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Equality Impact Assessment Guidance

Orkney Islands Council

Equality Impact Assessment guidance

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1. Purpose of the guidance

This guidance document has been designed to provide you with supporting information that supports the completion of the Equality Impact Assessment (EqIA). Please note that employees involved in the EqIA process must have completed the mandatory corporate Equality and Diversity training, as a general understanding of equality and in particular the protected characteristics is required to ensure an EqIA is conducted effectively and appropriately.

1.1 What is an Equality Impact Assessment

The purpose of an Equality Impact Assessment (EqIA) is to ensure we comply with the law, taking account of equality, human rights and socioeconomic disadvantage (poverty) implications when making decisions. It also ensures decision makers are fully informed, at a formative stage in the decision making process.

This process will allow us to critically assess whether a policy has wider impacts beyond its intended outcomes and if it impacts differentially on different groups in our communities.

The term policy is used throughout this guidance note and applies to policies, strategies, provisions, criteria, functions, practices, budget savings and activities, including the delivery of services.

1.2 Why is an Equality Impact Assessment Required

Assessing impact is an important part of the public sector's decision making process. It is important in developing any proposal to understand how the needs of different groups and the potential barriers they may face may differ. An EqIA is a mechanism which enables you to consider the needs/barriers and identify any adverse impacts of different groups. It enables us to:

- Develop better policies and practices based on evidence.
- Prevent or mitigate negative impacts.
- Meet our legal requirements in terms of equality, Human Rights, Socioeconomic disadvantage and child poverty.
- Be more transparent and accountable.

We have a legal requirement to assess our policies for impact to ensure we do not discriminate and to reduce inequality of outcome caused by socioeconomic disadvantage, it ensures statutory compliance and also can avoid legal action. This process also gives us the opportunity to identify and highlight positive impacts.

1.3 When is an Equality Impact Assessment Required

Assessing the impact is not an end in itself and should be an integral part of any policy development/change/revision/implementation etc. The regulations emphasise that it is the impact of applying a new or revised policy that must be impact assessed and equally we must actively consider how we could reduce inequality of outcome.

The assessment process must happen before a policy is finalised and as early in the development process as possible. The policy should be developed enough to enable an objective, reasonable and clear assessment to be undertaken. The assessment cannot be retrospective, or undertaken only near the end of the process, but instead should be seen as integral to the development process and able to inform the consultation process.

Assessing impact does not end with the introduction of the new or revised policy; it is important to monitor the actual impact of the policy as it is implemented, and revisit the assessment as part of any review. Therefore, assessment of impact should be considered as an ongoing, end-to-end process, from early discussions right through to the final decision about whether to go ahead with a policy or service change and beyond, to monitor the actual impact of the implementation.

In order to fulfil our general duty it is critical that all services conduct an EqIA in the following circumstances;

- All significant policies, strategies, projects, service reforms/changes should have an Equality Impact Assessment built into the planning process.
- All budget options for each financial year will require an Equality Impact Assessment unless assessed not relevant.
- All reports to Committee require impacts relating to equality, human rights and socioeconomic disadvantage to be referenced, this should be a detailed summary included in the report and a copy of the EqIA included in the background papers.

All changes to council policy or resources must be assessed for relevance and should be undertaken before any changes are agreed – this is a legal requirement.

It is also important to consider cumulative impacts; this is especially relevant when you are making changes to a number of services across one or more service areas for example - making changes to policies for funding and delivering social care, day care, respite for carers and community transport.

Small changes in each of these policies may have a relatively minor effect on disabled and older people, but the cumulative effect of changes to these areas could have a significant effect on the participation in public life of these groups.

1.4 Who is responsible for completing an Equality Impact Assessment

The person or persons responsible for developing the policy, or delivering a service are responsible for undertaking the assessment. The duty to complete the assessment cannot be delegated, therefore the person with the ultimate responsibility for the policy and its implementation must be aware that the EqIA is being undertaken and must sign off the final document. The Equalities Officer may also have input in this process.

2. Legal context

2.1 Public Sector Equality Duty (PSED)

The Public Sector Equality Duty (PSED) (often referred to as the general duty) requires public bodies in the exercise of their functions, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct.
- Advance equality of opportunity between those who share a protected characteristic and those who do not; and,
- Foster good relations between those who share a protected characteristic and those who do not.

Supplementary legislation (the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012), requires the council to be proactive in meeting the general duty of eliminating unlawful discrimination, advancing equality and fostering good relations.

Further information relating to Assessment of Impact can be found here:

<https://www.equalityhumanrights.com/en/publication-download/assessing-impact-and-public-sector-equality-duty-guide-public-authorities>

2.1. Protected Characteristics

The legislation requires that people are not discriminated against, harassed or victimised on the grounds of their protected characteristic. The protected characteristics are;

- age,
- disability,
- gender reassignment,
- marriage and civil partnership,
- pregnancy and maternity,
- race – this includes ethnic or national origin, nationality and also includes Gypsy/Travellers,
- religion or belief including lack of belief,
- sex (gender),
- sexual orientation.

