

# 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](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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| <b>Lead officer:</b>  | Julie Oates, Environmental Protection Team Leader  |
| <b>Decision maker:</b>  | Cabinet  |
| <b>People involved:</b>   | Julie Oates  |
| <b>Decision:</b> <ul style="list-style-type: none"> <li>• Policy, project, service, contract</li> <li>• Review, change, new, stop</li> </ul>  | <ul style="list-style-type: none"> <li>• Service/policy</li> <li>• New</li> </ul>  |
| <b>Date of decision:</b><br>The date when the final decision is made. The EIA must be complete before this point and inform the final decision.   | Cabinet Meeting 18/03/2020   |
| <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 implementation and enforcement of provisions relating to anti idling as laid down by the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 aims to:</p> <ul style="list-style-type: none"> <li>• Increase awareness of the consequences of leaving vehicle engines running</li> <li>• Reduce emissions from idling vehicles in locations where pollution is high and people are being exposed regularly</li> <li>• Support measures in the Council's Strategic Air Quality Action Plan and the support the declared Climate and Ecological Emergency</li> </ul> <p>Key actions include:</p> <ul style="list-style-type: none"> <li>• To delegate authority to the Chief Financial Officer and Head of Commissioning, Environment &amp; Leisure to authorise relevant officers or persons to stop the commission of stationary idling offences and issue fixed penalty notices (FPNs) in respect of such offences, in accordance with Regulation 6(3) of the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.</li> <li>• Disseminate information by way of awareness campaigns focussed on 'hot spot' locations such as outside schools, railway stations and other areas where vehicles are known to idle for periods of time.</li> <li>• Signage across the district, information on SBC website and leaflets</li> <li>• Service of Fixed Penalty Notices to be issued as a last resort if drivers refuse to co-operate and switch off engines when asked to do so, or regularly flout the Regulations.</li> </ul> <p>Expected outcomes:</p> <ul style="list-style-type: none"> <li>• Reduce emissions from idling vehicles particularly in locations where pollution levels are high or exceeding the relevant Air Quality Objective (AQO) and where people likely to be exposed to the vehicle emissions.</li> </ul> <p>The Regulations will cover the whole of the Swale Borough Council district and as such all areas and wards will be affected. However, it is likely that the main enforcement will be via campaigns directed at areas where it is know that drivers regularly leave vehicle engines running such as outside school, near train station etc.</p> |
| <b>Information and research:</b> <ul style="list-style-type: none"> <li>• Outline the information and research that has informed the decision.</li> </ul>   | <p>Research includes:</p> <ul style="list-style-type: none"> <li>• Investigation and discussion with other LA's who have implemented this legislation</li> <li>• Discussions with Legal, Environmental Response Team and Parking Services</li> </ul>   |

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| <ul style="list-style-type: none"> <li>• Include sources and key findings.</li> <li>• Include information on how the decision will affect people with different protected characteristics.</li> </ul>   | <ul style="list-style-type: none"> <li>• Research into the Regulation and Guidance Sources and key findings:</li> <li>• Sources include the Regulations and Guidance, other LA's</li> <li>• Key findings are that the service of FPNs are a last resort. Most anti-idling is dealt with and resolved informally. Few FPN's are served. The fine is low (£20)</li> </ul> <p>It is unlikely that this decision will affect people with different characteristics</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 across the protected characteristics?</li> <li>• Can any conclusions be drawn from the analysis on how the decision will affect people with different protected characteristics?</li> </ul> | <p>No consultation has been carried out for the EIA.<br/>No consultation is required under Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002</p>   |

**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  | No     |
| 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.**

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

- Consider how due regard has been had to the equality
- <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

The introduction of these Regulations is of either no or low relevance to people with different protected characteristics. The impact is

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| <p>duty, from start to finish.</p> <ul style="list-style-type: none"> <li>• There should be no unlawful discrimination arising from the decision (see <a href="#">PSED Technical Guidance</a>).</li> </ul> <p>Advise on the overall equality implications that should be taken into account in the final decision, considering relevance and impact.</p> | <p>deemed to be of neutral impact.</p> <p>If any impact is measured after implementation – for example language or cultural barriers to the anti-idling message we will consider these and adjust our communications accordingly.</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](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’.**