

## **Colchester Borough Council**

### **Equality Impact Assessment Form - An Analysis of the Effects on Equality**

#### Section 1: Initial Equality Impact Assessment

Name of policy/ decision to be assessed:

#### **Review of Ladies Only Swimming Sessions at the Fitness Pool, Leisure World.**

1. What is the main purpose of the policy/ decision/ review?

To consider whether the Council should continue to offer Ladies Only swimming sessions, and if so, how many sessions per week.

Currently, the Fitness Pool at Leisure World offers four of these sessions per week on:

- Mondays (8.30-9.30pm);
- Tuesdays (11-12.00noon);
- Wednesdays (8-9.00pm);
- Thursdays (11-12.00noon).

2. What main areas or activities does it cover?

The restriction of the Fitness Pool to ladies only during the period of the session.

3. Are there changes to an existing policy being considered in this assessment? If so what are they?

This is the subject of the review. The current service is for 4 sessions per week. This EqlA is to assess impacts on the options available.

4. Who are the main audience, users or customers who will be affected by the policy?

Changes to the programme of Ladies Only sessions will affect access to the public pool for women, men and for children for existing and potential customers. .

5. What outcomes do you want to achieve from the policy?

To achieve a fair and non-discriminatory approach to programming that meets customers' needs and which also takes into account one of our key objectives being to maximise revenue.

6. Are other service areas or partner agencies involved in delivery? If so, please give details below

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- Other Council Services (including HR and Business Finance) which support 'Sport and Leisure' in delivering services to the public

7. Are you aware of any relevant information, data, surveys or consultations<sup>1</sup> which help us to assess the likely or actual impact of the policy upon customers or staff?

- Relevant Data has been collated via a customer survey to help inform the Council in its review of these services. An analysis of the responses has been included in Appendix A at the end of this document.
- Advice has been provided by the Association of Colleges Sport, Sport England and Women in Sport which can be found in Appendix B.
- We are aware of national swimming data collated and published by Sport England.
- We have also had contact with a local organisation representing residents whose ethnicity is South East Asian, and of mainly Muslim faith, and whose feedback has been included further below.

8. The 'general duty' states that we must have "due regard" to the need to:

(a) eliminate unlawful discrimination, harassment and victimisation

(b) advance equality of opportunity between people who share a 'protected characteristic'<sup>2</sup> and those who do not<sup>3</sup>

(c) foster good relations between people who share a protected characteristic and those who do not<sup>4</sup>

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<sup>1</sup>Click on [surveys or consultations](#) for more information. The Council's surveys and consultations include 'equality monitoring information' to help us identify any particular concerns or views expressed by any particular group or 'protected characteristic'. It can also help us to assess how representative of our customers the respondent group is. Local Data on the Protected Characteristics is available [on this page](#) of the Hub.

<sup>2</sup> The Equality Act's 'protected characteristics' include age, disability, gender reassignment, pregnancy and maternity, race, religion or belief and sex and sexual orientation. It also covers marriage and civil partnerships, but not for all aspects of the duty.

<sup>3</sup> This involves having due regard, in particular, to the need to: (a) remove or minimise disadvantages suffered by persons who share a 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, and (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.

Not all policies help us to meet the 'general duty', but most do.

*Where applicable, explain how this policy helps us to meet the 'general duty':*

The policy helps us to 'eliminate unlawful discrimination, harassment and victimisation' in the following way(s):

- Ladies Only sessions are not believed to help us meet this specific aim.

The policy helps us to 'advance equality of opportunity...' in the following way(s):

- Ladies Only sessions are not believed to help us meet this specific aim.

The policy helps us to 'foster good relations...' in the following way(s):

- Ladies Only sessions are not believed to help us meet this specific aim.

9. This section helps us to identify any disproportionate impacts. Please indicate in the table below whether the policy is likely to particularly benefit or disadvantage any of the 'protected characteristics'.

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<sup>4</sup> This involves having due regard, in particular, to the need to (a) tackle prejudice, and (b) promote understanding.

(See overleaf...)

'Protected characteristic' group		Positive Impact	Explain how it could particularly benefit the group	Negative Impact	Explain how it could particularly disadvantage the group
Age	Older people (60+)	X	54% of those who took part in our survey of Ladies Only session users were aged 60-79. This is significantly higher than the age profile for standard mixed sessions. 62% of respondents indicated that they would not attend mixed sessions. Therefore, Ladies Only sessions appear to particularly benefit older female customers.		None identified
	Younger people (17-25) and children (0-16)		None identified	X	Children are excluded from Ladies Only sessions. See section 10 below.
Disability	Physical		None identified		None identified
	Sensory		None identified		None identified
	Learning		None identified		None identified
	Mental health issues		None identified		None identified
	Other – <i>specify</i>				
Ethnicity <sup>5</sup>	White		None identified		None identified
	Black	X	See immediately below.		None identified

<sup>5</sup> National Census 2011 categories are: Bangladeshi, Indian, Pakistani, Other Asian (Asian or Asian British), African, Caribbean, Other Black (Black or Black British), White and Black African, White and Asian, White and Black Caribbean (Mixed), British, Irish, Other White (White), Chinese, Other (Other Ethnic Group).

