

Report on Structural Discrimination in the Liveable Streets Consultations

“Race is the modality in which class is lived”

- Professor Stuart Hall 1978

“There are thousands of people waiting for housing across the capital, and yet new housing developments are not being built to meet their needs. Instead, the report reveals how ‘regeneration’ projects are being used to actively dispossess working-class and low-income families of their homes.”

- Institute of Race Relations, ‘The London Clearances’ 2020

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Executive Summary

This report sets out to look at the allegations made in the petition that will be heard on the 20th of January 2021, petitioning the council to stop or delay the Liveable Street Scheme across Tower Hamlets as it structurally discriminates against people on low income, working families & BAME and against a 'one Tower Hamlets' vision. Combined with the submissions made by residents, I will seek to answer the following questions on a prima facie basis:

- A. Was there direct discrimination by PCL Consult of residents with protected characteristics under the Equality Act 2010?
- B. Was there indirect discrimination by PCL Consult of residents with protected characteristics under the Equality Act 2010?
- C. Has there been a breach of contract by PCL Consult in the contract they have with Tower Hamlets Council, in the way they carried out the consultations?
- D. Has Tower Hamlets Council breached its Public Sector Equality Duty?

Liveable Streets is a £15 million programme, which aims to improve the look and feel of public spaces in neighbourhoods across the borough, making it easier, safer and more convenient to get around by foot, bike and public transport. More commonly known outside of Tower Hamlets as Low Traffic Neighbourhoods (LTNs).

Given the context of austerity and cut back in services by Tower Hamlets Council, it is one of the largest increase in expenditure by the Tower Hamlets Council. Instead of being welcomed, it has caused much controversy, with the accusation that the program disadvantages working class communities and is designed to accelerate social cleansing through a rubric of Green Gentrification.

Putting aside the merits of the program, however serious concerns have been raised as to the way the Liveable Streets Consultation have been carried out by PCL Consult. PCL Consult being the Company given the contract to carry out the consultations by Tower Hamlets Council.

Given the impact of the Liveable Streets program, changing permanently entire streets one would expect an effort to have an inclusive consultation to get maximum input from residents. However, it appears that is not the case. In fact, the consultations prima facie have been devised to exclude large sections of the residents, a case of indirect discrimination and in some cases perceived direct discrimination.

Cases of discrimination, breach, in the face of it, Tower Hamlets Councils, Public Sector Equalities Duty under the Single Equalities Act 2010. Residents who have protective characteristics recognised and protected by law, have been discriminated on that basis. Protected characteristics, such as age, race, disability and socio-economic inequality.

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Categories of residents, who combined make up a majority of Tower Hamlets residents. Yet due to the way the consultations have been carried out, have been shut out of a process, in new provisioning of service that affects them, access to the streets outside their homes.

There is a prima facie case of institutional and systematic discrimination on a wholesale level of vulnerable and disadvantaged residents, therefore in line with Tower Hamlets Council's own safeguarding policies the Liveable Street Program should be suspended pending an independent investigation. It needs to be independent, given the large amounts of political and financial capital that has been expended on the programme, it is not feasible for such an investigation to be carried out in house by Tower Hamlets Council in an impartial manner.

Moving away from the question around the Consultation there is also the unresolved issue of lack of Equality Impact Assessments.

An immediate suspension and independent investigation of the Liveable Streets Program and conduct of PCL Consult is required. This is not some isolated incident but an institutional and systematic approach designed to exclude residents on the basis of their protected characteristics in law. As evidenced by nearly 2,500 signatures collected by the petition, a remarkable feat given the petition went live during the lockdown period. As what we have in effect is the greatest violation of civil rights in Tower Hamlets, on an industrial scale, since the infamous racist 'Son's and Daughters' housing policy.

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Background

On the 8th of December 2020, a petition was published by Tower Hamlets Council. The petition states that:

“We the undersigned petition the council to stop or delay the Liveable Street Scheme across Tower Hamlets as it structurally discriminates against people on low income, working families & BAME and against a ‘one Tower Hamlets’ vision.”

It then goes onto make the following allegations focusing mainly on the way PCL Consult has carried out the consultation:

“1. Consultation under Covid-19 lockdown/pandemic – We are concerned that fair and transparent consultation have NOT taken place, this includes the following:

a. Languages of the consultation are in English with no access for people with other languages (no translations), and does not reflect the rich & diverse background and needs of the borough

b. Access to technology – Consultation has mostly taken place online, which requires access to a computer/smartphone or internet, as a borough which has high tech poverty, this is unfair to those with such an impact on their lives. Previously on various occasions, the council has promoted residents to go to idea stores to gain internet access. Due to the shutdown of idea stores, this avenue has not been possible. This has therefore been unreachable and as a consequence, unfair to those who are impacted in their lives.

c. Understandable no face to face consultation sessions, if there are few that have taken place, which has resulted in residents not able to attend due to isolating, fear of Covid-19 and access to centre.

d. Overall consultation methods are inadequate and only reach those that sign up to council E-newsletters, bulletins & communication.”

