

# Equality Impact Assessment

## Appendix II

An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in decision-making.

### When to assess

An EIA should be carried out when you are changing, removing or introducing a new service, policy or function. The assessment should be proportionate; a major financial decision will need to be assessed more closely than a minor policy change.

### Public sector equality duty

The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:

- 1) Eliminate discrimination, harassment and victimisation;
- 2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- 3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

These are known as the three aims of the general equality duty.

### Protected characteristics

The Equality Act 2010 sets out nine protected characteristics that apply to the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership\*
- Pregnancy and maternity
- Ethnicity
- Religion or belief
- Gender
- Sexual orientation

\*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

**We also ask you to consider other socially excluded groups**, which could include people who are geographically isolated from services, with low literacy skills or living in poverty or low incomes; this may impact on aspirations, health or other areas of their life which are not protected by the Equality Act, but should be considered when delivering services.

### Due regard

To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations.

How much regard is 'due' will depend on the circumstances and in particular on the relevance of the aims in the general equality duty to the decision or function in question. The greater the relevance and potential impact, the higher the regard required by the duty. The three aims of the duty may be more relevant to some functions than others; or they may be more relevant to some protected characteristics than others.

## Collecting and using equality information

[The Equalities and Human Rights Commission](#) (EHRC) states that 'Having due regard to the aims of the general equality duty requires public authorities to have an adequate evidence base for their decision making'. We need to make sure that we understand the potential impact of decisions on people with different protected characteristics. This will help us to reduce or remove unhelpful impacts. We need to consider this information before and as decisions are being made.

There are a number of publications and websites that may be useful in understanding the profile of users of a service, or those who may be affected.

- The Office for National Statistics Neighbourhoods website <https://www.ons.gov.uk/>
- Swale in 2016 <https://archive.swale.gov.uk/assets/About-us/Summary-of-Key-Data-for-Swale.pdf>
- Kent County Council Facts and Figures about Kent <http://www.kent.gov.uk/about-the-council/information-and-data/Facts-and-figures-about-Kent>
- Health and Social Care data [http://www.kpho.org.uk/search?mode=results&queries\\_exclude\\_query=no&queries\\_excludefromse\\_arch\\_query=yes&queries\\_keyword\\_query=Swale](http://www.kpho.org.uk/search?mode=results&queries_exclude_query=no&queries_excludefromse_arch_query=yes&queries_keyword_query=Swale)

At this stage you may find that you need further information and will need to undertake engagement or consultation. Identify the gaps in your knowledge and take steps to fill these.

## Case law principles

A number of principles have been established by the courts in relation to the equality duty and due regard:

- Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty
- Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one.
- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- The general equality duty is not a duty to achieve a result, it is a duty to have due regard to the need achieve the aims of the duty.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

<b>Lead officer:</b>	David Clifford – Head of Policy, Communications and Customer Services
<b>Decision maker:</b>	Council
<b>People involved:</b>	David Clifford – Head of Policy, Communications and Customer Services Sarah Porter – Transformation Programme Manager Bob Pullen – Policy and Performance Officer
<b>Decision:</b> <ul style="list-style-type: none"> <li>• Policy, project, service, contract</li> <li>• Review, change, new, stop</li> </ul>	This is a high-level strategic plan which is being reviewed and updated.
<b>Date of decision:</b> The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	Council: February 2019
<b>Summary of the decision:</b> <ul style="list-style-type: none"> <li>• Aims and objectives</li> <li>• Key actions</li> <li>• Expected outcomes</li> <li>• Who will be affected and how?</li> <li>• How many people will be affected?</li> </ul>	<p>The main purpose of the corporate plan is to set the council’s strategic direction over the medium term. It is intended to influence and guide future detailed decision-making about resource allocation and activities, rather than to set out the detail of that decision-making in advance. It is therefore very difficult to foresee equality-related issues at this stage, and separate EIAs will need to be conducted on individual decisions as they arise.</p> <p>Insofar as it provides guidance for the allocation of council resources over the medium term, the corporate plan potentially has an impact on everyone living in, working in or visiting the borough. However, the plan is a strategic document which sets out broad areas of focus rather than proposing concrete pieces of work which could have a definite and measurable equality impact.</p> <p>The plan proposes three overarching priorities for the council to focus on over the period 2019/20-2022/23. Beneath each of these priorities sit a number of high-level objectives, as follows:</p> <p><b>Priority 1: Delivering regeneration</b></p> <p>1.1 Continue to support Swale’s economy to provide a diverse and increasing range of employment opportunities across the full spectrum of skill and wage levels.</p> <p>1.2 Support residents and businesses to improve the borough’s vocational skills.</p> <p>1.3 Implement the visitor economy framework to increase investment, address new visitor demands and grow the value of the sector to the Swale economy.</p> <p>1.4 Progress the redevelopment of Sittingbourne town centre and extend regeneration into other parts of the borough.</p> <p>1.5 Develop a coherent and flexible long-term plan to help Sheppey fulfil its potential for the benefit of all its residents.</p> <p>1.6 Take steps to help the most disadvantaged families and communities to embrace opportunities from regeneration,</p>

