

Equality Guidance – Equalities Act 2010

BACKGROUND INFORMATION

What is the legal requirement?

The Equality Act 2010 was implemented on October 1st 2010. The Act creates a new Public Sector Equality Duty. This means there is a General duty that local authorities must meet and specific duties which are designed to help meet them.

NHDC, as a public authority must, in the exercise of its functions, give **due regard** to the need to:

1. Eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act.
2. Advance equality of opportunity between people who share a protected characteristic(*these are identified in the 'specific duty' paragraph below*) and those who do not (this can mean removing or minimising disadvantage; meeting people's needs; taking account of disabilities; encouraging participation in public life).
3. Foster good relations between those people who share a protected characteristic and those who do not (such as tackling prejudice and promoting understanding).

To show **due regard** for advancing equalities 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.

The Specific Duty:

The Specific Duty which underpins the General Duty includes assessing local authority activities in the exercise of their functions, such as proposals, policies and procedures, for impact on people in relation to the protected characteristics listed below.

The new Specific Duty covers the following eight protected characteristics:

| | |
|-------------------------|--------------------|
| Age | Race |
| Disability | Religion or belief |
| Gender reassignment | Sex |
| Pregnancy and Maternity | Sexual orientation |

(The duty to have due regard to the need to eliminate discrimination also covers marriage and civil partnerships is in relation to employment issues only),

A public authority that is covered by the specific duties is required to publish sufficient information to demonstrate its compliance with the general equality duty across its functions. This must be done by **31st July 2012** and at least annually after that, from the first date of publication.

This information must include:

Information on the effect that its policies and practices have had on people who share a relevant protected characteristic

What is Equality Analysis?

Equality analysis is a way of considering the effect of an organisation's services on different groups that are protected from discrimination by the Equality Act. By doing this analysis, NHDC need to consider if there are any unintended consequences for some groups and to consider if the policy/decision will be fully effective for all target groups.

By law, NHDC must conduct equality analysis which:

- Contains sufficient information to enable a public authority to show it has given due regard to the equality duty in its decision making.
- Identifies methods for mitigating or avoiding adverse impact (either disproportionate disadvantage and unlawful discrimination).

Failure to meet the duties may result in authorities being exposed to legal challenges.

Step by Step guide to undertaking Equality Analysis

These principles apply to existing as well as new and proposed policies.

In order to be most effective, equality analysis should start prior to policy development or at the early stages of a policy review, considering its possible effects well in advance of implementation.

Outlined below is a suggested staged approach;

Identifying who is responsible for the equality analysis

Establishing relevance to equality

Scoping your equality analysis

Analysing your equality information

Monitoring and review

Decision-making and publication

1.0 Identifying who is responsible for the equality analysis

The person identified to undertake the equality analysis should be the person with whom responsibility for evidencing need to change a policy or service decision rests, in this respect it is advisable that analysis should only be taken by council officers in their relevant policy/service areas. This will ensure that proper ownership of the analysis is maintained, that there is sufficient knowledge of the service itself, and any results of the analysis inform future service development and improvement

2.0 Establishing relevance to equality

The Equality Act 2010 guidance states that all policies must be analysed for their impact on equality, whether these are current and proposed policies or whether they are informal customs or practices. NHDC are responsible for making a wide range of decisions, including decisions about overarching policies and setting budgets, to day-to-day decisions, which affect specific individuals or specific groups. NHDC propose that the following areas are targeted for Equality Analysis:

- Key decisions - i.e. those over £50,000.00 value or which have a considerable potential impact on the community and across the 'protected characteristics'. (NB. Contractual arrangements, such as contracts for energy, will be exempt from review as whilst they are of sufficient monetary value, the 'equality' impact on the community is nil).
- Major budget implications - i.e. efficiencies and investments such as those proposed within the corporate business planning process
- Major service provision revision - i.e. restructure proposals, changes to working practices and especially those with greatest impact on external customers.

Relevant policies which may be subject to review may include:

grant-making programmes

budgetary decisions

changes to service delivery (including withdrawal or reduction of services)

and **recruitment or pay policies**

Where it is clear from initial consideration that a policy will not have any effect on equality for any of the protected characteristics, no further analysis or action is necessary. There will be some policies which are not specifically relevant to equality e.g. a policy on when to check the temperature of fridges in a hospital. Some policies may be more difficult to judge and certainly, at the outset, advice should be sought from the corporate Policy team.

This is particularly important, as if you decide that a policy is not relevant to equality, you will need to document this decision along with the reasons and the information that you used to reach this conclusion. *This evidence is subject to review by the Equality and Human Rights Commission and could be used as evidence in any challenge regarding decisions this Council has made*

A simple statement of 'no relevance to equality' without any supporting information is not sufficient, nor is a statement that no information is available.