Following the publication of the petition, I decided to talk to the petitioners who directed me to residents all over the Borough, who have had similar experiences in regard to the discriminatory behaviour of PCL Consult.

After being informed, the petition has gathered over 2,000 signatures and is now tabled for a debate at full council on the 20th January 2021. A remarkable feat given the background of the signatures

I decided to take in submissions from residents about their experience of the consultation conducted by PCL Consult. Written submissions via email and oral submissions via an online hearing on the 15th of January 2021. Some submissions were received orally on the phone. And produce a report to inform the debate.

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Methodology in analysing submissions from residents

In analysing the submission from residents about their treatment by PCL Consult, I decided to look into four questions:

A. Was there direct discrimination?

Direct discrimination is when a person is treated worse than another person or other people because:

- they have a protected characteristic
- someone thinks they have that protected characteristic (known as discrimination by perception)
- they are connected to someone with that protected characteristic (known as discrimination by association)

The circumstances must be similar enough to the circumstances of the person being treated better for a valid comparison to be made.

If a person cannot point to another person who has been treated better, it is still direct discrimination if you can show that a person who did not have your protected characteristic would have been treated better in similar circumstances.

To be unlawful, the treatment must have happened in one of the situations that are covered by the Equality Act. For example, in the workplace or when you are receiving goods or services. It is possible to be discriminated against by someone who shares the same protected characteristic.

B. Was there indirect discrimination?

Indirect discrimination happens when there is a policy that applies in the same way for everybody but disadvantages a group of people who share a protected characteristic, and a person is disadvantaged as part of this group. If this happens, the person or organisation applying the policy must show that there is a good reason for it.

A 'policy' can include a practice, a rule or an arrangement. It makes no difference whether anyone intended the policy to disadvantage the person or not. To prove that indirect discrimination is happening or has happened:

- there must be a policy which an organisation is applying equally to everyone (or to everyone in a group that includes the person)
- the policy must disadvantage people with the persons protected characteristic when compared with people without it
- the person must be able to show that it has disadvantaged you personally or that it will disadvantage you

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- the organisation cannot show that there is a good reason for applying the policy despite the level of disadvantage to people with the protected characteristic

C. Has there been a breach of contract by PCL Consult in the contract they have with Tower Hamlets Council, in the way they carried out the consultations?

A breach of contract may take place when a party to the contract:

- fails to perform their obligations under the contract in whole or in part
- behaves in a manner which shows an intention not to perform their obligations under the contract in the future or
- the contract becomes impossible to perform as a result of the defaulting party's own act.

D. Has Tower Hamlets Council breached its Public Sector Equality Duty?

On 5 April 2011, the public sector equality duty (the equality duty) came into force. The equality duty was created under the Equality Act 2010.

In summary, those subject to the equality duty must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

These are sometimes referred to as the three aims or arms of the general equality duty. The Act explains that having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

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Submissions from residents

Upon advice, the selection of submissions have been anonymized

Resident A

“When we attended the virtual meeting on the Liveable Streets Consultation, all the Bangladeshis were grouped and put into a single group. Our views were not noted, nor were we were allowed to feed back after the break out session.”

Tarling Estate, Shadwell

Resident B

“I was the only Bangladeshi, that attended the Shadwell consultation. From the beginning I was singled out with a hostile attitude by the consultants. They just thought I was against the scheme before they even heard a word from me.”

Shadwell

Resident C

“None of the businesses, including mine received a letter, nor anyone came to visit, to talk to us. The only way we knew about this when a resident from the other side of Cable Street came and told us about the leaflets they received.”

Chapman Street, Shadwell

Resident D

“I live in Shadwell Gardens, we are a close-knit community here. There are over 100 individuals who are elderly and either have poor English or no command of the English language, we never received any leaflets or letters. Imagine my shock when residents on the south side of cable street received letters about Liveable Streets, and we did not.”

Shadwell Gardens, Shadwell

Resident E

“I live in Bethnal Green in the houses, I and my neighbour received letters but not the Council block across the road.”

Weavers Ward

Resident F

“They came to our Mosque, listening to our objections. They said they will note it down, and nothing will happen until they spoke to us again. Then Covid happens, and then they close the road. They lied to us.”

Minerva Estate, Bethnal Green

Resident G

“I went around the estate telling people to take part in the consultation, the response I got was that it was all online. You see a lot of people are not don't have data. And if they could access

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they could not navigate the website. No translation provided. And then you see the result, it's all people in the posh blocks who got what they wanted."

