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Statement for Matter 1 – Answers to question 1.1, 1.5 and 1.10

1.1 Has the NSP been prepared in accordance with the Council’s Statement of Community Involvement and relevant ‘consultation plans’ and met the minimum consultation requirements in the Regulations?

Southwark Council do not have a valid and up to date SCI. Southwark Council’s last Statement of Community Involvement (SCI) was adopted 13 years ago in January 2008. We refer to our consultation response in October 2020 in which we raised the lack of review to the current Statement of Community Involvement from 2008, which now contains a significant amount of out-of-date information. Section 10A (b) on the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2012 which states “(b) in respect of a statement of community involvement, the review must be completed every five years, starting from the date of adoption of the statement of community involvement, in accordance with section 23 of the Act”, therefore to comply with this statutory duty, Southwark Council’s SCI would have had to have been amended at least once since the regulations came into force.

Due to this failure to update the Statement of Community Involvement in line with the statutory requirement, the New Southwark Plan has not been prepared in accordance with Southwark Council’s Statement of Community Involvement. There is no Statement of Community Involvement which contains up to date information and details about consultation methods and development management policies. There is no current or draft Statement of Community Involvement which has been made publicly available which incorporates amendments because of the restrictions to stop the spread of the pandemic over 10 months since these restrictions first came into effect. Southwark Council has not complied with the amended plan-making guidance at paragraph 77, published on 13 May 2020 as below:

“Where any of the policies in the Statement of Community Involvement cannot be complied with due to current guidance to help combat the spread of coronavirus (COVID-19), the local planning authority is encouraged to undertake an immediate review and update the policies where necessary so that plan-making can continue.”

This has led to a void and absence in policy on how the community of the borough should expect to be consulted on in respect of planning policies and planning applications. In respect of the New Southwark Plan examination, Southwark Council did not do any outreach to engage the community as suggested in paragraph 78 of the amended plan-making guidance as below during the September – October 2020 consultation.

*The local planning authority should then make any temporary amendments that are necessary to allow plan-making to progress, and that continue to promote effective community engagement by means which are reasonably practicable. **Local planning authorities are strongly encouraged to use online engagement methods to their full potential. Appropriate methods include virtual exhibitions, digital consultations, video conferencing, social media***

and providing documents for inspection on a public website. Authorities will also need to take reasonable steps to ensure sections of the community that don't have internet access are involved and consider alternative and creative ways to achieve this. Authorities may wish to consider engaging sections of the community, that do not have internet access, through representative groups rather than directly, targeting only people in areas most affected by proposals, and allowing individuals to nominate an advocate to share views on their behalf. Consulting by telephone or in writing can also be used where this is feasible, and alternatives can't be identified. Opportunities to combine public consultations can be explored so that offline methods can be made more cost effective.

We refer to the statement of Southwark Traveller Action Group in respect of P11 and Southwark Council's failure to consult with the Gypsy and Traveller Community, thus not discharging their Public Sector Equality Duty under section 149 of the Equality Act 2010 in the 2020 consultation.

The only reference before the 2020 consultation made to amending the SCI in light of the current pandemic is in the Consultation Plan, which stated the following:

The Statement of Community Involvement 2008 and the draft Statement of Community Involvement 2019 sets out how the community can expect to be consulted throughout the planning process. Because of current government restrictions relating to COVID-19 there will be a need for some alternatives to the way in which we consult. This consultation is going ahead to ensure that we can continue to deliver housing, businesses and other projects under a plan with a set of strategic policies and visions. To make sure that we can carry out this consultation safely, we will adhere to current government guidelines around social distancing and will carry out this consultation online. The draft Statement of Community Involvement 2019 is being updated to reflect alternatives to consultation when face-to-face consultation is not possible. This is in line with the Government's Planning Practice Guidance: Plan-making (updated on 13 May 2020).

Tenant's and Residents Associations', we advise have reported being unaware of the 2020 consultation and unclear why they had not received any direct contact about it from the planning policy department.