The following questions may help in deciding whether a policy is relevant to equality (this is not an exhaustive list but intended to provide a steer when making decisions, particularly in the early stages of implementation):

Does the policy affect service users, employees or the wider community, and therefore potentially have a significant effect in terms of equality? Remember that relevance of a policy will depend not only on the number of those affected but also by the significance of the effect on them.

Is it a major policy change, significantly affecting how functions are delivered in terms of equality?

Will it have a significant effect on how other organisations operate in terms of equality? (for example, a government strategy, an inspection or a grant).

Does the policy relate to functions that previous engagement has identified as being important to particular 'protected' groups?

Does or could the policy affect different protected groups differently?

Does it relate to an area with known inequalities (for example, access to public transport for disabled people)?

3.0 Conducting your equality analysis

3.1 How do the aims of the policy relate to equality?

To do this you will need to have a clear understanding of the policy/decision that is being developed or reviewed. Consider:

What is the purpose of the policy/decision?

In what context will it operate?

Who is it intended to benefit?

What results are intended?

At this early stage you can consider the potential effects, both negative and positive, on protected groups.

3.2 What aspects are relevant to equality?

Consider which aspects of the policy are most relevant to equality. This will help you to focus your attention on the most important areas.

3.3 What equality information is available?

It is important that you have appropriate and reliable information about the different protected groups that the policy is likely to affect. Of course, this will vary according to the nature of the policy being analysed but information gathered from service users should tell you who is using your services, what their experiences are and what their outcomes are.

The following information may also be useful:

- Comparisons with similar policies in other departments or other authorities
- Analysis of enquiries, comments or complaints from the public
- Recommendations from inspections or internal audits
- Information about the local community, including Census and general demographics to establish the numbers of protected groups in your area.
- Results of engagement activities or surveys
- Information from protected groups and other agencies, such as equality organisations and voluntary or community organisations providing services to the public to help you understand the needs or experiences of different groups.

3.4 What are the information gaps?

If you do not have equality information about a particular policy or about some protected groups, consider whether you need to fill these information gaps by surveys or other engagement or stakeholder meetings. This may include, in the longer term, questions included in the District Wide or Citizens Panel surveys, for example, or by making use of community events to test agreement with a policy decision.

3.5 Which groups could usefully be engaged?

Depending on the policy that is being analysed, consider engaging with employees, service users and/or equality organisations. Recent engagement activities that have been undertaken for related policies or strategies may prove useful as a starting place. See the EHRC guide on *Engagement and the equality duty* for further guidance.

4.0 Analysing your equality information

Local authorities should ask one simple question when delivering services to the public:

What will happen, or not happen, if we do things a certain way?

Remember that equality analysis is not simply about identifying and removing negative effects or discrimination – it is also an opportunity to identify ways to advance equality of opportunity and to foster good relations.

4.1 Using your information to understand the effect on equality

Once you have gathered all the relevant equality information together, you will be able to make a judgement about what the likely effect of the policy will be on equality.

Be wary of general conclusions – it is not acceptable to simply conclude that a policy will universally benefit all service users, and therefore the protected groups will automatically benefit, without having evidence to support that in any conclusion.

Understanding the effect on equality will be easier for existing policies. For new policies, you will need to evaluate the proposal against all the information assembled and make a reasonable and informed judgement about whether the policy is likely to have positive or negative consequences for particular groups.

The following questions and answers provide a check to determine whether you consider that your analysis is robust enough to rely on:

• Is the purpose of the policy change/new policy clearly set out?

Robust analysis will set out the reasons for the change; how this change can impact on equality groups, as well as whom it is intended to benefit; and the intended outcome. You should also consider how policies might relate to one another. This is because a series of changes to different or interrelated policies or services could have a severe and consolidated impact on particular equality groups.

Has the analysis considered the available evidence?

The assessment should use the most up-to-date and reliable information about the different groups the proposal is likely to affect. A lack of data is not a sufficient reason to conclude that there is no impact.

• Have those likely to be affected by the policy been consulted and involved?

Involvement and consultation are crucial to the equality analysis process and this will certainly be the case for larger policy discussions/decisions, such as that relating to housing provision, town centre enhancements etc, when it would be more than justified to seek the views of those most directly affected, i.e. disabled people.

• Have potential positive and negative impacts been identified?

It is not enough to state simply that a policy will affect everyone equally – it is rare that it would! There should be consideration of available evidence to see if particular equality groups are more likely to be affected than others are. Equal treatment does not always produce equal outcomes; sometimes authorities will have to take specific steps for particular groups to address an existing disadvantage or to meet differing needs.