	<p>skills provision and economic growth.</p> <p><b>Priority 2: Delivering improved quality of life</b></p> <p>2.1 Keep the borough clean and well-maintained, and continue to provide excellent environmental stewardship.</p> <p>2.2 Maximise opportunities from sustainable development to improve infrastructure and create attractive and functional new neighbourhoods.</p> <p>2.3 Work with partners to develop measures to address air quality issues throughout the borough.</p> <p>2.4 Develop a pragmatic and adaptable approach to helping local families to access affordable decent housing.</p> <p>2.5 Promote improved health, wellbeing and enjoyment of life by facilitating and supporting a wide range of sporting, cultural and other leisure activities.</p> <p><b>Priority 3: Delivering the council of tomorrow</b></p> <p>3.1 Continue to reduce dependence on government-controlled funding sources and support innovative ways to ensure other objectives can be met in the context of diminished resources.</p> <p>3.2 Experiment with a more differentiated approach to service delivery for key neighbourhoods and key groups of customers.</p> <p>3.3 Encourage innovative ideas at every level of the organisation and embed the Swale Manager programme to ensure consistent understanding of the council's expectations of all managers.</p> <p>3.4 Develop new approaches to partnership working based on shared objectives with statutory agencies, other councils, and the private and voluntary sectors.</p> <p>3.5 Continue to ensure that Swale's internal governance and decision-making are second to none.</p>
<p><b>Information and research:</b></p> <ul style="list-style-type: none"> <li>• Outline the information and research that has informed the decision.</li> <li>• Include sources and key findings.</li> <li>• Include information on how the decision will affect people with different protected characteristics.</li> </ul>	<p>The text of the plan contains some contextual demographic information about the borough and its residents. However, the plan is (intentionally) at too abstract a level to have a definite impact on people with particular protected characteristics. More detailed pieces of work which will sit under the objectives in the plan will need to be subject to impact assessments in their own right in due course.</p>
<p><b>Consultation:</b></p> <ul style="list-style-type: none"> <li>• Has there been specific consultation on this decision?</li> <li>• What were the results of the consultation?</li> <li>• Did the consultation analysis reveal any difference in views</li> </ul>	<p>Significant consultation has taken place during the development of the plan and on a consultation draft. This will be described fully in the relevant section of the report to council. Although some consultation responses have raised issues specific to certain groups, none of the feedback can be said to reveal differences in views between consultees with different protected characteristics.</p>

<p>across the protected characteristics?</p> <ul style="list-style-type: none"> <li>Can any conclusions be drawn from the analysis on how the decision will affect people with different protected characteristics?</li> </ul>	
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**Is the decision relevant to the aims of the equality duty?**

Guidance on the aims can be found in the EHRC’s PSED Technical Guidance -

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

Aim	Yes/No
1) Eliminate discrimination, harassment and victimisation	Yes
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	Yes
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	Yes

**Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.**

When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.

Characteristic	Relevance to decision High/Medium/Low/None	Impact of decision Positive/Negative/Neutral
Age	Low at this stage	Neutral at this stage
Disability	Low at this stage	Neutral at this stage
Gender reassignment	Low at this stage	Neutral at this stage
Marriage and civil partnership	Low at this stage	Neutral at this stage
Pregnancy and maternity	Low at this stage	Neutral at this stage
Ethnicity	Low at this stage	Neutral at this stage
Religion or belief	Low at this stage	Neutral at this stage
Gender	Low at this stage	Neutral at this stage
Sexual orientation	Low at this stage	Neutral at this stage
Other socially excluded groups <sup>1</sup>	Medium at this stage	Positive at this stage

**Conclusion:**

- Consider how due regard has been had to the equality duty, from start to finish.
- There should be no unlawful discrimination arising from the decision (see [PSED Technical Guidance](#)).

Advise on the overall equality implications that should be taken into account in the final decision, considering relevance and impact.

The corporate plan is in general at too high a level of abstraction for the aims of the equality duty to be relevant in any concrete way, although they are likely to be much more relevant to many of the pieces of work which will flow from it. The impact of the plan itself on the aims of the equality duty, without reference to these more detailed pieces of work, is at this stage considered to be low, and nothing requiring the mitigation of adverse impacts has been identified. It is believed at this stage that the plan involves no unlawful discrimination.

**Timing**

- Having ‘due regard’ is a state of mind. It should be considered at the inception of any decision.

<sup>1</sup> Other socially excluded groups could include those with literacy issues, people living in poverty or on low incomes or people who are geographically isolated from services

- Due regard should be considered throughout the development of the decision. Notes should be taken on how due regard to the equality duty has been considered through research, meetings, project teams, committees and consultations.
- The completion of the EIA is a way of effectively summarising the due regard shown to the equality duty throughout the development of the decision. The completed EIA must inform the final decision-making process. The decision-maker must be aware of the duty and the completed EIA.

**Full technical guidance on the public sector equality duty can be found at:**

**<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>**

**Please send the EIA in draft to Bob Pullen in the Policy and Performance Team**

**([bobpullen@swale.gov.uk](mailto:bobpullen@swale.gov.uk) – 01795 417187) who will refer it on to the EIA Group who will peer review it and let you have any comments or suggested changes.**

**This Equality Impact Assessment should form an appendix to any SMT or committee (e.g. Cabinet or Council) report relating to the decision and a summary should be included in the ‘Equality and Diversity’ section of the standard committee report template under ‘Section 6 – Implications’.**