

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 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:	Andre Bowen, Service Improvement & Project Manager
Decision maker:	Environment and Climate Change Committee
People involved:	<i>Who is involved in this EIA?</i>
Decision: <ul style="list-style-type: none">• Policy, project, service, contract	<ul style="list-style-type: none">• Public Convenience Service• Changing Service

<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><i>What date is it going to SMT/Cabinet or Council?</i> <i>NB. SMT will want to see a EIA attached even if the final decision lies with Cabinet or Council</i></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>A full review of the public conveniences provision to ultimately match the service with the resources in the medium term financial plan. Central and local government, the business community and commercial sector, voluntary and community organisations, local communities and interest groups: all share a common ambition to create quality places where people can thrive. By working in partnership, and adapting a range of approaches to the needs of different areas, significant financial and non-financial benefits can be achieved.</p> <p>The key actions are;</p> <ol style="list-style-type: none"> 1. The closure of 3 public conveniences. 2. To undertake formal negotiations to transfer 7 public conveniences to Town and Parish Councils or other appropriate local organisations. 3. Introduce a Community Toilet Scheme. 4. Retender for 26/27 onwards for the remaining (6 public convenience). <ol style="list-style-type: none"> a. And potentially those not transferred under recommendation 2 5. Consider exploring opportunities to improve the condition of the remaining public conveniences, while improving energy and water efficiency where applicable. <p>The expected outcomes include;</p> <ul style="list-style-type: none"> • Support the Corporate Plan objective of 'Running the Council' by working within our resources, and delivering in a transparent and efficient way. • Support the Corporate Plan objective of 'Community', enabling our residents to live, work and enjoy their leisure time safely in our borough and to support community resilience. • Support more local businesses to take part in a community toilet scheme, leading to more public toilet options available for residents and visitors. This can make areas more attractive to tourists, enhancing the overall visitor experience. • To transfer public conveniences to Town and Parish Councils who can maintain them on behalf of the people in the respective parish/town, where they have a responsibility for the well-being of its local community. <p>Any member of the public, including residents, visitors and tourists will be affected.</p> <p>The proposed closure of 3 public conveniences will predominantly affect wards; Library Car Park – Homewood (6340), The Forum – Chalkwell (3,990), Milton Regis High Street - Milton Regis (6,180), The Spinney – Sheppey East (8,355) and The White House - Minster Cliffs (7,862). Totally between 16,510 and 22,575 residents.</p>

Information and research: <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 preferred option aims to match the service with the resources in the medium term financial plan taking into account the footfall, costs, condition, level of antisocial behaviour and opportunities available in the local and national context. That is;</p> <ul style="list-style-type: none"> Determined the usage of public conveniences within the borough Determine the estimated condition and estimated maintenance costs (from wear and tear and vandalism) Compared public conveniences of neighbouring boroughs and national context Consulted with Town and Parish Councils Explored alternative uses and models of operation for public conveniences Recommended the most advantageous solution. Ultimately to match the service with the resources in the medium term financial plan Consult with members of the public on the proposed changes (planned) Consulted potential businesses suitable for the proposed Community Toilet Scheme
Consultation: <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? Can any conclusions be drawn from the analysis on how the decision will affect people with different protected characteristics? 	<p>Of the Town and Parish Councils consulted, 4 have expressed an interest in maintaining the public conveniences in their respective towns/parishes.</p> <p>6 businesses have expressed an interest in allowing members of the public to use their toilets without purchasing any goods or paying a fee.</p> <p>Responses to the public consultation are likely to highlight that closures could have an impact on the elderly, people with a disability, pregnant women and children. There is also the possibility that it could impact on tourism.</p>

Is the decision relevant to the aims of the equality duty?	
Guidance on the aims can be found in the EHRC's PSSED 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	Yes
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	Medium	Negative
Disability	Medium	Negative

Gender reassignment	None	Neutral
Marriage and civil partnership	None	Neutral
Pregnancy and maternity	Medium	Negative
Ethnicity	None	Neutral
Religion or belief	None	Neutral
Sex	None	Neutral
Sexual orientation	None	Neutral
Other socially excluded groups ¹	None	Neutral

Conclusion:

- 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.

Advise on the overall equality implications that should be taken into account in the final decision, considering relevance and impact.

Summarise this conclusion in the body of your report

The closure of the public toilets could impact more on particular groups, including older people, families with small children, disabled people and pregnant women

Age - the incidence of disability and health related issues increase with age. Older people may be disproportionately affected by conditions that require them to use toilet facilities more frequently.

Younger people - families with young children may be affected by a reduction in facilities generally, and in particular if there is a loss of facilities with baby changing areas.

Disability - Availability of public toilets can impact on disabled people taking part in everyday activities, in particular people with specific conditions which require frequent use of facilities (eg Colitis, Crohn's Disease, IBD, Prostate Cancer). People who require accessible toilets could also be disproportionately impacted by the closure of such facilities - both in the sense of availability of disabled toilet facilities and also location for people with mobility problems.

Pregnancy - pregnant women are also more likely have frequent use of toilet facilities.

The extent of impact would also depend on whether specific facilities are affected (eg accessible toilets, those with baby changing facilities) and the proximity of alternative facilities.

The Council does not have a statutory responsibility to provide public conveniences, but in order to continue to be able to provide a service it is proposed to close a number of facilities rather than closure of all facilities.

There could be negative impact for service users and this may disproportionately impact on some groups including older people and disabled people. The decision needs to be considered in the context of a requirement for significant savings to be found by the Council and whether this is a proportionate means of achieving a legitimate aim, i.e. the requirement for the Council to balance its budget.

Further promotion of the Community Toilet Scheme to encourage local businesses to make facilities available to the public, or for communities to take responsibility for public conveniences. Also the promotion and publicity of Community Toilet Scheme facilities.

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

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'.