to Council Tax payers, it is essential that adjustments should be made to the PFI project to mitigate the potential deficit, which is largely the result of changes to the welfare system at the national level and therefore unavoidable. No viable alternative approach is available to remove or lessen the impact on affected households unless there are further changes to national policy that improve the position. Potential mitigation measures have therefore been identified but these will need to be reviewed in light of the further work to assess the potential impact.

It should be stressed that households currently occupying the PFI properties have been placed under homelessness duties. The council is obliged to secure suitable temporary and, in most cases, subsequent suitable permanent accommodation for these households. In all cases where changes mean that PFI accommodation is no longer affordable, suitable alternatives will need to be identified. Suitability will need to be assessed in relation to the particular circumstances of each household.

As noted in the report, the size of the Council's temporary accommodation provision could enable the Council to use the PFI units in a differentiated way, to meet the temporary accommodation needs of those in employment for whom the rents are affordable and to meet the housing needs of others in need who approach the council for assistance. While this would not, in itself, mitigate the

impact for households needing to move, it would provide a wider benefit in extending the range of temporary accommodation options and freeing up other accommodation for households outside the PFI.

The deployment of the units at intermediate rents would represent a more targeted approach to the use of these units to meet housing need than is the current position. The units would be used to meet the needs of those to whom the Council owes a duty to provide temporary accommodation, other homeless households or those in need of housing assistance. Affordability will be a fundamental consideration. The units will be targeted primarily at those in employment and either not in receipt or in partial receipt of housing benefit and for who rents at up to 80% of market rent would be affordable. In nominating a household to these units the council would continue to ensure that the rent could be afforded as is required under the current Project Agreement.

Intermediate rents, at any significant scale, if used, would be introduced gradually over an extended period in order to minimise any impact on households currently housed in these units who are not in employment at the relevant time and who are not able to afford the intermediate rents, in order that they can be accommodated in other temporary accommodation available to the Council, or where appropriate through the offer of a social housing unit or a suitable private rented sector discharge as appropriate to their circumstances. All those currently housed in the PFI units are entitled to bid for a social housing unit through the Choice-based lettings system.

Extended notice will be given to households where it is proposed to introduce intermediate rents, to establish whether the property will remain affordable to them, and where not, to encourage them to bid for a social housing unit if they have sufficient priority, and to support this with proxy-bidding or direct offers where appropriate. For some affected households there will, however be a need to move to alternative temporary accommodation and there will be advance discussion and planning in regard to this. A decision on the deployment of the units across the different tenures will be taken each year and this will be supported by a revised Equalities Analysis to inform the planning of this and in order to best mitigate any adverse impacts.

Please give details of the evidence you have used:

See above

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7. Analysis summary

Please tick boxes to summarise the findings of your analysis.

Protected Group	Positive impact	Adverse impact	Neutral
Age			X
Disability			X
Gender re-assignment			X
Marriage and civil partnership			X
Pregnancy and maternity		X	
Race		X	
Religion or belief			X
Sex		X	
Sexual orientation			X

8. The Findings of your Analysis

Please complete whichever of the following sections is appropriate (one only).
Please refer to stage 4 of the guidance.

No major change

Your analysis demonstrates that:

- *The policy is lawful*
- *The evidence shows no potential for direct or indirect discrimination*
- *You have taken all appropriate opportunities to advance equality and foster good relations between groups.*

Please document below the reasons for your conclusion and the information that you used to make this decision.

Adjust the policy

This may involve making changes to the policy to remove barriers or to better advance equality. It can mean introducing measures to mitigate the potential adverse effect on a particular protected group(s).

Remember that it is lawful under the Equality Act to treat people differently in some circumstances, where there is a need for it. It is both lawful and a requirement of the public sector equality duty to consider if there is a need to treat disabled people differently, including more favourable treatment where necessary.

If you have identified mitigating measures that would remove a negative impact, please detail those measures below.

Please document below the reasons for your conclusion, the information that you used to make this decision and how you plan to adjust the policy.

Continue the policy

This means adopting your proposals, despite any adverse effect or missed opportunities to advance equality, provided you have satisfied yourself that it does not amount to unlawfully discrimination, either direct or indirect discrimination.

In cases where you believe discrimination is not unlawful because it is objectively justified, it is particularly important that you record what the objective justification is for continuing the policy, and how you reached this decision.

Explain the countervailing factors that outweigh any adverse effects on equality as set out above:

This assessment does not indicate that the policy would be discriminatory, although it does conclude that there is a risk of adverse impact – i.e. the need to move to alternative accommodation – for some households currently resident in PFI properties if the proposals proceed.

The council's fiduciary duty and the significant budgetary implications of failure to act mean that it is essential that the proposals should proceed, unless further change to the welfare reform landscape would support an alternative approach.

Mitigation will include ensuring that suitable and affordable alternative accommodation is provided where necessary. In the meantime, the action plan below sets out further steps that will need to be taken, including further work to identify household characteristics and potential impacts and work with households collectively and individually to advise them of the position

Please document below the reasons for your conclusion and the information that you used to make this decision:

The conclusion of this analysis is that the policy should proceed owing to the significant adverse financial implications of continuing the current approach. In the long term, the consequences of failure to implement the changes could result in much wider adverse impacts for homeless households and those on the Housing Register.

Stop and remove the policy

If there are adverse effects that are not justified and cannot be mitigated, and if the policy is not justified by countervailing factors, you should consider stopping the policy altogether. If a policy shows unlawful discrimination it must be removed or changed.

Please document below the reasons for your conclusion and the information that you used to make this decision.

9. Monitoring and review

Please provide details of how you intend to monitor the policy in the future. Please refer to stage 7 of the guidance.

As noted above, the position will be reviewed annually and subject to a renewed equality assessment.

Affected households will be consulted individually to ensure that appropriate alternative accommodation is secured where necessary.

10. Action plan and outcomes

At Brent, we want to make sure that our equality monitoring and analysis results in positive outcomes for our colleagues and customers.

Use the table below to record any actions we plan to take to address inequality, barriers or opportunities identified in this analysis.

Action	By when	Lead officer	Desired outcome	Date completed	Actual outcome
Obtain further data on PFI households to inform assessment of impact	End Nov 2014	Housing Needs	Complete information available on protected groups and household characteristics		
Agreement of revised contract	Dec 2014	Jon Lloyd-Owen	Contract revised to provide greater flexibility		

Initial consultation with PFI residents	Dec 2014	Housing Needs	All households fully aware of the position		
Identification of number and location of properties to convert to alternative rents	March 2015 or March 2016	Housing Needs	Clarity over number involved and date when conversion needs to take place		
Identification of households needing to move	March 2015 or March 2016	Housing Needs	All households accurately assessed		
Identification and offer of alternative accommodation	2015/16	Housing Needs	All households in affordable accommodation		