Minimum consultation requirements

An additional consultation in 2020 was requested by the Inspectors to remedy the defect with the 2019 consultation. In our view, there is not enough in the consultation plan to meet the Regulation 3 Town and Country Planning (Local planning) (England) Regulations 2012 requirement. The 2020 consultation plan still directs people to make their comments on the consultation hub without also saying comments can be made by email and in writing: "Comments should be made via the Consultation Hub: www.southwark.gov.uk/nsp2020. The consultation will be open until 23:59 on Monday 26th October 2020." Although the other methods of communication (responses in writing and by email) were highlighted in the Statement of Representations, it is unclear why this was not re-emphasised at first reference in the consultation plan and it has led to

confusion. This is again reinforced and made more of a barrier to engagement because Southwark Council's current SCI does not explain why the Council keep on directing people wishing to engage to the consultation hub.

As described above, the requirements of this additional consultation have not been clear because the Consultation Plan refers to the unamended 2008 version of the SCI. Paragraph 1.11 of the consultation plan states "*The consultation plan explains how the consultation will meet the requirements of the Town and Country Planning (Local planning) (England) Regulations 2012 (as amended) (The Regulations). It also meets the guidance set out in Southwark's currently adopted 2008 Statement of Community Involvement (SCI) as well as the SCI which is currently being updated in consultation with the local community. The SCI explains how we will consult the community in the preparation of planning documents.*"

Although the consultation plan contains the caveat of the implications of Covid-19, precise detail is not provided and crucially the adopted SCI is not amended. Therefore, the SCI contains details that were not followed in the 2020 NSP consultation, such as the policy on consultation for 12 weeks on planning policy. The 2020 consultation on the NSP ran for 9 weeks. Key details as to where to find advice and documents, and on relevant community organisations, are very out of date in the adopted SCI. We are unclear why Southwark Council have not at least tried to amend this SCI for the interim period whilst it contains erroneous information.

Finally, the consultation did not meet the 'Gunning'¹ principles as re-affirmed in Moseley v Haringey LBC² as below.

1. Proposals still at a formative stage
2. Sufficient reasons given for proposals to enable intelligent consideration and response.
3. Adequate time must be given for consideration and response.
4. Responses must be conscientiously taken into account in finalising any proposals.

The consultations and the NSP development have not been legally compliant or positively prepared in light of the above.

Extent of changes to the plan and consultation on site plans and area visions

We refer back to the comment provided in the Inspectors letter to Southwark Council dated 2 April 2020, copied below for ease of reference:

What is becoming apparent at this very early stage of examination is the degree of change from the original 2017 Proposed Submission Version which was consulted on in late 2017/early 2018...Additionally, the London Plan may well trigger the need for further changes to the Southwark Plan to ensure conformity. Cumulatively, this situation will create examination difficulties in terms of: (a) what is being examined; and (b) matters of fairness / natural justice in providing an opportunity for comment or to be heard for those where the proposed changes/latest evidence materially affect their interests.

¹ (1985) 84 LGR 168

² [2014] UKSC 56

The 2020 NSP consultation did not remedy the above concerns for the following reasons:

1. The extent of the changes from the last valid consultation were not made clear and there was no link in the consultation plan as to how to precisely ascertain those changes. This is a comment that has been communicated to Southwark Law Centre on a number of occasions.
2. Southwark Council's consultation hub was not clear on when it was the end of the submission form, it stopped at section 9 with no option for final submission. The only remedy to countenance this which Southwark Council offer was to add a week to the consultation period deadline.
3. There was no consultation activities, engagement or outreach by Southwark Council in order to promote and advise about the new consultation and where to find the relevant information. This consultation was treated as a required formality to remedy the 2019 consultation and it was not conducted in good faith to encourage better dialogue on the proposed New Southwark Plan. Southwark Planning Network and Southwark Law Centre provided some workshops and as much outreach as possible given the time allowed, limited resources and the Covid-19 restrictions.

