

## Heathrow Expansion DCO Consultation Response Equalities Impact Assessment

September 2019

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### 1. Overview

- 1.1 This paper sets out the Mayor's response to the statutory consultation by Heathrow Airport Limited (HAL) on its expansion proposals with respect to the Equalities Impact Assessment (EqIA).
- 1.2 While it is noted that the submitted EqIA sets out initial findings, and that a more rigorous assessment will be presented as part of the next iteration of the EqIA, a number of fundamental flaws and omissions currently exist, including impacts on specific equality groups and limited targeted stakeholder engagement and consultation.

### 2. Methodological Approach

- 2.1 Section 3 of the EqIA states that three types of effect will be identified – disproportionate, differential and in-combination effects – each of which are defined in the document. These concepts are fundamental to the approach of an EqIA.
- 2.2 Graphic 3.2 states that *'disproportionate effects occur where there is likely to be a comparatively greater effect on equality groups than on other members of the general population. Disproportionate effects may occur if the affected community includes a higher than average proportion of an equality group, or because members of an equality group are the primary users of an affected resource.'* Graphic 3.4 identifies how disproportionate effects have been identified. Disproportionately represented groups are identified as those where:
  - the proportion of an equality group in the area is more than one standard deviation higher than the national or regional average; and/or
  - where the density of an equality group in the area is more than one standard deviation higher than the national or regional average; and/or
  - the equality group are the sole / primary users of an affected facility or resource.
- 2.3 There are concerns about this approach as HAL is exercising functions of a public nature and should therefore take full account of its duties under s.149 of the Public Sector Equality Duty and the Equality Act 2010 and 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; and
  - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 2.4 None of these - or other aims - set out in the Equality Act mention the proportion of people coming under a particular protected characteristic needing to be a factor that is taken into account. The definitions provided in the Act for each of the protected characteristics do not relate to the level of the population who share a protected characteristic. There is no 'trigger' point for a protected characteristic to be considered, and the proposed proportionality-based approach does not appear to promote and encourage the duties covered by the legislation to which this assessment is responding. The proposed approach could potentially remove peoples' identity or belonging to an equalities group given that the equalities impacts would only be considered if there is a higher than average number of persons sharing a particular protected characteristic.
- 2.5 The assessment of disproportionate effects is just one of the three different types of effects documented in the EqIA; however, it is felt that at this stage, too much weight appears to be placed on the assessment of this type of effect, thereby detracting from the need to consider all members of the community with a protected characteristic.
- 2.6 The tables provided in Chapter 9 set out an initial assessment by equality group of the potential impacts of the project. The concerns raised regarding how disproportionate effects have been identified are well illustrated in these tables. For example, Table 9.6 sets out initial findings for the protected characteristic of sex. Potential effects for women are identified as being changes in childcare networks – affecting women's capacity to work - arising from both the displacement of homes as a result of the project and changes in community facilities. The table rightly identifies that women may be more likely to be affected by such changes due to the greater statistical likelihood of their being primary carers of young children; however, although a geographic area has been identified where the effect may occur, the table states that either '*none of these areas have a disproportionate number of women*' or that '*only Brands Hill has a disproportionately high proportion of women*'. Yet the potential equality effect on women as a result of the project remains very real.

### **3. Focus of the EqIA**

- 3.1 At the outset of the EqIA it is stated that '*the masterplan design evolution is being informed by an in-depth evaluation exercise, which encompasses equality, through consideration of effects on different population groups, including equality groups, and on community resources likely to be used by members of those groups*' (paragraph 2.4.2). It is acknowledged that the EqIA is presenting initial findings at this stage; however, the document is generic in nature and does not appear to provide sufficient regard to potential effects on equality groups in any detail. This is an area that clearly needs to be addressed prior to the submission of the DCO.

- 3.2 Chapter 2 describes the DCO project, with section 2.4 specifically referencing how equality is embedded in the DCO project design. Section 2.4 begins with a statement about how equality has informed the design process; however, key objectives stated in paragraphs 2.4.4 and 2.4.5 refer to minimising effects on local residents as a broad group, rather than a discussion of how specific equality groups have been focused on.
- 3.3 While it is appreciated that some of the early chapters are *setting the scene* for both the project and the purpose of the EqlA, there may be benefits in providing some of the more detailed equality-focused information up front, so that it can be much clearer from an early stage that the focus is on protected characteristics and not the community as a whole. Examples include early descriptions of community facilities that will be displaced by the project (for example Table 2.1) which would benefit from a description of who the users of these facilities are rather than simply as 'community facilities'. Some of this detail is lost in the initial assessment tables of Chapter 9.
- 3.4 This issue can be most clearly demonstrated in Chapter 8 of the EqlA, which describes relevant environmental aspects of the Project, the potential equality effects that may occur as a result, and how such effects might be managed. There is little reference made throughout Chapter 8 to specific equality groups, with reference instead being made to 'the local community'. Examples of this approach can be found throughout the chapter, for example:
- Section 8.2 (air quality and odour) – the section does not refer to individual equality groups. Paragraphs 8.2.3, 8.2.4 and 8.2.8 make reference to impacts on local communities in general, but there is no discussion of protected characteristic groups that may be affected.
  - Section 8.3 (community) – this section includes detail about a range of community facilities that may be affected by the project through displacement or re-provision, without describing or highlighting the equality groups who may represent users of individual facilities.
  - Section 8.6 (socio-economics and employment) – this section refers to training and employment opportunities but does not indicate which equality groups may potentially benefit from these.
- Section 8.7 (transport network users) – again, this section only describes the general changes that may take place as a result of the project for pedestrians, cyclists, road users and public transport users.
- 3.5 Chapter 9 of the EqlA presents the initial assessment of equality effects. Although this provides further detail as to the nature of potential effects by equality group, this again is very broad and does not drill down into the level of detail necessary to provide a proper assessment. It is hoped that considerably more detail will be provided within this assessment in the final EqlA as alluded to in Chapter 10 Next Steps. Similarly, the embedded mitigation and management measures described are, almost without exception, community-wide in nature; it would be useful to understand in the final EqlA