• What course of action does the analysis suggest I take? Is it justifiable?

Your analysis should clearly identify the potential equality impacts, the decisions that you have arrived at and the reasons for this decision. All must be documented and retained for subsequent review.

The following questions may be useful to understand the effect of the policy on service users:

- Could the policy outcomes differ between protected groups?
- What are the key findings of your engagement?
- Is there different take-up of services by different groups?
- Could the policy affect different groups disproportionately?
- If there is a greater effect on one group and is that consistent with the policy aims?
- Has the policy delivered practical benefits for protected groups?
- Does the policy miss opportunities to advance equality and foster good relations, including, for example, participation in public life?
- Could the policy disadvantage people from a particular group?
- Could any part of the policy discriminate unlawfully?
- Are there other policies that need to change to support the effectiveness of the policy under consideration?

The findings of your analysis

Having reviewed potential users, and what you know of our local population etc, there are four main steps that you can take with regard to any proposal you are making:

No major change – The analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination or adverse impact.

Adjust the policy – This involves taking steps to remove barriers or to better promote equality. It can mean introducing measures to mitigate the potential effect.

Continue the policy – This means adopting your proposals, despite any adverse effect or missed opportunities to advance equality, provided you have satisfied yourself that it does not unlawfully discriminate.

Stop and remove the policy – If there are adverse effects that are not justified and cannot be mitigated, you will want to consider stopping the policy altogether. If a policy shows unlawful discrimination it *must* be removed or changed.

Documenting your analysis

Documenting your analysis is important to ensure that the general and specific duties are being met

You may want to document some or all of the following areas. There is no legal requirement to put this information into one document, but for ease of reference and in order to establish a corporate standard, we request that it is put into a standard format to improve communication and transparency. That information, collected on the template attached at the end of this report must contain the following;

The person responsible for the policy

The aims of the policy

The key people that are involved, for example decision-makers, staff implementing it

Relevance of the policy to the different arms of the duty and the different protected groups

What equality information is available, including any evidence from your engagement?

What information gaps exist?

What engagement has been done regarding this policy, and the results of this?

What the actual or likely effect of the policy is, regarding the aims of the general equality duty and the protected groups?

What steps you will take in response to the findings of your analysis?

How you will review the actual effect of the policy after implementation?

The timescale for implementation

Sign off of the equality analysis - by a responsible officer for the service and the Head of Policy, Partnerships and Community Development

As part of the internal governance arrangements, completed equality analysis will be quality checked by the Corporate Diversity Group. Part of the remit of this group is to monitor progress on the equality duty, including equality analysis.

A template has been provided to ensure that uniform information is collected at Annex A.

5. Monitoring and review

Equality analysis is an ongoing process that does not end once a policy has been agreed or implemented. Service provision need to change in line with the needs of the service users - demographics can change, leading to different needs, alternative provision can become available or new options to reduce an adverse effect could become apparent. This does not mean repeating the equality analysis, but using the experience gained through implementation to check the findings and to make any necessary adjustments.

Consider:

How you will measure the effects of the policy?

When the policy will be reviewed and what could trigger an early revision?

Who will be responsible for monitoring and review?

What type of information is needed for monitoring and how often it will be analysed?

How to engage stakeholders in implementation, monitoring and review?

6. Decision-making and publication

In order to have due regard to the equality aims in the general equality duty, your decision-making should be based on a clear understanding of the effects on equality. This means that the person who ultimately decides on the policy has to be fully aware of the findings and have due regard of them in making decisions.

Publication

Under the specific duties, equality information published by listed bodies must include evidence of analysis undertaken to establish whether their policies and practices would further or have furthered, the aims of the general equality duty. It is recommended that the Council should publish information on equality analysis alongside the policy or decision that it refers to; arrangements have been made to ensure that reference to equality analysis appears in all formal committee reports on the corporate template and that EIAs are filed alongside those reports to evidence equality compliance.

Glossary

What are the Protected Characteristics?

Age: A person of a particular age (e.g. 32 year old) or a range of ages (e.g. 18 - 30 year olds). NB age is not currently protected under goods and services (this is unlikely until 2012). When considering disadvantage, take into account impacts on children and young people as well as adults, and cross-cutting impacts such as parents and carers (of younger, disabled and older people).

Disability: A person has a disability if s/he has, or has had, a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. Carers are covered by association.

Gender reassignment: A person who is proposing to undergo, is undergoing or has undergone gender reassignment (the process of changing physiological or other attributes of sex, therefore changing from male to female, or female to male).