1.5 Having regard to the updated Equalities Impact Assessment July 2020 [Document EIP76], in what way does the Plan seek to ensure that due regard is had to the three aims expressed in Section 149 of the Equality Act 2010 in relation to those who have a relevant protected characteristic?

We reiterate the comments provided in our 2018 consultation response, particularly the response that *"The EIA fails to comply fully with Southwark Council's duties under the PSED for three main reasons. First, insufficient baseline information on equalities has been collected to enable the Council to take a properly informed decision on whether the policies in the Plan advance equality of opportunity between those with and without protected characteristics or foster good relations.*

Second, while the IIA's framework objectives and sub-criteria for assessment rightly seek to test the Plan policies for impacts on different specified groups, the actual analysis of site visions, strategic policies and development management policies is thin, uses boilerplate clauses and does not delve deeply enough into the consideration of the potential impact of policy on groups with different protected characteristics. Southwark Council has failed to follow its own stated aim of assessing whether its policies are effective for all target groups. The analysis in the EIA also makes no attempt to model how the long-term benefits of policy compliant development will be far-reaching and will significantly narrow the inequality gap. Rather it simply assumes that the benefits of regeneration will be accessible to all.

Third, there has been a wholesale failure to consider the impact of the policies in the New Southwark Plan on one group protected by the Equality Act 2010, namely Gypsies and Travellers."

We answer this question with reference to our comments on question 2.17 in our Matter 2 statement on policy SP2, as this is the policy that is said by Southwark Council to meet

their equality objectives. There are no concrete policies which bring part 2 and 10 SP2 into effect, and Southwark Council has only adopted two Social Regeneration Charters out of seven, both of which were contentious in their development and one of which received extensive comments from Southwark Council's convened Equality and Human Rights Panel because of its extremely poor EIA.

Southwark Council are not meeting their statutory duty under section 14 EA 2010 in relation to Gypsies and Travellers housing needs, and this is not acknowledged in the Equality Impact Assessment in relation to P11. In relation to this policy the EIA states "*However, this is necessary in the interest of good planning and the Gypsy and Traveller Accommodation Assessment Report (May 2020) does not identify any need for additional Gypsy and Traveller pitches in Southwark.*"³ This "assessment" does not engage with the discriminatory aspects of national policy and the fact that the GTAA identified need for 43 additional pitches outside the restrictive national definition found in the Planning Policy for Traveller Sites, which is subject of a legal challenge.

Additionally, on housing, Southwark Council have made no attempt to engage with the disproportionate representation of those households who make homelessness approaches and identify as Black households. Those identifying as from a black African background are heavily over-represented in the homeless approaches for 2018 – 2019 homelessness approaches identify as such despite the population of Southwark identifying as Black (all categories) being in the region of 25%.⁴ We attach the 2019 Annual review of Southwark Homelessness Prevention and Rough Sleeping Strategy 2018-2022 – Analysis of Equality Data as Appendix 1 and request it is admitted as one of the examination documents. There is a clear failure of the EIA to assess whether the inaccessibility and affordability of housing in the borough disproportionately impacts on certain ethnic groups more than others.

We can of course expand on any of the above to assist the Inspectors in their examination.

Does the NSP accord with s19(1A) of the Planning and Compulsory Purchase Act (2004) (as amended) by including policies that are designed to secure that the development and use of the land in the Borough contribute to the mitigation of, and adaptation to, climate change?

We support the response submitted by Extinction Rebellion Southwark to this question.

³ EIP 76B, Equalities Impact Assessment, page 18

⁴ 2019 Annual review of Southwark Homelessness Prevention and Rough Sleeping Strategy 2018-2022 - Analysis of Equality Data page 3 – Appendix 1

2019 Annual review of Southwark Homelessness Prevention and Rough Sleeping Strategy 2018-2022 - Analysis of Equality Data

Introduction

Equalities monitoring is a process of gathering equality information in relation to customers approaching the homelessness service at Southwark Council. Equality monitoring enables us to ensure that we continually improve our service delivery by providing services with customer insight, look at possible diverse needs and barriers to equal access so that they can be addressed. Equality Monitoring importantly helps to ensure that our customer base is representative of the wider population and that we are meeting our legal equality duties.