whether any targeted mitigation measures may be necessary to deal with specific equality impacts.

- 3.6 There is a detailed literature and evidence review provided as part of Appendix C; it may be worthwhile drawing on more of this information within the main EqlA document itself to try and increase the focus on equalities impacts.

#### **4. Stakeholder and Community Engagement**

- 4.1 Chapter 7 provides evidence regarding the stakeholder and community engagement undertaken to date. Table 7.1 (Stakeholder and Community Engagement Activities Relevant to EqlA) cites a number of consultation and engagement activities which have been undertaken. Public consultation events appear to be general engagement events and activities, with none focused on equalities, specific communities or protected characteristic groups. For example, Airport Expansion Consultation One, the Community Listening Events and the Airspace and Future Operations Consultation were all public consultation events aimed at the general community; although some equality related concerns may have been identified through these events, there was no targeted consultation with equality groups.
- 4.2 While stakeholder organisations representing individual equality groups were invited to attend community stakeholder events, it is noted that not all equality groups were represented at the events and that there was no real evidence of targeting those who share a protected characteristic. The 'EqlA: Engagement on Scope and Progress' report was sent to approximately 400 national stakeholders, local organisations representing or working with groups with protected characteristics and operators of community resources used by equality groups. It is hoped that the feedback from this targeted engagement will continue to feed into the ongoing EqlA process.
- 4.3 Clearly, a lack of targeted engagement with protected characteristics means that the chances of getting robust equality data is much more limited. EHRC guidance<sup>1</sup> states that *'engagement should be proportionate to the size and resources of your organisation and to the significant of the policy to the aims of the general equality duty. This means that the greater the impact of your policy on equality and good relations, the more likely you are to need significant public or tailored engagement'*.

#### **5. Baseline Data and Evidence**

- 5.1 Chapter 5 sets out data relating to the local population for each of the equality groups, where this is publicly available. Protected characteristics for which data has not been provided include gender reassignment and sexual orientation. While it is acknowledged that area-specific data for these groups can be difficult to identify, a potential source of information is the Stonewall website<sup>2</sup>. Similarly, a number of the gaps within Chapter 6

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<sup>1</sup> The Essential Guide to the Public Sector Equality Duty. EHRC. 2014.

<https://www.equalityhumanrights.com/en/publication-download/essential-guide-public-sector-equality-duty>

<sup>2</sup> LGBT facts and figures. Stonewall

(Evidence review: published literature and research) could also be filled using information available from websites such as Stonewall (for example potential differential effects for the gender reassignment protected characteristic may relate to perceptions of safety).

## 6. Specific Comments

6.1 Finally, areas for particular clarification are identified as follows:

- Paragraph 3.2.7 states that ‘carers are also a group not protected under the Equality Act, but who also often experience disadvantage in going about the day to day care of the people for whom they are responsible. Effects on carers (and the people they care for) are considered as part of the health assessment within the Preliminary Environmental Information Report (PEIR) and Environmental Statement (ES). Where carers themselves have protected characteristics, this will be included as part of the assessment of equality effects.’ However, carers do indeed fall within the list of ‘protected characteristics’ under the Equality Act<sup>3</sup> by virtue of section 13(1) (they are caring for someone with a protected characteristic) and it would therefore be appropriate to consider their requirements in the EqIA, and not just within the PEIR and ES.
- Paragraph 3.2.8 states that ‘people without access to a car are also not specifically a protected characteristic under the Equality Act, but changes to transportation infrastructure and services can often differentially affect people who do not have access to a car’. The EqIA should relate lack of access to a car to particular protected characteristics (for example some disabled people are less likely to have access to a car due to their disability or impairment).
- Reference to certain sections of the EqIA use the term ‘vulnerable groups’, which is a broader term used to define particular populations as part of a Health Impact Assessment. For the sake of clarity and relevance to the assessment, the EqIA should focus on terminology relating to protected characteristics or equality group, notwithstanding that there may be a combination of protected characteristics.
- HAL should provide a breakdown of the how the types of effect identified in the EqIA Initial Findings correlate to the particular stages of construction and operation, in order to determine the potential impact upon the protected characteristics in sufficient detail.

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<https://www.stonewall.org.uk/media/lgbt-facts-and-figures>

<sup>3</sup>Equality Act 2010: what do I need to know as a carer? Government Equalities Office.  
<http://www.equalityadvisoryservice.com/ci/fattach/get/585/1354033248/redirect/1/session/L2F2LzEvdGltZS8xNTYzMjA4ODYzL3NpZC96UU5FSiBqbW==/filename/carers.pdf>