

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

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.

Lead officer:	David Clifford – Head of Policy, Communications and Customer Services
Decision maker:	Council
People involved:	David Clifford – Head of Policy, Communications and Customer Services Sarah Porter – Interim Policy Manager
Decision: <ul style="list-style-type: none"> • Policy, project, service, contract • Review, change, new, stop 	This is a high-level strategic plan which is being redrafted following the formation of a new political administration.
Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	Council: May 2020
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>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 four overarching priorities for the council to focus on over the period 2020-2023. Beneath each of these priorities sit a number of high-level objectives, as follows:</p> <p><i>Priority 1: Building the right homes in the right places and supporting quality jobs for all</i></p> <p>1.1 Use the local plan review to ensure that future housing delivery is more closely aligned to the borough’s ability and capacity to provide for genuine sustainable housing needs, in terms of location, type and tenure, and that the impact of housing growth is offset through improved physical, environmental, social and health infrastructure.</p> <p>1.2 Work with registered providers, developers and community-led housing groups to pursue all viable opportunities for increasing the supply of affordable and social housing across the borough, and ensure that standards in the private rented sector are robustly enforced.</p> <p>1.3 Encourage the development and innovation of high-quality sustainable housing on brownfield land in urban centres, with an appropriate range of tenure options, improving the appearance,</p>

biodiversity, and economic and environmental sustainability of our towns.

- 1.4 Develop a new economic improvement strategy to encourage the role of a living wage and expand the range of employment opportunities in the borough, including higher-skilled employment.
- 1.5 Support residents and businesses to improve the borough's vocational skill levels, and vigorously pursue all opportunities to enhance the provision and accessibility of further and higher education for Swale residents at all stages of their careers.
- 1.6 Implement the visitor economy framework to increase investment, address new visitor demands and grow the value of the sector to the Swale economy.

Priority 2: Investing in our environment and responding positively to global challenges

- 2.1 Develop a coherent strategy to address the climate and ecological emergencies, aiming for carbon neutrality in the council's own operations by 2025 and in the whole borough by 2030, and pursue all opportunities to enhance biodiversity across the borough.
- 2.2 Encourage active travel and reduced car use, including through the permeability of new developments, and work with partners to address air quality issues.
- 2.3 Establish a special projects fund to provide much-needed capital investment in the borough's public realm and open spaces.
- 2.4 Recognise and support our local heritage to give people pride in the place they live and boost the local tourism industry.
- 2.5 Ensure that the borough is kept clean, that recycling remains a focus, and that the council acts as an exemplar environmental steward, making space for nature wherever possible.

Priority 3: Tackling deprivation and creating equal opportunities for everyone

- 3.1 Undertake targeted interventions to identify our most disadvantaged families and communities, improve our understanding of the issues they face, and develop new ways of working to reduce social exclusion and enhance opportunities and quality of life.
- 3.2 Reduce health inequality by developing more productive relationships with local health partners and making health and wellbeing a central consideration in all relevant council decision-making, recognising especially the link between housing and health.
- 3.3 Develop a communitarian approach to partnership working based on shared objectives with like-minded agencies in the voluntary and community sectors.

	<p>3.4 Ensure that the council plays a proactive role in reducing crime and antisocial behaviour, including through the modernisation of CCTV provision.</p> <p>3.5 Promote wellbeing and enjoyment of life by signposting and encouraging a wide range of sporting, cultural and other leisure activities appropriate and accessible to each age group.</p> <p>Priority 4: Renewing local democracy and making the council fit for the future</p> <p>4.1 Review the council’s constitution to diffuse decision-making power more widely among elected members and improve the transparency, responsiveness and public accountability of that decision-making.</p> <p>4.2 Ensure that all elected members are appropriately supported to lead and improve the council’s engagement with its disparate geographic and demographic communities, and encourage especially the participation of underrepresented groups in the democratic process.</p> <p>4.3 Develop a cross-departmental corporate ethos focused on the priorities in this plan, and embed the Swale Manager programme to ensure a consistent understanding of the council’s expectations of all managers.</p> <p>4.4 Continue to reduce dependence on government-controlled funding sources and support staff to find innovative ways to ensure other objectives can be met in the context of diminished resources.</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>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>Consultation:</p> <ul style="list-style-type: none"> • Has there been specific consultation on this decision? • What were the results of the consultation? 	<p>Significant internal consultation has taken place during the development of the plan, and public consultation will be undertaken and the results of that consultation factored in prior to final adoption of the plan. This will be described fully in the relevant section of the report to council.</p>

<ul style="list-style-type: none"> • 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? 	
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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	Medium at this stage	Positive at this stage (particularly young people)
Disability	Medium at this stage	Positive at this stage (particularly regarding the high proportion of people with long-term conditions living in deprived areas)
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 ¹	High at this stage	Positive at this stage (particularly regarding people living in poverty or in deprived or isolated communities)

Conclusion: <ul style="list-style-type: none"> • Consider how due regard has been had to the equality duty, from start to finish. 	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
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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.

<ul style="list-style-type: none"> • There should be no unlawful discrimination arising from the decision (see PSED Technical Guidance). <p>Advise on the overall equality implications that should be taken into account in the final decision, considering relevance and impact.</p>	<p>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.</p>
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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'.