Every person has one or more protected characteristic; therefore the Act protects all individuals against unfair treatment.

As part of our Corporate Parenting responsibilities, and following best practice guidance from Who Cares? Scotland and the Equality and Human Rights Commission, the Council treats 'care experience' as a protected characteristic for the purposes of assessing impacts of policies and processes.

2.2. Human Rights

Taking a human rights based approach is about making sure that people's rights are put at the very centre of policies and practices. This approach should be an embedded consideration when conducting an EqlA.

The PANEL principles (detailed below) are one way of breaking down what this means in practice.

In summary we need to consider, where applicable to what (if any) extent a policy impacts on the key PANEL principles of Human Rights. These are as follows:

- **Participation** – people should be involved in decisions that affect their rights. Participation must be active, free, meaningful and give attention to issues of accessibility, including access to information in a form and a language which can be understood.
- **Accountability** – there should be monitoring of how people's rights are being affected, as well as remedies when things go wrong.
- **Non Discrimination** – All forms of discrimination must be prohibited, prevented and eliminated. People who face the biggest barriers to realising their rights should be prioritise.
- **Empowerment** – Everyone should understand their rights, and be fully supported to take part in developing policy and practices which affect their lives.
- **Legality** – requires the recognition of rights as legally enforceable entitlements and is linked in to national and international human rights law.

Human rights include civil and political rights, such as:

- Freedom of expression.
- Freedom of religion or conscience.
- Freedom of assembly.
- The right to a fair trial.
- The right to privacy.
- The right to vote.

Human rights also include economic, social and cultural rights, such as:

- The right an adequate standard of living.
- The right to adequate food, housing, sanitation and water.
- The right to education.
- Rights at work.

As with all impact identification; it is important to note, that the process of consideration is not limited to identifying those impacts we wish to improve or mitigate, but also where applicable, those positive impacts that may enhance the human rights of an individual(s).

Further information relating to Human Rights can be found here:

<http://www.scottishhumanrights.com/rights-in-practice/>

2.3. Fairer Scotland Duty (socio-economic disadvantage)

The Fairer Scotland Duty, part 1 of the Equality Act 2010 places a legal responsibility on the council to actively consider (pay due regard to) how they can reduce inequalities of outcome caused by socioeconomic disadvantage, when making strategic decisions.

This duty gives us an opportunity to do things differently and put tackling inequality genuinely at the heart of key decision making.

In broad terms, socio-economic disadvantage means living on a low income compared to others in Scotland, with little or no accumulated wealth, leading to greater material deprivation, restricting the ability to access basic goods and services. Socio-economic disadvantage can be experienced in both places and communities of interest, leading to further negative outcomes such as social exclusion. Disadvantage can also arise depending on your social class; this is more difficult to measure and will require further consideration.

In summary, socio-economic disadvantage is focused on:

- **low income** - cannot afford to maintain regular payments such as bills, food, clothing.
- **low wealth** - enough money to meet basic living costs and pay bills but have no savings to deal with any unexpected spends and no provision for the future.
- **material deprivation** - being unable to access basic goods and services i.e. financial products like life insurance, repair/replace broken electrical goods, warm home, leisure and hobbies.
- **area deprivation** (including communities of interest and communities of place) - where you live, where you work, visit or spend a continuous amount of time can all have an impact i.e. rural areas, accessibility of transport, education and employment impact, people who have experienced homelessness and / or the asylum system, those who share an identity and / or a Protected Characteristic.
- **Socio-economic background** – disadvantage that can arise from parents' education, employment and income – social class in other words.

The council is covered by the Public Sector Equality Duty (PSED) and the Human Rights Act and we also have responsibilities in relation to child poverty as stipulated in the Child Poverty (Scotland) Act 2017. This means we can use an integrated approach to focus on equality, human rights, socio-economic disadvantage and child and family poverty.

Although the Fairer Scotland Duty is derived from the Equality Act 2010, it is separate from the public sector equality Duty (PSED), but there are clear links between the aims of both duties as those who share particular protected characteristics are often at higher risk of socio-economic disadvantage.

Further information relating to the Fairer Scotland Duty can be found here:

<https://www.gov.scot/Publications/2018/03/6918/downloads>

3. Undertaking an impact assessment

3.1. How do I complete an Equality Impact Assessment?

You should first of all screen the policy for relevance to equality using all of the following questions:

- Which aspects of the General Duties does it link to?
- Is there potential for different impact on different groups? Which groups?
- Is there or could there be public concern about potential discriminatory practice?

These questions will enable you to identify key issues, as well as determine how relevant the policy is. The template for completing an equality impact assessment is attached in Appendix 1.

You should also consider what priority to give the policy. This will depend on a number of factors which may include relevance to any equality strand, risk for the organisation, whether or not there is a significant impact (i.e. it affects a lot of people or a high proportion of people in particular groups), if it is a key organisational objective or affects the way the organisation works, or a review or major consultation is already planned. This may be particularly relevant when considering changes in budget proposals.