Pregnancy and maternity: Maternity refers to the period of 26 weeks after the birth (including still births), which reflects the period of a woman's Ordinary Maternity Leave entitlement in the employment context. In employment, it also covers (where eligible) the period up to the end of her Additional Maternity Leave.

Race: A person's colour, nationality, ethnic or national origin.

Religion and belief: Religious and philosophical beliefs including lack of belief. Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

Sex: A man or a woman.

Sexual orientation: A person's sexual orientation towards the same sex (lesbian or gay), the opposite sex (heterosexual) or to both sexes (bisexual). NB does not currently apply to the General Duty.

Marriage and civil partnership: Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters.

Equality Analysis Template

| | | | | |
|---|--|--------------------------|--------------------------|--|
| 1. Name of activity: | Fair Collection Policy | | | |
| 2. Main purpose of activity: | To ensure that the Council operates a fair approach towards the collection of debts, provides all concerned with the opportunity to make payment arrangements and protects our vulnerable customers | | | |
| 3. List the information, data or evidence used in this assessment: | Fair Collection Policy, Service Level Agreements with Collection Agents and many years of practical experience in debt collection | | | |
| 4. Assessment | | | | |
| Characteristics | Neutral (x) | Negative (x) | Positive (x) | Describe the person you are assessing the impact on, including identifying: community member or employee, details of the characteristic if relevant, e.g. mobility problems/particular religion and why and how they might be negatively or positively affected. Negative: What are the risks? Positive: What are the benefits? |
| Community considerations (i.e. applying across communities or associated with rural living or Human Rights) | x | <input type="checkbox"/> | <input type="checkbox"/> | Negative |
| | | | | |
| | | | | Positive |
| | | | | |
| A person living with a disability | <input type="checkbox"/> | <input type="checkbox"/> | x | Negative |
| | | | | |
| | | | | Positive |
| | | | | Any household that has a person with a disability will be considered as vulnerable if they have limited means and will be referred for additional assistance |
| A person of a particular race | x | <input type="checkbox"/> | <input type="checkbox"/> | Negative |
| | | | | |
| | | | | Positive |
| | | | | |
| A person of a gay, lesbian or bisexual sexual orientation | x | <input type="checkbox"/> | <input type="checkbox"/> | Negative |
| | | | | |
| | | | | Positive |
| | | | | |
| A person of a particular sex, male or female, including issues around pregnancy and maternity | <input type="checkbox"/> | <input type="checkbox"/> | x | Negative |
| | | | | |
| | | | | Positive |
| | | | | A person who is pregnant or has responsibility for young children will be considered as vulnerable if they have limited means and will be referred for additional assistance |
| A person of a particular religion or belief | x | <input type="checkbox"/> | <input type="checkbox"/> | Negative |

| | | | | |
|------------------------------|---|--------------------------|--------------------------|----------|
| | | | | |
| | | | | Positive |
| | | | | |
| A person of a particular age | x | <input type="checkbox"/> | <input type="checkbox"/> | Negative |
| | | | | |
| | | | | Positive |
| | | | | |
| Transgender | x | <input type="checkbox"/> | <input type="checkbox"/> | Negative |
| | | | | |
| | | | | Positive |
| | | | | |

5 Results

| | Yes | No | |
|--|--------------------------|--------------------------|--|
| Were positive impacts identified? | x | <input type="checkbox"/> | |
| Are some people benefiting more than others? If so explain who and why. | <input type="checkbox"/> | <input type="checkbox"/> | The policy intention is to make it as easy as possible for all customers to pay any money owed to the Council. It is however recognised that some customers will be more vulnerable and the policy provides for the recovery processes to be suspended for these customers to be offered additional assistance with debt and money management. |
| Were negative impacts identified (what actions were taken) | <input type="checkbox"/> | x | |

6. Consultation, decisions and actions

If High or very high range results were identified who was consulted and what recommendations were given?

Not applicable in this case

Describe the decision on this activity

List all actions identified to address/mitigate negative impact or promote positively

| Action | Responsible person | Completion due date |
|--------|--------------------|---------------------|
| | | |

When, how and by whom will these actions be monitored?

7. Signatures

Assessor

Name: **Geraldine Goodwin**

Signature** G Goodwin

Validated by

Name: **Howard Crompton**

Signature** H Crompton

| | |
|---|-------------------------|
| Forward to the Corporate Policy Team | |
| Signature** Reuben Ayavoo | |
| Assessment date: 07/01/2020 | Review date: 07/01/2021 |
| | |

**** Please type your name to allow forms to be sent electronically.**

A copy of this form should be forwarded to the corporate policy team and duplicate filed on the council's report system alongside any report proposing a decision on policy or service change.