¹The Equality Act 2010 introduced the Public Sector Equality Duty (PSED), which gives additional responsibilities to public authorities, the duty requires public bodies to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity, and foster good relations across all aspects of equality protected by the Act. Meaning public sector bodies are required to demonstrate equality across all protected characteristics, including age, sexual orientation and religion or belief. This builds on the existing duties relating to disability, gender and race, and improves the coverage in relation to gender reassignment.

The Ministry of Housing, Communities and Local Government (MHCLG) have developed a new way of reporting homelessness data, Homeless Case Level Information Collection². This includes significantly more detail than the previous format of P1E data. It should be noted that this annual data collection is experimental due to the difficulties many boroughs had in uploading their cases. The following data is from April 2018 till March 2019.

Summary

- This is the first year of data of this complexity and quality.
- This report will not cover all protected characteristics, but will include all those covered in the HCLIC specification.
- Sexual orientation – members of the LGBT community made up 4% of the homeless approaches received by Southwark in 2018/19. The service will be working closely with Stonewall housing to improve how this cohort is supported.
- Gender – there was a disproportionate number of female homeless applicants when compared to population demographics of the borough, this has been historically seen in homelessness data.

¹ <https://www.gov.uk/guidance/equality-act-2010-guidance>

² https://gss.civilservice.gov.uk/wp-content/uploads/2019/04/HCLIC-Data-Specification_v1.4.4.pdf

- Age – the age breakdown of homeless applicants in the borough closely compares to demographics.
- Ethnicity – continued over representation of applicants identifying themselves as African, the service will continue to use focus group analysis to ascertain what can be improved to support this group into lasting accommodation.

Equality Monitoring Analysis

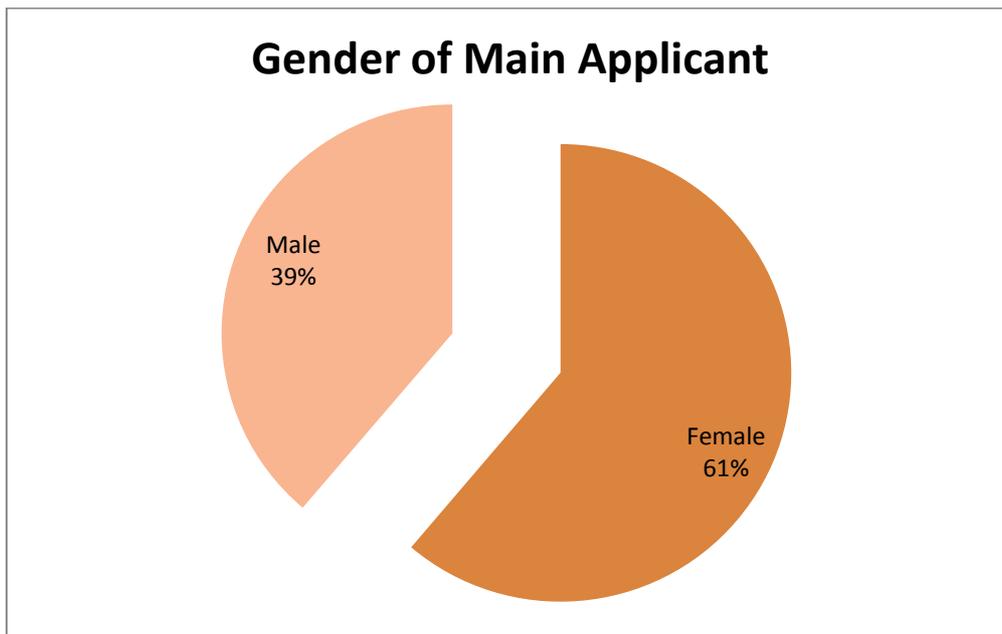


Figure 1 Gender as recorded from Southwark Homelessness Case Level Information Collection for 2018-2019

Gender

In addition to the above percentages, clients who identified themselves as transgender or preferred not to say made up less than 1% of the total and have therefore been omitted from the above chart.