Berner Estate, Whitechapel

Resident H

"They delivered the leaflets in the houses, but when it came to the Council blocks, they dumped them on the stairways."

Bow

Resident I

"Bruv, you can see they ignored us. Just look at what is proposed, no one in their right mind living here would propose this. It's all people from outside who's views are taken into account."

Fieldgate Mansions, Whitechapel

Resident J

"Just looking at the proposal, you can see the mosque was not consulted. From the comments, it's obvious its cyclists from outside the area who put those proposals in."

Mosque, Whitechapel

Resident K

"My son is 10, he has a blue badge. There are many reasons he has the badge, beyond the physical difficulties with walking distances, including not being able to cope with public transport, severe social anxiety and autism. So, for us, our car is essential. He can't physically ride a bike due to coordination issues and muscle problems...."

I'm not against the liveable streets scheme completely, I would just like there to be an option for residents, at least blue badge holders, to be able to access the Borough without this added stress and unnecessary journey time. My children attend columbia primary so I'm all for a school Street there and/or for it to be one way but with an option to get into Tower Hamlets, rather than having to head into Hackney just to come all the way back round. (Obviously the best option there is Barnet Grove, but that alone doesn't give an option to get home without the added issues as it's one way)."

Bethnal Green

Resident L

"The consultation document received from PC Consult, did not ask about disability at all, and I have queried with LBTH cabinet as to how people with disabilities have been consulted and their support needs taken account of. The response was that there have been facilitated groups on the topic to collate views. When looking more closely at this, these groups were held in working hours and as part of a general discussion about transport in London. No specific correspondence has been sent to me, or any attempts made to proactively engage residents with varying disabilities. It is a shame that LBTH do not seem to appreciate that people with disabilities can work, or may need additional support to engage with such matters that affect them directly. Working groups only work if the point of the group is made clear, and it is

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made accessible to your target group.”

Bethnal Green

Resident M

“I want to bring to your urgent attention the lack of consultation and discrimination that has occurred over the Liveable Streets consultation in our area. I understand the current pressures the Council may be under, and the unprecedented times, however if the Council is prepared to continue to roll out the Liveable Streets programme during COVID it also needs to address these issues.

Matters are made worse by the fact that residents have less voice and less ability to meet and discuss proposals during COVID. I have raised a formal complaint with Tower Hamlets Council but have yet to get any acknowledgement or response. I am now escalating this matter. I understand there may be a meeting to review the handling of the project by PC Consult in the near future and this is pertinent information to share.”

Bethnal Green

Resident N

“I’m a resident of E2 and I’d like for my comment to be included in consideration of the recent LTNs. Without even considering a lack of due consultation, the fact that notifications of meetings were delivered quietly not allowing enough notice for proper discussion for residents to lodge their objections, or the paper consultation which given the low number of returned forms cannot be deemed to be accurately reflective of neighbourhood wide attitudes; or knowing that the LTN in my local area doesn’t have an EQIA...

The residents in Silk Court Care Home are now restricted in their vehicle access also. Again, if there was a fire the chances of a fire engine successfully getting there and extinguishing the fire before the elderly burnt to death would be drastically reduced. I suppose though again LTNs are more important than elderly care home residents.”

Bethnal Green

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Conclusion and summary recommendations.

From the analysis of the submission received the following questions can be answered on prima facie basis:

A. Was there direct discrimination by PCL Consult of residents with protected characteristics under the Equality Act 2010?

Yes.

B. Was there indirect discrimination by PCL Consult of residents with protected characteristics under the Equality Act 2010?

Yes.

C. Has there been a breach of contract by PCL Consult in the contract they have with Tower Hamlets Council, in the way they carried out the consultations?

Yes

D. Has Tower Hamlets Council breached its Public Sector Equality Duty?

Yes

Applying the rules of natural justice, in particular the rule against bias (*nemo iudex in causa sua*) and the right to a fair hearing (*audi alteram partem*). I recommend the following actions:

- The petition should be treated as a complaint against discrimination of protected characteristics by PCL Consult in the way it has conducted the Liveable Streets Consultation. A complaint made by over 2,500 residents who live, work or study in Tower Hamlets.
- In line with the Tower Hamlets Council's safeguarding policy. The consultations being carried out by PCL Consult should be suspended immediately.
- Any individuals who are seconded to Tower Hamlets Council from PCL Consult should be immediately suspended and be investigated as per HR policy.
- An independent investigation should be conducted by Lord Wooley, who is currently conducting the Equalities Commission into the allegations against PCL Consult as well as actions by Tower Hamlets Council.
- The remit of the investigation should look into the past as well as current consultations carried out by PCL Consult, and allow members of the public to give evidence on a confidential basis.

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- The investigation should also look into the procurement process of the PCL Consult and ask why the Council did not use the standard procurement process as well as why the option of carrying out the consultations in house by experienced council officers was not considered.