'Protected characteristic' group		Positive Impact	Explain how it could particularly benefit the group	Negative Impact	Explain how it could particularly disadvantage the group
	Asian	X	A local organisation representing residents of South East Asian ethnicity has urged the Council to continue to provide Ladies Only sessions, but has specifically requested that it should be staffed with female lifeguards only, in order to respect the cultural, ethnic and religious needs of those it seeks to represent. In addition, the group has stipulated other requirements which the Council has not been able to accommodate to date. The Council will continue to keep this under review as it would like to increase access to swimming sessions from this group (and other BME groups).		
	Chinese		None identified		None identified
	Mixed Ethnic Origin		None identified		None identified
	Gypsies/ Travellers		None identified		None identified
	Other – <i>please state</i>				
Language	English not first language		None identified		None identified
Pregnancy and Maternity	Women who are pregnant or have given birth in last 26 weeks	X	Female Only sessions may offer a better environment for women who are pregnant. This is because a significant proportion of respondents (25%) identified that these sessions are calmer, quieter, safer, or less aggressive.		None identified

'Protected characteristic' group		Positive Impact	Explain how it could particularly benefit the group	Negative Impact	Explain how it could particularly disadvantage the group
Religion or Belief	People with a religious belief (or none)	X	Some religious and cultural beliefs, in particular, may be seen to favour the provision of female only sports sessions due to the value attached to conceptions of female 'modesty'. The Council's survey revealed that two, or 4% of, respondents identified either 'religious' or 'cultural' as a reason for attending Ladies Only swimming sessions. A local organisation representing residents of South East Asian ethnicity of mainly Muslim belief, has urged the Council to continue to provide Ladies Only sessions, but has specifically requested that it should be staffed with female lifeguards only, along with other stipulations. Although the Council has not been able to meet these requirements to date, it will keep its approach under review as it would like to increase access to swimming sessions from people with a Muslim faith.		None identified
Sex	Men			X	Men are excluded from Ladies Only sessions. See section 10 below.

'Protected characteristic' group		Positive Impact	Explain how it could particularly benefit the group	Negative Impact	Explain how it could particularly disadvantage the group
	Women	X	A majority of women surveyed were strongly in favour of Ladies Only sessions: 62% of respondents stated they would not attend mixed sessions if Ladies Only sessions were not offered.		None identified
Gender Reassignment <sup>6</sup>	Transgender/ Transsexual		None identified		None identified
Sexual Orientation	Bisexual, Heterosexual, Gay or Lesbian		None identified		None identified
Marriage and Civil Partnership	People who are married or in a civil partnership		None identified		None identified

10. If you have identified any negative impacts (above) how can they be minimised or removed?

Age	Children	X	Children are excluded from Ladies Only sessions.
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There is no evidence that children would be attending the Fitness Pool if standard mixed sessions were available instead of Ladies Only sessions. It is more suitable for children to attend the Leisure Pool which has facilities designed to meet their needs. The Council therefore believes that if any disadvantage is experienced it is effectively mitigated. .

Sex	Men	X	Men are excluded from Ladies Only sessions.
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<sup>6</sup> The protected characteristic of gender reassignment is defined by the Equality Act 2010 as “a person proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.” This is a personal process that may involve medical interventions such as counselling, psychotherapy, hormone therapy or surgery, but does not have to. NB: It is generally held that transgender people disguise their features or clothing to resemble their preferred sex, whereas transsexual people wish to change their body to completely resemble their preferred sex.

It has been claimed that the Council's approach is unfair and discriminatory because Ladies Only sessions exclude men, and we have identified this as a negative impact which we have not been able to remove or minimise. See Part 2 of this EqIA

11. Could the policy discriminate<sup>7</sup> against any 'protected characteristic', either directly or indirectly<sup>8</sup>? Yes. See Part 2 of this EqIA

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<sup>7</sup> The Council has a general duty to 'eliminate unlawful discrimination, harassment and victimisation'. Direct discrimination occurs when a person is treated less favourably than another in a comparable situation because of their 'protected characteristic' whether on grounds of age, disability, pregnancy and maternity, ethnicity; religion or belief; sex (gender), sexual orientation, or marriage and civil partnership. Indirect discrimination occurs when an apparently neutral provision or practice would nevertheless disadvantage people on the grounds of their 'protected characteristic'.

