

# Equality Impact Assessment Guidance, June 2018

## Section A

Covers the principles and law around impact assessments

## Section B

Your guide to using the online system

## Section A

### What is Equality Impact Assessment (EIA)?

“A **tool** that helps public authorities make sure their policies and the ways they carry out their functions, do what they intended to do and for everybody”

(Equality and Human Rights Commission)

### Why do EIA?

#### 1. Legal reasons, statutory compliance, avoidance of legal action.

The Equality Act 2010...

Imposes a **general equality duty** designed to integrate consideration of the advancement of equality into the day-to-day business of public authorities. The Council, in the exercise of its functions, must have due regard to:

1. **Eliminating unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Act**
2. **Advancing equality of opportunity between people who share a characteristic and those who don't**
3. **Fostering good relations between people who share a characteristic and those who don't. This involves tackling prejudice and building understanding**

There is also a specific equality duty design to help us meet the general duty it came into force in May 2012, The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012, require us to assess impact for relevant groups with regard to **each part of the General Duty**.

Therefore you need to work your way through section 2 of the online system and ensure that for each of the Protected Groups listed in regulations, you have considered the three elements above.

**Age**

**Disability**

**Gender Reassignment**

**Marriage and Civil Partnership**

**Pregnancy and Maternity**

**'Race'** (this covers nationality, national origin, skin colour)

**Religion and Belief** (Covers religious belief and non-religious belief)

**Sex** (being male or female)

**Sexual Orientation** (being heterosexual 'straight', gay, lesbian or bi-sexual)

The equality duty also covers marriage and civil partnership but only with regard to eliminating discrimination in terms of employment.

The Council has proactively taken the decision to include Socio-Economic (from the ['Fairer Scotland Duty'](#)) impacts,

The Fairer Scotland Duty, Part 1 of the Equality Act 2010, comes into force in Scotland from April 2018. It places a legal responsibility on particular public bodies in Scotland to actively consider ('pay due regard' to) how they can reduce

Inequalities of outcome caused by socioeconomic

Disadvantage, when making strategic

This means that the Council must consider inequality of outcomes arising from socio-economic disadvantage when making strategic decisions. Where possible the Council should make decisions that improve equality for people who are socio-economically disadvantaged.

There is considerable cross-over between equality and socio-economic issues, as many of the disadvantages faced by particular equality groups are underpinned or made worse by low income. Therefore any and all approaches to regeneration and tackling inequalities must pay attention not only to locality but the different challenges which tend to be faced by people because of ethnicity, disability or sex or any combination of these.

Using the online system to guide we must look at Equalities, [Human Rights](#) and Health at the same time.

## **Please note that all policies must be screened for relevance.**

Use the checklist provide via the link in section 1 of the online form. You should also check if your proposal has any relevance to any of our Equality Outcomes for 2017-2021.

### **2. Business reasons e.g. Best Value;**

Christie Commission “Improving accountability and transparency, leading to improved performance and lower costs.” Better Performance Management.

### **3. Ethical reasons; upholding organisational values of WDC, transparency.**

....what we are all about...

“Fairness is not an additional cost on the public sector. Fairness is why we have a public sector.”

(Peter Latchford, visiting professor of enterprise at Birmingham City University)

### **What is a Policy?**

A “Policy” (“way of doing things”) things is a new, existing or revised;-

Policy, procedure, practice, budget decision, or way a policy is carried out

[This includes service restructures](#)

### **What is not a policy?**

- You don't need to screen or impact assess every decision you make after a policy has been agreed!
- But you need to keep in mind (have due regard to) equality (and human rights) when making decisions, as you would for health and safety and ensuring best value

### **An EIA should help us prevent Groupthink**

**Groupthink** is a [phenomenon](#) that occurs within a [group of people](#), in which the desire for harmony or conformity in the group results in an irrational or dysfunctional [decision-making](#) outcome. Group members try to minimize conflict and reach a consensus decision without [critical evaluation](#) of alternative viewpoints, by actively suppressing dissenting viewpoints, and by isolating themselves from outside influences.

Groupthink requires individuals to avoid raising [controversial](#) issues or alternative solutions, and there is loss of individual creativity, uniqueness and independent thinking. The dysfunctional [group dynamics](#) produces an "[illusion of invulnerability](#)" (an inflated certainty that the right decision has been made).

**Therefore let us...**

**Assure...rather than just...assume...**

**Things to keep in mind...**

- **Inequality of outcomes**

the things in life that individuals and groups actually achieve

- **Inequality of process**

These reflect inequalities in treatment through discrimination or disadvantage by other individuals and groups, or by institutions and systems.

