

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 unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
- 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
- Sex
- 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/>
- Kent County Council Facts and Figures about Kent <http://www.kent.gov.uk/about-the-council/information-and-data/Facts-and-figures-about-Kent>
- Public health and social care data http://www.kpho.org.uk/search?mode=results&queries_exclude_query=no&queries_excludefromsearch_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 person completing the EIA should have knowledge and understanding of the service, policy, strategy, practice, plan.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- A public authority is responsible for ensuring that any contracted organisations which provide services on their behalf can comply with the duty, are required in contracts to comply with it, and do comply in practice.
- The duty is a continuing one. It applies when a service, policy, strategy, practice or plan is developed or agreed, and when it is implemented or reviewed.
- 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 to 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:	Jay Jenkins, Leisure & Technical Services Manager
Decision maker:	Regeneration and Property Committee
People involved:	Martyn Cassell, Head of Environment & Leisure
Decision: <ul style="list-style-type: none">• Policy, project, service, contract	Adoption of New Beach Hut Policy which includes Proposal is to instal 12 new beach huts at Minster Leas and 14 at Leysdown.

<ul style="list-style-type: none"> Review, change, new, stop 	
<p>Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision.</p>	<p>Regeneration and Property Committee 12th March 2024</p>
<p>Summary of the decision:</p> <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>What are the aims and objectives?</p> <ul style="list-style-type: none"> To implement a new beach hut policy Phase 1 is to instal 12 huts at Minster and 14 at Leysdown Phase 2 is to instal 46 huts at Minster Leas following public consultation <p>What are the key actions?</p> <ul style="list-style-type: none"> Public consultation on policy Tender opportunity for contract Evaluation of tender returns Appoint contractor Mobilisation of projects works <p>What are the expected outcomes?</p> <ul style="list-style-type: none"> Receive feedback for consideration on policy Huts installed 80% of huts to be sold Remainder to be rented Opportunity for short term rental at both locations <p>Who will be affected?</p> <ul style="list-style-type: none"> Swale residents Beach hut waiting list Potential purchases of huts Potential renter of huts <p>How many people will be affected?</p> <ul style="list-style-type: none"> Waiting list is circa 300 Access to huts will only effect individuals with mobility issues Opportunity to install access ramps at one of the locations (Leysdown)
<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>Swale has a population of 152,200</p> <p>89% of current beach hut users/owners are Swale residents.</p> <p>72% of waiting list is local Swale residents.</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? 	<p>Public consultation has taken place on beach hut policy. 29 returns.</p> <p>Results have been reported to Regeneration & Property Committee.</p> <p>A number of views were expressed during the consultation. The majority did not impact the protected characteristics.</p> <p>One comment requested consideration of disabled access to the beach huts. Disability covers a whole range of health conditions, the</p>

<ul style="list-style-type: none"> Can any conclusions be drawn from the analysis on how the decision will affect people with different protected characteristics? 	<p>majority of which would not impact a person's ability to access and enjoy the beach huts.</p> <p>However, those with a physical/mobility/visual impairment issue could potentially be impacted.</p> <p>At Minster Leas, the current huts are located above the sea wall on a fairly steep slope and accessed via steps only.</p> <p>At both Minster Leas and Leysdown, each individual hut is then raised to avoid issues with weathering and to promote a better view. Access is currently via 3 or 4 steps up to the door.</p> <p>Action to reduce the impact is as follows;</p> <ul style="list-style-type: none"> Amended policy to include a section to research possible new options for design to overcome physical/mobility access issues. To record disability data (optional choice) as part of the waiting list application process in order to monitor demand. <p>Under other socially excluded groups, one could consider deprivation/poverty as concern. Beach huts are considered to be a luxury item and therefore may not be affordable to all. In order to overcome this, consideration is given in the policy to introducing shorter weekly rentals and Members will be asked to consider allocation of some huts to local voluntary or charitable organisations.</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	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.

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	Low	Neutral
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
Sex	Low	Neutral
Sexual orientation	Low	Neutral

Other socially excluded groups ¹	Medium/Low	Neutral
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<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. <p>Advise on the overall equality implications that should be taken into account in the final decision, considering relevance and impact.</p>	<p>Summarise this conclusion in the body of your report</p> <p>In conclusion, the impact of the decision to introduce a beach hut policy and to install new beach huts could only impact individuals with mobility and visual impairment issues, and this could be addressed for at least one of the locations.</p> <p>We do not currently request equality questions to those on the waiting list but will request any mobility/impairment issues going forward to help inform demand.</p> <p>New rental options and support for voluntary and charitable organisations would help overcome access issues through deprivation/low income.</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 Janet Dart in the Comms and Policy Team (janetdart@swale.gov.uk) who will review it with colleagues and let you have any comments or suggested changes.

This Equality Impact Assessment should form an appendix to any EMT/SMT or committee 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'.

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