

Decision Pathway – Report



PURPOSE: Key decision

MEETING: Cabinet

DATE: 02 April 2018

TITLE	Houses in Multiple Occupation - New Article 4 Directions	
Ward(s)	Avonmouth & Lawrence Weston, Bedminster, Bishopston & Ashley Down, Brislington West, Easton, Eastville, Filwood, Frome Vale, Hillfields, Horfield, Lockleaze, Knowle, Southville, St. George Central, St. George West and Windmill Hill	
Author: Sarah O’Driscoll	Job title: Strategic City Planning Manager	
Cabinet lead: Cllr Nicola Beech	Executive Director lead: Colin Molton	
Proposal origin: <i>BCC Staff</i>		
Decision maker: Mayor Decision forum: <i>Cabinet</i>		
Purpose of Report: To request that Cabinet authorise the making and confirming of new non-immediate article 4 directions for the areas set out in the Appendix A report. This will enable greater policy control over proposed houses in multiple occupation (HMOs) in those areas to prevent potentially harmful impacts on communities due to HMO concentrations.		
Evidence Base: Article 4 directions remove the ability of developers to convert houses to small HMOs without the need for planning permission. In areas where article 4 directions are made a planning application will need to be submitted for this form of development. The article 4 directions are identified in areas where existing or future high concentrations of HMOs could be harmful to the amenity or well-being of residential communities. Evidence of harmful impacts is well documented in many residential areas in central Bristol. Harmful impacts can include noise and disturbance, changes to residential and local business character, reduced social cohesion, parking and waste problems and harm to visual amenity. The requirement for planning applications will ensure that the issues and impacts arising from this form of development can be properly assessed. Applications can be refused where such development would result in harmful impacts. The making of article 4 directions in identified areas will therefore ensure that the residential amenity and well-being of communities in those areas is protected. The making of article 4 directions for the areas identified is considered to meet all relevant legal and national policy tests.		
Cabinet Member / Officer Recommendations: That Cabinet 1. Authorise the Director - Legal and Democratic Services to make non-immediate article 4 directions (at least 12 months in advance of any such directions taking effect) to remove permitted development rights for a change of use from a dwellinghouse (Use Class C3) to a HMO (Use Class C4) for the areas set out in the attached plan (Appendix A2) and give notice of such directions in accordance with regulations. 2. Delegate authority to the Director - Development of Place to instruct the Director - Legal and Democratic Services to confirm the above article 4 directions within 12 months of their making subject to the taking into account of any representations made during the period of notice in accordance with regulations.		
Corporate Strategy alignment: Widening control over HMOs through new article 4 directions in the areas identified will help to protect those communities from harmful impacts arising from concentrations of this form of development. This will support Corporate Strategy theme 2: <i>Fair and Inclusive</i> objective 4 which seeks the development of balanced communities.		
City Benefits: Widening control over HMOs through new article 4 directions in the areas identified will help to		

protect those communities from harmful impacts arising from uncontrolled concentrations of this form of development. Preventing such impacts will help to maintain or create more inclusive, balanced and sustainable communities in those areas.

Consultation Details: Local Authorities are required to give notice of any article 4 directions made and to take into account representations received in deciding whether to confirm any direction.

Revenue Cost	£n/a	Source of Revenue Funding	
Capital Cost	£n/a	Source of Capital Funding	
One off cost <input type="checkbox"/>	Ongoing cost <input type="checkbox"/>	Saving Proposal <input type="checkbox"/>	Income generation proposal <input type="checkbox"/>

Required information to be completed by Financial/Legal/ICT/ HR partners:

1. Finance Advice:

The article 4 directions will remove permitted development rights that allow a change of use of a dwelling house (Use Class C3) to a small HMO (Use Class C4). The process of introducing article 4 directions will require the service obtaining legal advice as well as consulting the public on the proposal.

This process will be funded through Development of Place revenue budget, and does not require new funding.

Finance Business Partner: Kayode Olagundoye, Interim Finance Business Partner, Growth & Regeneration, 28th February 2019

2. Legal Advice:

Article 4 Directions (small HMO)

The Town and Country Planning (General Permitted Development) Order 1995 (as amended) provides the legislative framework in the context of the National Planning Policy Framework (NPPF) February 2019, the national Planning Practice Guidance (PPG) which provide the planning policy context in relation to the enacting and making of Article 4 Directions.

The proposed article 4 directions in this report will remove permitted development rights that allow a change of use of a dwellinghouse (Use Class C3) to a small HMO (Use Class C4), so that a planning application for such a change of use will be required.