<sup>8</sup> If you answer 'yes' to question 11 (above) you will need to complete this section *and* go on to complete Section 2 in order to conduct a full Equality Impact Assessment.



## Summary and findings of Initial Equality Impact Assessment

12. Please put a tick in the relevant box to confirm your findings, and what the next step is:

Findings	Action required
No negative impacts have been identified <input type="checkbox"/>	Sign off screening and finish.
Negative impacts have been identified but have been minimised or removed <input type="checkbox"/>	Sign off screening and finish.
<b>Negative impacts could not be minimised or removed X</b>	<b>Sign off screening and complete a full impact assessment – Section 2.</b>
There is insufficient evidence to make a judgement. <input type="checkbox"/>	Sign off screening and complete a full impact assessment – Section 2.

13. Name and job title of person completing this form: Andrew Harley (Equality and Safeguarding Co-ordinator)

14. Date of completion: November 2017

15. Date for update or review of this screening: N/A See Part 2 below.

## Section 2: Full Equality Impact Assessment

### Where there is a negative impact which has not been minimised or removed

16. If you have identified negative impact(s) on the 'protected characteristics' that have not been minimised or removed, is this considered to be 'a proportionate means of achieving a legitimate aim'?<sup>9</sup> If yes, state how:

The question to be considered here is whether the exclusion of men at these sessions can be justified on equality grounds as this will help determine whether such a practice is lawful. In order to justify a practice which has a disproportionate impact upon a protected characteristic (in this case men) which has not been minimised or removed, the Council must show that the practice (in this case, Ladies Only sessions) is "a proportionate means of achieving a legitimate aim".

As reproduced at Appendix B, the Association of Colleges Sport, Sport England and Women in Sport have provided the following advice:

*Running female-only sports sessions is commonplace across schools, Local Authorities, gyms and other environments where sport and physical activity is on offer. It is perfectly acceptable to offer female-only sessions – they are regularly offered when take-up from females in the existing sport provision is low. In England, women and girls take part in less sport than men and boys. The Equality and Human Rights Commission make it clear that, as a service provider, you are allowed to provide single-sex services (services just for men or just for women) where:*

(Each criteria will be examined in turn.)

- "This is objectively justified on the grounds of low participation in sport in one gender." *Even though more women swim than men, two million fewer women than men participate in sport taken as a whole. Supporting data is available from Sport England.*

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<sup>9</sup> This phrase is taken from sections 15 and 19 of the Equality Act 2010. 'Positive action', benefitting one or more protected characteristic(s), may result in a disproportionate negative impact upon another, but this may be justified as being 'a proportionate means of achieving a legitimate aim'. The need to balance a budget can constitute a "legitimate aim". Contact the Equality and Safeguarding Co-ordinator for more information or look at the [Equality and Human Rights Commission](#) webpage under "objective justification".

- “Only men or only women require the service.” *The Council has identified a significant need and demand for Ladies Only sessions. By way of comparison, there have only been a handful of requests for ‘men only’ swimming sessions over a ten year period. There is no evidence to suggest that there is significant demand for ‘men only’ sessions in Colchester (although the Council will keep this under review and has no objections, in principle, to such a service if such a demand were established).*
- “There is joint provision for both sexes but that is not enough on its own.” *Although the majority of sessions offered are mixed, the Council has identified a need and a demand for Ladies Only sessions. 62% of survey respondents stated they would not attend mixed sessions if ‘Ladies Only’ sessions were not offered.*
- “If the service were provided for men and women jointly, it would not be as effective and the extent to which each sex requires the service makes it not reasonably practicable to provide separate services for each sex.” *The Council has identified a significant need and demand for Ladies Only sessions. By way of comparison, there have only been a handful of requests for ‘men only’ swimming sessions over a ten year period. There is no evidence to suggest that there is significant demand for ‘men only’ sessions in Colchester meaning that this option is not currently reasonably practicable.*
- “The services may be used by more than one person at the same time and a woman might reasonably object to, by comparison, the presence of a man (or vice versa).” *62% of survey respondents stated they would not attend mixed sessions if ‘Ladies Only’ sessions were not offered, and 25% of respondents gave their reason as being because sessions were “calmer”, “quieter”, “safer” - or less “aggressive”. This is considered by the Council to be a ‘reasonable objection’.*
- “The services may involve physical contact between a user and someone else, and that other person may reasonably object if the user is of the opposite sex.” *Mixed swimming sessions can involve unwanted physical contact with a swimmer of the opposite sex.*

**Having reviewed the available information and data, and taking into account the above analysis, the Council believes that retaining Ladies only sessions is “a proportionate means of achieving a legitimate aim” within the meaning of the Equality Act 2010.**