This is more tilted towards the female gender than the make up of the borough population. In the 2011 census³ the gender breakdown in Southwark was seen to be 49% male and 51% female. This could be partly due to the prevalence of domestic abuse as a cause of homelessness in Southwark. Domestic abuse more commonly affects women than men.

We will also be monitoring this further as we will now have the rich HCLIC data which shows where the trends are developing.

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<https://communitysouthwark.org/sites/default/files/images/Southwark%20demography%20from%202011%20Census.pdf>

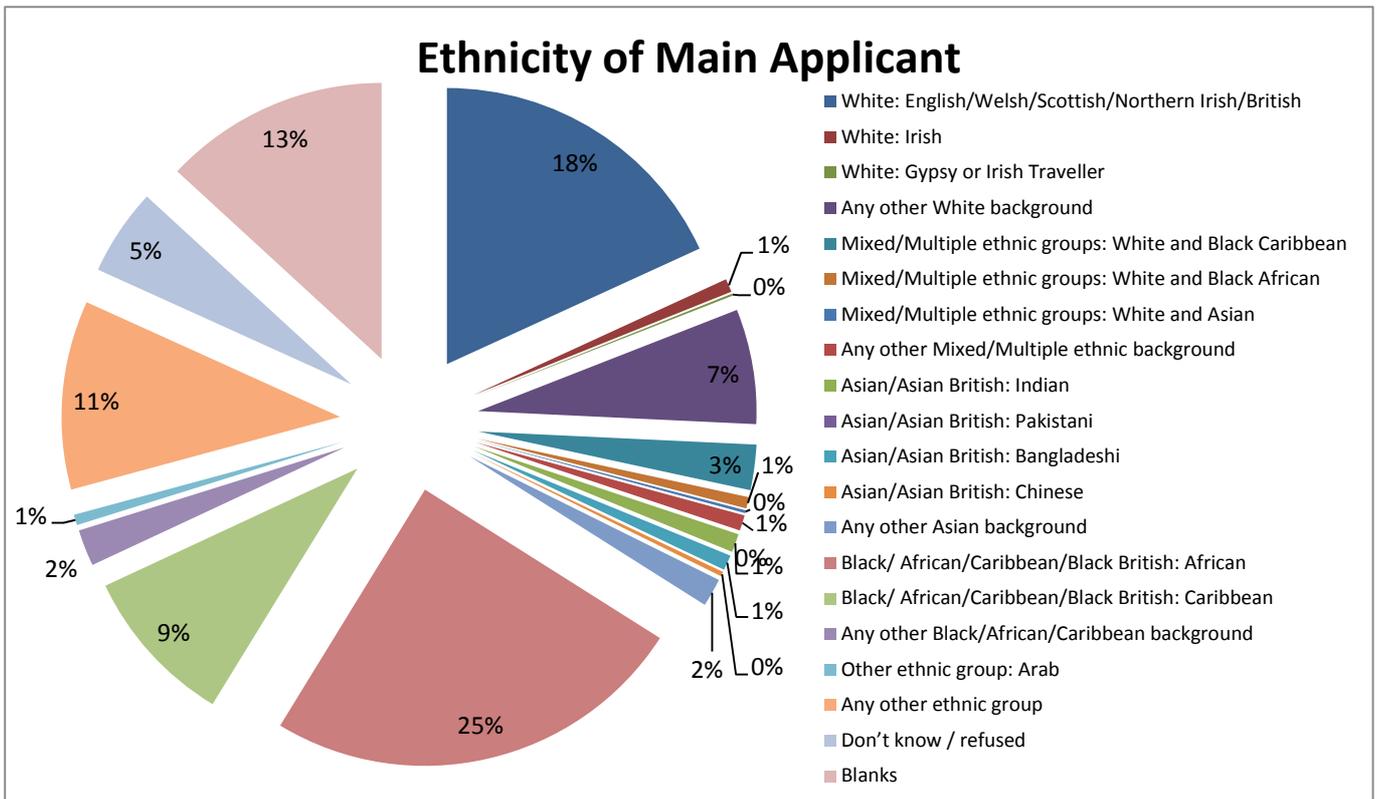


Figure 2 Ethnicity as recorded from Southwark Homelessness Case Level Information Collection for 2018-2019