On the facts set out in this report the justification to make such article 4 directions for the areas shown on the Plan is set out in the report at Appendix A, which is in summary to avoid future harmful impacts including to the local amenity or well-being of residential neighbourhoods.

Equalities Duty

The Council must comply with the requirements of the Public Sector Equality duty when making any decisions. The duty requires the decision maker to consider the need to promote equality for persons with “protected characteristics” and to have due regard to the need to i) eliminate discrimination, harassment, and victimisation; ii) advance equality of opportunity; and iii) foster good relations between persons who share a relevant protected characteristic and those who do not share it. In order to do this the decision maker must have sufficient information about the effects of the proposed decision on the aims of the Duty. The Equalities Impact Check/Assessment is designed to assist with compliance with this duty. Its purpose is to assess whether there are any barriers in place that may prevent people with a protected characteristic using a service or benefiting from a policy. The decision maker must take into consideration the information in the check/assessment alongside the general Public sector equality duty before taking the decision.

Legal Team Leader: Gillian Dawson, Planning Property & Transport Team, 27 February 2019

3. Implications on IT: There are no identified IT implications in this report.		
IT Team Leader: Ian Gale, Head of IT, 28 February 2019		
4. HR Advice: No HR implications are evident.		
HR Partner: Celia Williams, HR Business Partner Growth and Regeneration, 16 February 2019		
EDM Sign-off		17.2.19
Cabinet Member sign-off	Nicola Beech	18.2.19
For Key Decisions - Mayor's Office sign-off	Mayor's Office	4.3.19

Appendix A – Further essential background / detail on the proposal A1: HMOs - New article 4 directions A2: New Article 4 boundaries	YES
Appendix B – Details of consultation carried out - internal and external	NO
Appendix C – Summary of any engagement with scrutiny	NO
Appendix D – Risk assessment	YES
Appendix E – Equalities screening / impact assessment of proposal	YES
Appendix F – Eco-impact screening/ impact assessment of proposal	NO
Appendix G – Financial Advice	NO
Appendix H – Legal Advice	NO
Appendix I – Exempt Information	NO
Appendix J – HR advice	NO
Appendix K – ICT	NO

Appendix A1: HMOs - New article 4 directions

1. Background

1.1 Article 4 directions remove certain permitted development rights that allow development to be carried out without the need for planning permission. The general legal test for making an article 4 direction is that such an action would be 'expedient' i.e. appropriate to the circumstances. National Planning Guidance states that the use of directions should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area and that the harm that any direction is intended to address should be identified.

1.2 In 2011 and 2012 the Council confirmed and established article 4 directions to control small HMOs within central Bristol. The article 4 directions cover the former ward areas of Ashley, Cabot, Cotham, Clifton, Clifton East, Lawrence Hill and Redland and remove the permitted development right that allows a change of use of a dwellinghouse (Use Class C3) to a small HMO (Use Class C4).

1.3 A small HMO is broadly defined as a shared house or flat occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom. In areas where the article 4 directions are in place a planning application for this change of use is required. Changes of use of dwellings to larger HMOs (above 6 occupants) and from other uses to any size of HMO are not subject to permitted development rights and require planning permission.

1.4 HMOs have the potential to create harmful impacts on the residential amenity and character of an area. Concentrations at particular levels within neighbourhoods can result in harmful effects and lead to imbalanced, less inclusive and unsustainable communities. Specific issues associated with HMOs can include:

- Noise and disturbance associated with intensification of the residential use and/or the lifestyle of occupants;
- Poor waste management;
- Pressure for on-street parking;
- Impact of external alterations;
- A shift in the character of shops and businesses supporting the community;
- Impacts on social cohesion;
- A shift from long term residence to more transient accommodation;
- A reduction in the mix of housing available within an area.

1.5 Although HMOs provide accommodation to a range of groups, the level of student population in the city is a key factor affecting their amount and distribution. A number of residential areas have high student populations living in this form of accommodation. These areas directly surround or are close to the city's universities. The University of Bristol have projected further growth in student numbers over the next 10 years including a major physical expansion of the university with the delivery of a new Enterprise Campus at Temple Quarter by 2022. This growth is likely to increase demand for HMOs overall but particularly in areas surrounding the new campus. Other areas also have higher proportions of HMOs serving the needs of particular groups including short term workers and lower income households.

1.6 The issues identified above are generally intensified in locations where HMOs have become concentrated. High concentrations in some areas have had damaging impacts on local communities and preventing similar harm from occurring in other areas of the city has become a

policy priority.

