

Equality Impact Analysis Guidance

Introduction

This guidance explains what an equality impact assessment is and what it involves. It also provides background details about the general equality duty. The aim is to apply a proportionate, timely approach to assessing equality when developing policies and delivering services.

Equality Impact Assessment

An equality impact assessment is a tool which will help you to analyse your policies and practices to make sure they do not discriminate against or disadvantage people. It will also help you to improve and promote equality.

An equality impact assessment needs to be undertaken when you are developing a new service, policy, strategy or project. You should also undertake an equality impact assessment if you propose to introduce significant changes to an existing function, policy, strategy or project. This assessment needs to provide elected members with sufficient information to enable them to pay due regard to the general equality duty before they reach a decision about any changes proposed. The time and effort involved in undertaking the equality impact assessment should be in proportion to the policy, strategy or project's relevance to equality.

The General Equality Duty

The aim of the general equality duty, set out in S149 of the Equality Act 2010, is for public bodies to consider the needs of all individuals in their day to day work, in developing policy, in delivering services, and in relation to their own employees.

In the exercise of their functions, public authorities must have due regard to the need to:

- Eliminate discrimination, harassment and victimisation or any other conduct prohibited by the Act in relation to the protected characteristics
- Advance equality of opportunity for all persons
- Foster good relations between groups of people who share a protected characteristic and those who do not

Advancing equality means:

- Removing or minimising disadvantages
- Equalising outcomes
- Meeting needs
- Encouraging participation where this is low and/or addressing under-representation

Fostering good relations means:

- Tackling prejudice
- Promoting understanding

Paying “Due Regard” to the General Equality Duty

The general equality duty is not prescriptive about the approach a public authority should take in ensuring that it is having due regard to the need to advance the equality aims. However the judgement reached by Mr Justice Walker in the High Court in the case R (on the application of W) -v - Birmingham City Council [2011] EWHC 1147 does explain that “due regard” is a 'substantial rigorous and open-minded approach'. The “due regard” required is very high when a decision is being made which may affect large numbers of vulnerable people, many of whom may fall within one or more of the protected groups.

Case law has developed the following principles which apply to the new general equality duty. These principles include:

1. Decision makers must be fully aware of the implications of the duty when making decisions about their policies and practices
2. The duty is triggered whenever “an issue arises” or when a particular policy or proposal is being developed – so it runs right from the time the policy or proposal is being framed, while it is under consideration, and when the decision is reached. A public authority cannot satisfy the duty by justifying a decision after it has been taken.
3. The duty must be exercised in a way that it influences the final decision. For example, consideration of the need to advance equality should form an integral part of the decision-making process.
4. The responsibility for discharging the duty rests with the public authority even if it has delegated any functions to a third party. Responsibility for discharging the duty cannot be delegated or subcontracted. Any third parties exercising public functions on the public authority’s behalf are required to comply with the duty
5. Regard must be given to the need to advance equality whenever a policy is implemented or reviewed.

The public sector equality duty protects people from discrimination on the basis of certain characteristics which are known as protected characteristics. There are 9 protected characteristics: age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex (gender), and sexual orientation. Details of each of the protected characteristics are provided in Appendix 1. With regard to marriage or civil partnership, protection is provided in employment and vocational training only.

In addition to the 9 protected characteristics, Rochdale MBC also includes the following two categories: carers and Armed Forces and Ex -Armed Forces personnel, when undertaking an equality impact assessment.

Undertaking an analysis of the impact that a proposed change to the way a service may have on equality

An impact assessment proforma needs to be completed when undertaking an analysis of the impact that a function, strategy, policy or project may have upon equality. Please complete the RMBC template proforma. The completed equality impact assessment should be attached to the Cabinet report.

Undertaking an equality impact analysis involves:

- identifying who should be involved in the equality impact analysis.
- describing the purpose of the function/strategy/policy/project and the needs that it is designed to meet.
- identifying the key stakeholders.
- assessing the impact that the function/strategy/policy/project has on race equality, disabled people, carers, older and younger people, men and women, Armed Forces and Ex-Armed Forces personnel, religion or belief, sexual orientation, transsexuals or transgender, people who have undergone gender reassignment in full, pregnant women and those on maternity leave and on married people or those in a civil partnership. This includes both positive and negative impacts.
- stating the main conclusions from the analysis and list your recommendations.
- consulting your stakeholders on the main findings and conclusions of the equality impact analysis. The information and insights that can be gained from involvement and consultation are essential, and involvement and consultation should also usually be carried out as part of the main policy development process.
- producing an impact analysis action plan. A template for this action plan is included in the RMBC template proforma. Details of this action plan should be included in your service delivery plan. This action plan should state what action you propose to take to eliminate or mitigate any potential adverse impacts which have been identified.

