

Equality Impact Assessment

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

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.

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Lead officer:	<i>Stephanie Curtis</i>
Decision maker:	<i>Licensing Committee</i>
People involved:	<i>Christina Hills</i>
Decision: <ul style="list-style-type: none"> • Policy, project, service, contract • Review, change, new, stop 	<ul style="list-style-type: none"> • <i>Adoption of a revised Swale BC Hackney Carriage and Private Hire Licensing Policy 2022 - 2027</i>
Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	<i>Licensing Committee 4th October 2022</i>
Summary of the decision: <ul style="list-style-type: none"> • Aims and objectives • Key actions • Expected outcomes • Who will be affected and how? • How many people will be affected? 	<p><i>The Swale BC Hackney Carriage and Private Hire Licensing Policy 2022 – 2027 sets out the approach that the Council will take when fulfilling its legal obligations as to the licensing of drivers, vehicles and operators who provide a taxi service within Swale borough and guides both the taxi trade and the travelling public alike as to the approach that the council will take when dealing with applications and enforcement of the taxi regime.</i></p> <p><i>The draft policy has provisions regarding vehicle specifications:</i></p> <p><i>From 1 April 2023, all vehicle licence applications for newly licensed vehicles (i.e. all applications other than those to ‘renew’ an existing vehicle licence for the same vehicle by the same holder) must be for low emission vehicles (LEV) - either all electric, electric/fuel hybrid or Euro 6 diesel and Euro 6 petrol compliant. Older vehicles have over 3 times and some as much as 6 times the permitted emissions limit of Euro 6 diesel and petrol.</i></p> <p><i>From 1 April 2023, all Euro 6 diesel and Euro 6 petrol vehicles will be licensed for a maximum period not to exceed 1 April 2030. Any Euro 6 diesel or Euro 6 petrol driven vehicles licensed before 1 April 2023 will also cease to be licensed on 1 April 2030.</i></p> <p><i>From 1 April 2025, all new vehicle licence applications must be for vehicles that are ultra-low emission (ULEV) ie: less than 75 grams of CO2. ULEV includes battery electric vehicle (BEV), extended range electric vehicle (E-REV) plug in hybrid electric vehicle (PHEV) or fuel cell electric vehicle (FCEV-hydrogen vehicle).</i></p> <p><i>The main thrust of the policy is one of public safety and to ensure that the public have reasonable access to taxi services because of the part they play in local transport provision. It is important that the travelling public can be assured that taxi drivers are ‘fit and proper’ and that vehicles are fit for purpose.</i></p> <p><i>However, licensing conditions that are too restrictive could prevent the supply of taxis if the taxi trade is restricted by onerous conditions which also restrict the viability of their business, therefore a careful balance has to be struck between one and the other.</i></p> <p><i>The outcome of having an effective policy is to achieve these aims and to provide a vision as to how the licensing policy will integrate into</i></p>

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	<p><i>the councils' wider visions – an example being the councils' commitment to be a carbon neutral borough by 2030.</i></p> <p><i>The policy will affect those living, working or visiting the borough as well as all licensed taxi drivers and private hire operators.</i></p>
<p>Information and research:</p> <ul style="list-style-type: none"> • Outline the information and research that has informed the decision. • Include sources and key findings. • Include information on how the decision will affect people with different protected characteristics. 	<p><i>All members of the community are treated equally under the policy i.e it is implicit that all customers will have access to taxi and PHV vehicles.</i></p> <p><i>The Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 became law on 28 June 2022 and amends the Equality Act 2010. The purpose of the Act is to ensure that disabled people can access transport services, free from the fear of discriminatory treatment or being faced with additional charges.</i></p> <p><i>To date there has been an adequate supply of WAV's within the borough as there has been an incentive by giving these types of vehicles a longer licensable period i.e. saloon cars and the like have a maximum licensable age of 10 years wheres WAV's have a maximum licensable age of 15 years.</i></p> <p><i>There are 37 PHV's of which 14 i.e. 37% are WAV's. There are 179 taxis of which 31 i.e. 17% are WAV's Therefore from the entire taxi fleet of 219 vehicles 20% are WAV's</i></p> <p><i>Within Swale, as per Census 2011 figures there are 25,322 people living with a long-term health problem or disability, which is 18.6% of the total population at the time of the Census. Of these, 13,580 have said that their day to day activities are limited a little, with 11,742 limited a lot.</i></p> <p><i>As of November 2018, the total disability benefits claimants within Swale were 13,836 which is 9.4% of the population. Of these, 67.3% reported having a physical disability.</i></p>
<p>Consultation:</p> <ul style="list-style-type: none"> • Has there been specific consultation on this decision? • What were the results of the consultation? • Did the consultation analysis reveal any difference in views across the protected characteristics? • Can any conclusions be drawn from the analysis on how the decision will affect people with different protected characteristics? 	<p><i>There was a widespread public consultation on the policy which ran between 7 March 2022 and 27 May 2022. A further consultation with the taxi trade alone ran between 24 June 2022 and 5 August 2022.</i></p> <p><i>The consultation revealed views already held by licensing officers regarding the provision of wheelchair accessible vehicles (WAV's) i.e. should the vehicle specifications as proposed in the draft policy be adopted in their current form it is likely to result in a reduction of WAV's in the taxi fleet.</i></p> <p><i>This is because currently there is not the availability of electric vehicles capable of being wheelchair accessible and as the current petrol/diesel vehicles come to the end of their licensable 'life' they will not be replaced.</i></p>

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	<p><i>Similarly, if petrol/diesel cars are not replaced it would reduce the availability of vehicles within the borough and have a negative impact of vulnerable young women being able to travel safely late at night and older persons who rely on the taxi trade as their sole method of transport.</i></p> <p><i>Canterbury City Council recently amended vehicle specifications that had previously adopted after public consultation</i> https://democracy.canterbury.gov.uk/mgAi.aspx?ID=79844 <i>which has also informed this assessment</i></p> <p><i>No other comments have been received that show that the taxi policy will have a negative impact on other protected characteristics</i></p>
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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	No
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	No

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	Medium	Negative
Disability	Medium	Negative
Gender reassignment	Low	Neutral
Marriage and civil partnership	Low	Neutral
Pregnancy and maternity	Low	Neutral
Ethnicity	Low	Neutral
Religion or belief	Low	Neutral
Gender	Medium	Negative
Sexual orientation	Low	Neutral
Other socially excluded groups ¹	Low	Neutral

<p>Conclusion:</p> <ul style="list-style-type: none"> 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). 	<p>Summarise this conclusion in the body of your report</p> <p>I conclude that due regard has been given to the equality duty and that the research and consultation undertaken for the taxi policy in relation to vehicle specifications could impact on disabled persons and the availability of wheelchair accessible taxis and PHV's to transport them. There is also the potential for a reduction on the availability of taxis and PHV's which would impact on vulnerable</p>
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¹ 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

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Advise on the overall equality implications that should be taken into account in the final decision, considering relevance and impact.	young women being able to travel safely late at night and older persons who rely on the taxi trade as their sole method of transport. The Policy that has been put forward to the licensing committee for approval includes an amendment from the original policy that wheelchair accessible vehicles are exempt from the new EV requirements, thus negating any negative impact of this policy on any protected characteristics.
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Timing

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