1.7 Existing Local Plan policy (DM2) seeks to address the impacts and issues relating to the development of HMOs. It aims to ensure that development preserves the residential amenity and character of an area and that harmful concentrations do not arise. The policy also seeks good quality accommodation by ensuring development complies with relevant standards and requirements. The approach is supported by the use of article 4 directions which ensure all new HMO development within an area is subject to appropriate policy controls.

2 Review of HMO Policy

2.1 The Bristol Local Plan Review consultation (February 2018) set out proposals to enhance the existing policy approach. Representations have been received on this issue and a revised policy has been drafted. This includes wider measures to prevent harmful impacts arising from HMOs, in particular a specific 10% cap on HMOs within a defined area. The revised policy is currently out to consultation as part of the Local Plan Review.

3 Development of new article 4 direction boundaries

3.1 In areas where existing or potentially high concentrations of HMOs could be harmful to residential communities the introduction of further article 4 directions is considered justified in accordance with relevant legal and national policy tests. The Bristol Local Plan Review consultation (February 2018) set out proposals for new article 4 directions in areas adjacent to existing article 4 areas in the city centre to ensure that HMO development in these areas could be carefully controlled. The proposed extent of these new areas has been determined taking account of current HMO concentrations across the city and the potential for further HMO development including in areas surrounding the University of Bristol's proposed Temple Quarter Enterprise Campus.

3.2 Best available data on the location of existing known HMOs has been analysed and mapped to provide notional boundaries for additional article 4 direction areas, using Building Research Establishment (BRE) data on existing HMOs, other licensed HMOs and other dwellings where a HMO licence application has been received.

3.3 The following data led approaches informed the boundaries proposed:

- LSOA statistical-based boundary

HMOs as a proportion of households were calculated for individual sub ward geographies (Census Lower Layer Super Output Areas or LSOAs) across the city. Proportions at defined intervals were mapped across these sub-ward geographies. A threshold proportion of 8.5% was used to indicate areas with a higher concentration of HMOs, approaching the proposed policy threshold of 10%. Based on community feedback officers have determined that proportions at and above 10% are more strongly associated with harmful impacts on communities and should therefore be considered for greater planning control. The boundaries of potential article 4 direction areas were defined by the boundaries of individual and contiguous LSOAs that were at or above the 8.5% threshold.

- Feature-based boundary

HMOs as a proportion of households were mapped as above. Locations of individual HMOs across the city were then been plotted and overlaid. Within LSOAs, at or above the 8.5% threshold, individual HMOs were identified and a 100m buffer drawn around each HMO. The edge of the combined buffers were then 'rounded' to logically follow map features such as streets, to exclude non-developed and non-residential areas and to take account of other officer judgements. The boundaries of potential article 4 direction areas

were defined by the 'rounded' 100m buffer.

3.4 In addition, the relative size of households was analysed and mapped citywide to understand the potential for dwellings to be converted to HMOs. The mapping indicated for each LSOA whether it had a higher or lower proportion of 3 bed households than the citywide average. Areas that were higher and much higher than the citywide average suggested a higher potential for HMO conversion. The mapping was used to make small adjustments to the feature-based boundary to reflect the potential for conversion and was particularly relevant to understanding the potential for conversion of dwellings to HMOs in the area surrounding the proposed Temple Quarter Enterprise Campus.

3.5 The feature-based boundary approach, adjusted by reference to the household size mapping is considered the most appropriate method to determine the boundaries of the proposed new article 4 directions.