## Summary and findings of Full Equality Impact Assessment

17. Please put a tick in the relevant box to confirm your findings, and what the next step is:

Findings	Action required
<b>Likely negative impacts have been identified but are considered to be a proportionate means of achieving a legitimate aim.</b>	<b>Sign off and finish.</b>
Further planned engagement with equality target groups will take place in order to gain sufficient evidence to make a judgement on impact. <input type="checkbox"/>	Sign off and review within 6 months.
Planned engagement has taken place: No likely negative impacts have been identified. <input type="checkbox"/>	Sign off and finish.
Planned engagement has taken place: Likely negative impacts have been identified but have been minimised or removed. <input type="checkbox"/>	Sign off and finish.
The policy could be unlawfully discriminatory and will not be implemented. <input type="checkbox"/>	Finish without signing off.

18. Name and job title of person completing this form:

Andrew Harley Equality and Safeguarding Co-ordinator)

19. Date of completion:

January 2018

20. Date for update or review

Not Applicable

## APPENDIX A

### Results of Survey/ Questionnaire to collect information and data on usage of Ladies Only Swimming Sessions at the Fitness Pool, Leisure World

Between 16 October and 12 November 2017, customers were offered a questionnaire sheet when they attended Ladies Only sessions at time of payment. There were a total of 52 respondents over the 4 sessions. Data and information collected has been summarised below:

#### **Q1 How often do you attend ladies only swimming session?**

Less than once per week = 3 (6%)
1 session per week = 28 (54%)
2 sessions per week = 13 (25%)
1-2 sessions per week = 6 (12%)
More than 2 sessions per week = 1 (2%)
Not stated = 1 (2%)

A total of 47 or 90% therefore stated they attend one or two sessions per week.

#### **Q2 How often do you attend mixed swimming sessions?**

Never = 38 (73%)
1 or 2 times per week = 9 (17%)
Not stated = 5 (10%)

#### **Q3 Why do you attend Ladies only swimming sessions?**

Personal = 45 (87%)
Cultural = 1 (2%)
Religious = 1 (2%)
Other = 25 (48%)

NB: The great majority of respondents marked more than one of the above.

The following is a breakdown of 'other' reasons, where stated:

Calmer, quieter or safer = 8 (15%)
Time of the session = 7 (13%)
Men are too aggressive = 5 (10%)
Socialise with other women = 2 (4%)
My age = 2 (4%)

**Q4 If Ladies only sessions were not available would you still attend mixed sessions?**

No = 32 (62%)
Yes = 16 (31%)
Maybe = 4 (8%)

Equality monitoring:

<b>Age</b>	
Under 20	1 (2%)
20-29	2 (4%)
30-39	5 (10%)
40-49	6 (12%)
50-59	9 (17%)
60-69	10 (19%)
70-79	16 (31%)
80+	2 (4%)
No Data	1 (2%)
<b>Race/ Ethnicity</b>	
Asian/ Asian British	0 (0%)

Black/ Black British	1 (2%)
Mixed	0 (0%)
White	39 (75%)
Other	1 (2%)
No Data	11 (21%)
BAME	2 (2%)

## APPENDIX B

Advice provided by the Association of Colleges Sport, Sport England and Women in Sport



### Information on single-sex sessions

#### Is it acceptable to run female-only sports sessions?

##### Yes

The Association of Colleges Sport, Sport England and Women in Sport fully support the opportunity for all people to participate in sport. Running female-only sports sessions is commonplace across schools, Local Authorities, gyms and other environments where sport and physical activity is on offer.

It is perfectly acceptable to offer female-only sessions – they are regularly offered when take-up from females in the existing sport provision is low. In England, women and girls take part in less sport than men and boys.

With a number of colleges raising the issue of Senior Leadership Teams being uncomfortable with female-only sessions taking place, the advice from the Equality and Human Rights Commission (EHRC) and the Equality Act 2010 highlights that it is *not* discriminatory to offer this provision, if there is a need for it to take place.



## The legal position – a little more detail

The [Equality and Human Rights Commission](#) make it clear that as a service provider you are allowed to provide single-sex services (services just for men or just for women) where:

- this is objectively justified on the grounds of low participation in sport in one gender
- only men or only women require the service
- there is joint provision for both sexes but that is not enough on its own
- if the service were provided for men and women jointly, it would not be as effective and the extent to which each sex requires the service makes it not reasonably practicable to provide separate services for each sex
- the services may be used by more than one person at the same time and a woman might reasonably object to the presence of a man (or vice versa)
- the services may involve physical contact between a user and someone else, and that other person may reasonably object if the user is of the opposite sex.

The EHRC give an example of how this could be applied: ‘in a commercial gym and swimming pool, women-only swimming sessions could be provided as well as mixed sessions.’