This includes including lack of dignity and respect.

- **Inequality of autonomy**

That is inequality in the degree of empowerment people have to make decisions affecting their lives, how much choice and control they really have given their circumstances

**Example: [HMRC VAT Case](#), 'Digital by Default'**

**Examples of Successful Legal Challenges because of faulty approach to EIA**

- Southall Black Sisters, Support Services

(Retrospective EIA)

- Wards Corner

(did not consider effects on traders from minority ethnic groups)

- [Somerset and Gloucestershire County Councils, Libraries](#)

(no consideration of training needs)

- Rahman v Birmingham City Council, Advice Services

(Poor EIA, no proof that Councillors 'did the duty')

Large amounts of public money where spent by each of the Councils in the above cases.....

## Key Principles Clarified by Case law

R (Brown) v Work and Pensions Secretary 2008;

- The decision maker (that is elected members or senior managers) must be aware of their duty to have “due regard” to the need to eliminate discrimination, advance equality of opportunities and foster good relations between protected groups and others.
- The duty must be fulfilled before and at the time that a particular decision is being considered; therefore no EIAs after a decision has been taken.
- The duty must be exercised in substance, with rigour, with an open mind. It is not a question of ticking boxes, although the fact that the duty is not been specifically mentioned is not determinative of whether it has been performed
- The duty is non delegable to third parties, I.E we cannot 'contract out' our legal responsibilities.
- The duty is a continuing one; it duty applies not just to the development and adoption of a policy but to the implementation and review of it too.
- It is good practice to keep an accurate record showing that the duty has been performed and how (i.e. for us, follow the WDC process).

## Section B

### How to use the online System

#### Section 1, Screening, consider the following....

- Does policy affect service users, employees, the wider community?
- Is it a major policy with significant effects?
- Will it impact significantly on other organisations?
- Are there considerable resources involved?
- Are there known inequalities for particular groups?
- Does it progress of the Council's Performance Indicators?

#### Section 2, Needs and Evidence

The content of the Act and Regulations is clearly one that demands **evidence based policy**, not **policy based evidence**, therefore you can use:

- Service monitoring information
- Corporate performance management data
- Complaint records
- In-house or commissioned research
- Service user or resident surveys, citizen panels,
- Employment information, staff surveys
- Other local, regional and national evidence

#### Other Sources of Evidence and information

[Mainstreaming Report and Equality Outcomes 2017/21](#)

[Communication, Translation and Interpreting April 2017](#)

[Disability Profile 2009](#)

[Socio Economic Profile](#)

[Ensuring Equalities in Procurement](#)

[Scottish Government Equalities Evidence Finder](#)

#### Section 2, Consultation and Involvement

Past consultations may be useful e.g. [Citizens Panel Surveys results](#)

Further consultation if required

Have we involved seldom heard groups this time?

Have you consulted through the West Dunbartonshire Equality Forum

## **Sections 2, Assessment of Impact**

- Assess both positive and negative impacts for each characteristic and area
- Be careful to consider cumulative Impacts
- Be careful to consider effects on other services or organisations
- **Consider each of the 3 parts of the general equality duty that is-**

Eliminating Discrimination and Harassment

Advance equality of opportunity

Fostering good relations between groups, including building understanding and tackling prejudice

## **Section 2, Identify any required Actions**

As part of your EIA may identify actions to:

- Increase evidence e.g. carry out consultation, research or analysis of data
- Improve practice e.g. staff training
- Mitigate negative impacts e.g. to make a service more accessible by changing opening hours

## **Section 3, Recommendations**

Now you need to make a recommendation based on the work you have just done

1. Introduce the Policy
2. Modify the Policy
3. Pilot the Policy
4. Do not Introduce the Policy
5. Policy has been screen and is not relevant

## **Section 3, Submit for Approval**

**In all cases you must now submit your recommendation for approval**

We have identified officers who will act as approvers, the system will automatically email them asking them to make a decision: The approver will select one of the following options:-

- Approved

- Approved with Actions (you or a colleague may then be sent follow up actions to complete via an email from the system)

- Rejected

## Follow up actions

Make sure you note the result of the screening or EIA in section 9 of the committee report. You **MUST** use the content you submitted on section 3 on the system to form the basis this section's text

You **MUST** download a pdf copy of the screening or assessment and supply this to committee admin for inclusion with papers

After a proposal is examined by committee, the EIA **MUST** be passed to [equalities@west-dunbarton.gov.uk](mailto:equalities@west-dunbarton.gov.uk) for publication

You **MUST** progress any and all actions identified during the process. The duty continues; it applies not just to development and adoption of a policy but to the implementation and review as well