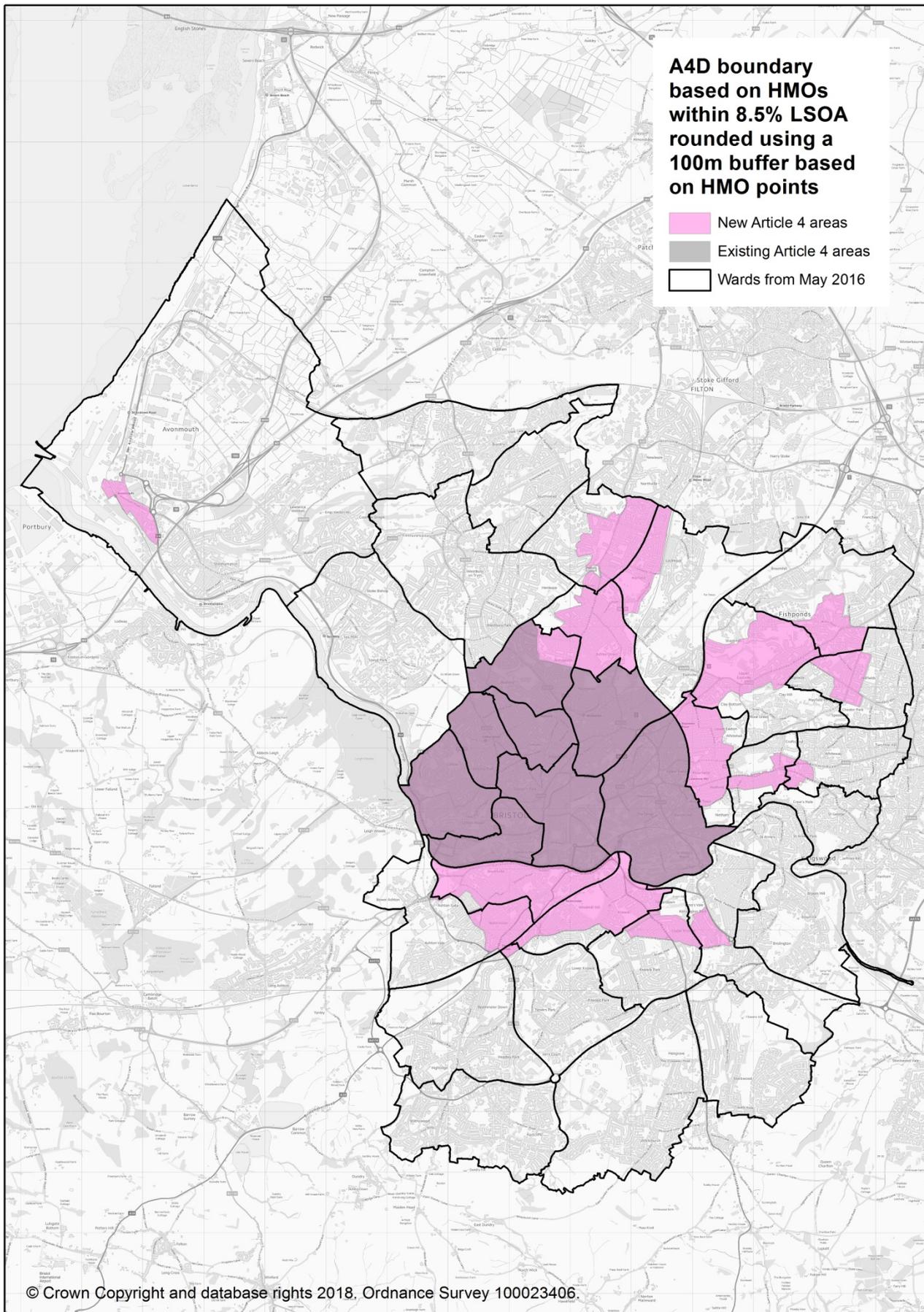
4. Conclusion

4.1 On the basis of evidence available, areas of Bristol outside of existing article 4 areas have been identified where HMOs form a proportion of the housing stock at a level that is likely to result in harmful effects. It is anticipated that overall demand for HMOs will increase as a result of student growth and new pressures for HMOs are likely to result in residential areas surrounding the proposed University of Bristol campus at Temple Quarter. For these reasons it is considered expedient to remove permitted development rights that allow a change of use from a dwellinghouse (Use Class C3) to a small HMO (Use Class C4) in these areas through the use of new article 4 directions. This will ensure that the local amenity and wellbeing of these areas is protected through greater planning control over this form of development, exercised through current and emerging Local Plan policy.

4.2 The proposed boundaries are identified in associated Appendix A1.

4.3 The article 4 directions if confirmed would come into force 12 months after making the direction to avoid liability for compensation.

Appendix A2: Proposed new article 4 boundaries



Appendix D

HMOs: New article 4s - Risk Register

Negative Risks that offer a threat to establishing new A4s and their aim (Aim - Reduce Level of Risk)