To conduct the analysis you will need to gather the existing information available to you, which will enable you to identify whether your proposed

changes may give rise to a discriminatory outcome or unmet need. Examples of some of this information are:

- Demographic data (i.e. census information)
- The findings of Joint Strategic Needs Assessments (JSNAs), customer insight initiatives, service reviews and recent inspections
- An equality profile of your customers, i.e. information on which groups use or receive your service and information on those who do not use or receive your service but may wish to do so etc.
- Consultation information, complaints data, feedback from customers, research information such as MORI poll and citizens' panel information.
- Views of frontline and other staff, stakeholders and key partners
- Local, regional and national research
- Information on how the community is informed of the service, whether the service is targeted at a particular group/community, the different formats and languages in which this information is provided, how the users access the service and how the service take-up is evaluated.
- Service outcomes such as what they are, how they are measured, what is done with the information collected, how it is used in the service planning process, what evidence is there of service improvement.

During your analysis you need to state the relevant data which you have considered and state if you identified any gaps in the data and what mechanisms have been put in place to close the gaps.

To assess the impact that the function/strategy/policy/project has on equality for different groups or communities, you should consider the following questions:

- What positive impacts will this function/strategy/policy/project have upon the protected groups?
- Is there any evidence of, or potential for unequal outcomes or disadvantage?
- Are there, or could there be barriers to accessing the service? E.g. language, physical access etc
- Is there any evidence of unmet needs, or potential that needs will not be met?
- Could the strategy/project encourage greater participation by a particular group or community where this is low?
- Could the strategy/project be developed to further foster good relations between different groups/communities?

Equality Impact Assessments should be proportionate, that is, the time and effort involved should be in proportion to the relevance of the policy or practices, being assessed, to equality.

Consulting those affected by the proposals

When consulting on draft service savings proposals the Council is required to comply with the common law standard for consultation established by the courts. A high court ruling R (on the application of W) -v -Birmingham City Council [2011] EWHC 1147 highlighted the following principles which should be adhered to:

- Provide consultees with sufficient reasons in support of particular proposals to allow an intelligent response to be made.
- Ensure that the consultation looks at the practical detail of what the proposal will entail.
- Ensure that consultees are provided with clear information and that they understand what they are being consulted on and what the changes mean.
- Ensure that all the documents being issued as part of the consultation are published together at the start of the consultation period.
- Ensuring that an easy read version of the consultation proposals are made available for those who need them.
- Ensure that consultation responses are taken into account when the ultimate decision is taken.
- It is important to ensure that the consultation process is accessible and that consultees are provided information in the most appropriate way and in the format which meets their specific needs.

Please note that the Council has:

- a separate equality impact assessment template to complete for savings proposals
- a corporate Consultation Strategy which it is currently being updated. For further details please contact Amy Foots or Joanne Brickell.

Details of Useful Contacts

If you require any further advice relating to:

Undertaking an Equality Impact Assessment please contact Sally Atueyi.
Telephone Ext. 5631 Email: sally.atueyi@rochdale.gov.uk

Consulting stakeholders please contact:

Amy Foots Telephone Ext. 5233 Email: amy.foots@rochdale.gov.uk or
Joanne Brickell Telephone Ext. 5031 Email: joanne.brickell.gov.uk

APPENDIX 1

The 9 Protected Characteristics

Protected Characteristic	Comment
Age	Protection is for over 18's only. Age can be defined in different ways e.g. it can refer to a person of a particular age, or belonging to an age group or age range.
Disability	Defined as "a physical or mental impairment which has a substantial and long term adverse effect on the person's ability to carry out normal day to day activities." It is now easier to meet the definition.
Gender reassignment	Protection is provided when someone has proposed, started or completed a process to change their sex. There is no requirement to be undergoing medical supervision.
Marriage or civil partnership	Protection is provided in employment and vocational training only.
Pregnancy and maternity	For all areas covered by the Act a woman is protected from unfavourable treatment because of pregnancy or because she has given birth in the previous 26 weeks, or because she is on maternity leave.
Race	Includes colour nationality, and ethnic or national origins.
Religion or belief	The religion can be any religion – it doesn't have to be a mainstream religion. Belief refers to any religious or philosophical belief and includes Humanism and Atheism.
Sex (gender)	
Sexual orientation	This refers to whether a person's sexual attraction is towards their own sex, the opposite sex or both sexes.

Please note: In addition to the 9 protected characteristics, Rochdale MBC also includes the following two categories: carers and Armed Forces and Ex - Armed Forces personnel, when undertaking an equality impact assessment.