Ethnicity

Southwark is a diverse inner London borough with a population identifying as a number of different ethnicities. The H-CLIC data from 2018 – 2019 shows 1 in 4 customers approaching the service for homelessness assistance identify their broad ethnicity as African. While 18% of the approaches would identify as White: English, Welsh, Scottish, Northern Irish or British. The above data closely reflects the ethnic make up shown on our housing register.

We will also be monitoring this further as now we have the HCLIC data which shows where the trends are developing as this is a new level of data.

The ethnicity data for Southwark in the 2011 census shows a different picture, customers of Black African background are heavily over represented in the homeless approaches for 2018 – 2019. This was highlighted in Southwark’s Homelessness Strategy 2018-2022: Equality and Health Analysis and mitigating actions continue to be followed. Actions set out in the Southwark Homelessness Strategy Action Plan 2018-22 cover this issue too, with focus groups being held to listen to a diverse range of homeless households and address issues identified.

Ethnicity	Number of people	% of total
White	156,349	54.2
Black/African/Caribbean/Black British	77,511	26.9
Asian/Asian British	27,192	9.4
Mixed/multiple ethnic group	17,778	6.2
Other ethnic group	9,453	3.3

Figure 3 Ethnicity as recorded in 2011 census of Southwark population⁴

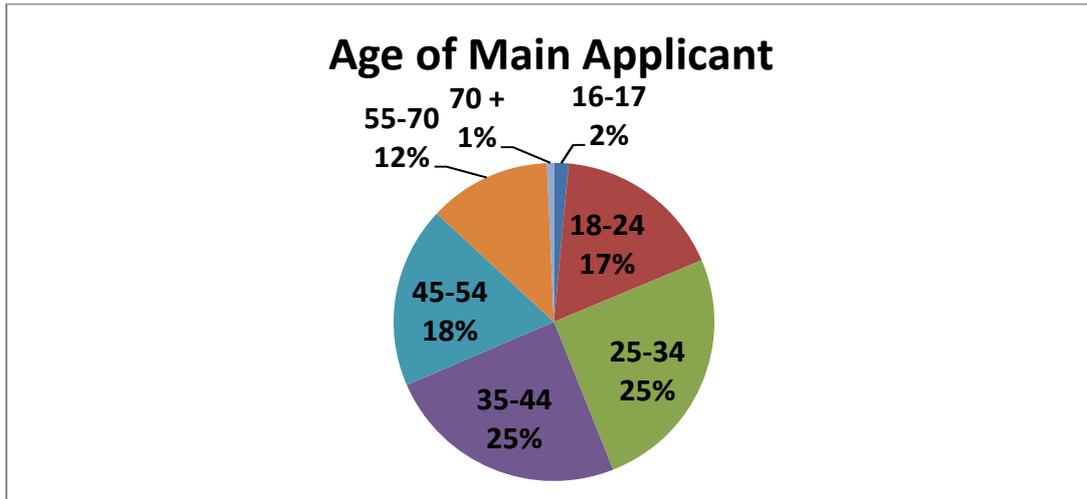


Figure 4 Age as recorded from Southwark Homelessness Case Level Information Collection for 2018-2019

Age

The Age of Main Applicant data above is from the H-CLIC records 2018-2019 and shows a high proportion of households whose main applicant is aged between 25 to 44 years on approach to the council.

This highlights work still needs to be done with the younger population but isn't the most significant cohort in approaches so more resources will remain on preventing homelessness for families and singles from 25 to 44 age group. This will be monitored further as the new H-CLIC data shows where trends are developing.