Ref	Risk Description	Key Causes	Key Consequence	Status Open / Closed	Strategic Theme	Risk Category	Risk Owner	Key Mitigations	Direction of travel	Current Risk Level			Monetary Impact of Risk £k	Risk Tolerance			
										Likelihood	Impact	Risk Rating		Likelihood	Impact	Risk Rating	Date
1	Legal Challenge	HMO landlords unhappy with A4s due to additional costs of making an application and increased development risk.	If successful revocation of article 4 direction(s) made or confirmed. Will limit planning control of HMOs resulting in potential harm to communities.	Open	Fair and Inclusive	Reputation Communities Legal	Development of Place	Legal and national policy tests for making A4s have been satisfied and legal processes for their making will be followed.	Stable	1	1	1				0	
2	Significant level of objection	HMO landlords unhappy with A4s due to additional costs of making an application and increased development risk.	Unable to confirm article 4 direction(s). Will limit planning control of HMOs resulting in potential harm to communities.	Open	Fair and Inclusive	Communities	Development of Place	Legal and national policy tests for making A4s have been satisfied. Making A4s also in line with corporate objectives (Theme 2, Obj. 4) and likely significant support from ward members and residential communities affected. On balance objections from landlord community likely to be outweighed by justification for A4s.	Stable	1	3	3				0	
3	Compensation claims against the Council	The making of an immediate direction.	Potential claims from applicants due to additional costs related to the making of an application and any subsequent decision to refuse or approve with conditions.	Open	Fair and Inclusive	Financial Loss Reputation	Finance	Making a non-immediate A4 direction which provides 12 months notice of the direction coming into effect will legally remove liability for compensation.	Stable	1	3	3				0	
4	A4s not made	Cabinet do not authorise the making of A4s	Will limit planning control of HMOs resulting in potential harm to communities.	Open	Fair and Inclusive	Communities	Development of Place	Legal and national policy tests for making A4s have been satisfied and such action in line with corporate objectives (Theme 2, Obj. 4). Likely significant support from ward members and residential communities affected.	Stable	1	3	3				0	

Bristol City Council Equality Impact Relevance Check

This tool will identify the equalities relevance of a proposal, and establish whether a full Equality Impact Assessment will be required. Please read the guidance prior to completing this relevance check.



What is the proposal?	
Name of proposal	HMOs – New article 4 directions
Please outline the proposal.	Make and confirm new article 4s to remove permitted development rights that allow a change of use of a dwellinghouse (Use Class C3) to a small HMO (Use Class C4). This will ensure that all new HMO development is subject to policy control.
What savings will this proposal achieve?	None
Name of Lead Officer	Simon Fletcher

Could your proposal impact citizens with protected characteristics? (This includes service users and the wider community)	
Please outline where there may be significant opportunities or positive impacts, and for whom.	
Greater planning controls through the use of A4s to prevent harmful impacts resulting from HMO concentrations on certain communities will have a positive impact on all members of those communities affected.	
Please outline where there may be significant negative impacts, and for whom.	
<p>We have not identified any significant negative impacts for people with protected characteristics from this proposal. Sixteen Bristol wards will be affected and individual data profiles for these areas are available at https://www.bristol.gov.uk/statistics-census-information/new-wards-data-profiles</p> <p>Although we do not have accurate diversity data about private tenants (or landlords) it is possible that a reduction in the supply of HMOs at a local level may have a disproportionate impact on the groups who typically occupy this type accommodation – i.e. younger people (e.g. students), migrants and those on lower incomes. Impacts may include possible increases in rent and/or increases in commuting distances for work or studying.</p> <p>However any potential negative impacts are mitigated because:</p> <ul style="list-style-type: none"> • The targeted areas are those with already existing or potentially high concentrations of HMOs so unlikely to be a shortfall of available shared accommodation. • Widening control over HMOs through new article 4 directions in the areas identified 	

will help to protect those communities from other harmful impacts.

- Requiring planning permission for new HMOs will still allow decision makers to promote the development of balanced communities, taking into account any implications for equality groups.

Could your proposal impact staff with protected characteristics?

(i.e. reduction in posts, changes to working hours or locations, changes in pay)

Please outline where there may be significant opportunities or positive impacts, and for whom.

None identified.

Please outline where there may be negative impacts, and for whom.

None identified.

Is a full Equality Impact Assessment required?

Does the proposal have the potential to impact on people with protected characteristics in the following ways:

- access to or participation in a service,
- levels of representation in our workforce, or
- reducing quality of life (i.e. health, education, standard of living) ?

Please indicate yes or no. If the answer is yes then a full impact assessment must be carried out. If the answer is no, please provide a justification.

No. The establishment of A4 directions will result in planning applications having to be submitted for change of use from dwellinghouses to small HMOs. This will be a universal requirement on applicants, regardless of protected characteristic, as is the case for most forms of development that come forward.

Greater planning controls to prevent harmful impacts of HMO concentrations on certain communities will benefit all within such communities.

The existing citywide supply of HMOs which may serve the needs of certain protected characteristics will not be affected by the establishment of A4s.

For these reasons the establishment of A4s will have no impact on people with protected characteristics.

Service Director sign-off and date:

Equalities Officer sign-off and date:



Duncan Fleming 20/2/2019