The Age Group table contains data from the Office for National Statistics (ONS)⁵ from 2016 and shows the age profile of the borough population. This corresponds with the data from the homeless approaches for 2018 – 2019, the bulk of the population is aged between 25 and 34.

Southwark has a relatively young, transitional population as high private rents and living costs make it an expensive place to live and a proportion of households migrate out of central London and Southwark in their thirties and move towards the suburbs.

Age group	Southwark	%
0-4	21,700	7%
5-9	18,700	6%
11-14	15,100	5%
15-19	14,900	5%
20-24	24,500	8%
25-29	39,600	13%
30-34	36,600	12%
35-39	28,400	9%
40-44	22,400	7%
45-49	21,000	7%
50-54	19,200	6%
55-59	15,600	5%
60-64	10,500	3%
65-69	8,100	3%
70-74	5,900	2%
75-79	4,600	1%
80-84	3,300	1%
85-89	2,000	1%
90+	1,200	0%
Total	313,300	

Figure 5 ONS Mid-year resident population estimates, 2016

⁵ <https://www.southwark.gov.uk/assets/attach/5718/JSNA-Factsheet-2017-Protected-Characteristics-20171130.pdf>

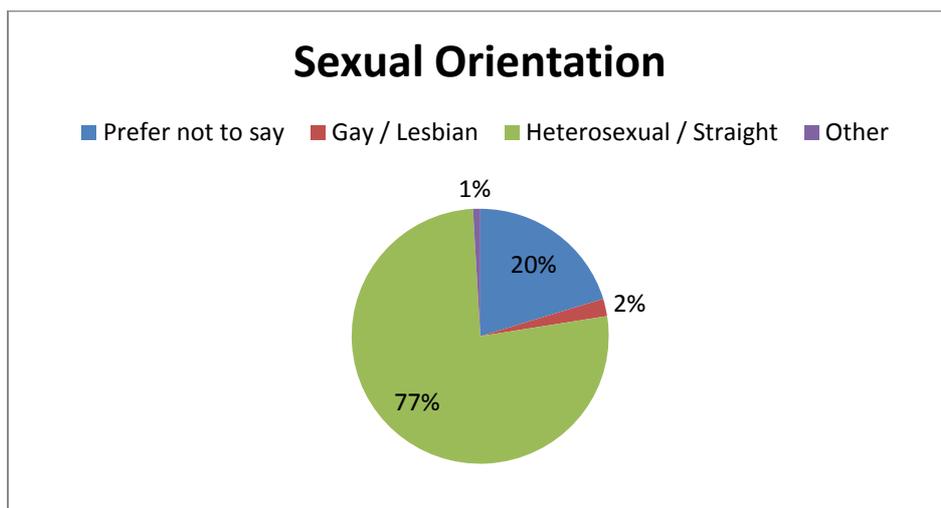


Figure 6 Sexual Orientation as recorded from Southwark Homelessness Case Level Information Collection for 2018-2019

Sexual Orientation

There is an over representation of ‘prefer not to say’ answers in this H-CLIC 2018 – 2019 data. The Housing Solutions service has scheduled further training on supporting members of the Lesbian, Gay, Bisexual and Transgender (LGBT) community who are threatened with or become homeless, which will hopefully lessen the number of clients preferring not to divulge this information.

Sexual orientation	2017
Heterosexual or straight	93.2%
Gay or lesbian	1.3%
Bisexual	0.7%
Lesbian, gay or bisexual (LGB)	2.0%
Other	0.6%
Do not know or refuse	4.1%

Figure 7 ONS Annual Population Survey 2017

The above table from the ONS annual population survey in 2017⁶ shows that Southwark’s homelessness approaches in 2018 - 2019 equal the national average generally, however this statistic could be low due to under reporting.

Other protected characteristics, e.g. marital status, pregnancy and disability, have not been included in this analysis as the data is not collected through HCLIC.

⁶ <https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/sexuality>