3.2. Equality Impact Assessment Template

The EqIA template enables you to record the relevance and priority given to the policy or function as well as to take into account any planned consultation and other people who should be involved in the process. It will help plan for the process and record the expected date for review.

The full Equality Impact Assessment has 4 key stages. These are not linear – you may have to go back to previous stages and do further work to complete some steps.

3.2.1. Initial Screening

Completing this section will tell you what the policy or function is intended to achieve, and who is intended to benefit from it. You should also consider who else is affected. You may decide at this stage that it would be useful to involve some of the people likely to be affected by the policy or function or who are involved in delivering or managing the process (e.g. partners or contractors).

You may already have evidence from consultation or customer feedback and monitoring exercises. You may also draw on additional information such as national surveys, service user feedback, academic/consultants' reports, benchmarking (see equalities resources on OIC information portal). You should consider what the evidence tells you about the impact and whether this is different for different groups.

You should also consider if there are any gaps in information and how these should be filled. Do you need this information before you can carry out an impact assessment or is gathering information to be one of your recommendations?

3.2.2 Consultation

You must set out your arrangements for involving and consulting with people who are affected or likely to be affected by the policy. This is one way of getting different perspectives about the policy or function and your proposals. You should aim to make it easy for people from different groups to give their views (e.g. using meetings as well as written consultations, ensuring material is in different formats such as large print or in appropriate languages).

In addition, you should consider how to ensure that communities are not over-stretched by too many consultation exercises. This may involve a consultation programme or diary and involving partners in joint exercises to avoid people being consulted repeatedly about the same issues.

Once you have carried out the consultation, you should set out the results or outcomes of the consultation taking special care to set out comments about your findings and proposals, and any alternative proposals.

3.2.3 Impact Assessment

You should consider the actual or likely effect of the policy for each protected characteristic. A policy's effect could be neutral, beneficial or adverse. A policy or function is said to have an adverse impact if it disadvantages one or more groups of people. It might be helpful to think about the following:

- Does the evidence show different circumstances or different expectations or needs, or different experiences or outcomes (such as different levels of satisfaction of different rates of participation)?
 - Consider this for people in different groups in terms of race, gender, age, disability, sexual orientation or faith/belief?
 - What are the effects in relation to multiple identities e.g. young people with disabilities?
- Do the differences amount to adverse impact?
 - If so, which groups are affected?
- Could the adverse impacts amount to unlawful discrimination against any group of people?

There are various types of unlawful discrimination. The main ones are:

- Direct Discrimination.
- Indirect Discrimination.
- Victimisation.
- Harassment.

3.2.4 Mitigating any adverse impact

If your assessment shows that your policy or function does (or is likely to) have an adverse impact on some groups of people, you need to think of ways to deal with this. In particular, you must take steps to eliminate unlawful discrimination and reduce any adverse effects. Therefore, you should consider the reasons for the adverse impact.

In any case, you should consider if you can make changes that would increase or promote equality.

You should check that by making changes you are not creating an adverse impact on another group of people, and say what you will do to minimise any new adverse effects.

3.2.5 Decisions on what to do about the policy or function

Once you have completed your consultation, you will have a range of evidence from this as well as the evidence and information you gathered earlier. You can now draw some conclusions and make recommendations about what you will do based on this information.

You should decide if you are rejecting the policy or function, modifying it or adopting it as proposed. If you have been unable to take steps to reduce any perceived discrimination, you will need to think about other ways of achieving the objectives or whether you can justify the adverse impact in law. You may need to get legal advice about this if you identified any unlawful discrimination.

You may wish to pilot the policy or function or some of the mitigations to assess whether you can achieve your policy objectives without adverse effect.

3.2.6. Monitoring arrangements

You should consider what monitoring arrangements are already in place and how well these have met your needs of showing how the policy or function achieves its objectives and how it affects other groups.

Now set out your proposed recommendations for arrangements to monitor the actual impact of the policy or function. You should also set out how this is to be followed up to make sure that monitoring is carried out. Monitoring information will be useful in any future review and any future impact assessment of this policy or function.

Summary of the assessment:

- What you did.
- What evidence you used.
- What you found.
- What consultation you undertook.
- What changes you made.
- What will happen next.
- When (date) the policy is due to be reviewed.

What should I do when I have completed the Equality Impact Assessment?

Sign and date the form; keep one copy and send a copy to HR and Performance.

What happens if I do not carry out an Equality Impact Assessment?

The council is required by law to consider the effects of its policies and functions on different groups of people. If we do not do this, we will be at risk of being found non-compliant with the law and being taken to court.

Failure to carry out an equality impact assessment could also mean that any discriminatory practices would continue.

4. Further support and information

You can contact the Equalities Officer on 01856 873535 extension 2155.

You may also find some helpful data sources when gathering evidence during the assessment process on the following:

ACAS: <http://www.acas.org.uk>

Action on Hearing Loss Scotland: <https://www.actiononhearingloss.org.uk/about-us/our-work-across-the-uk/scotland/>

Census Scotland: <http://www.scotlandscensus.gov.uk/>

Chartered Institute of Personnel and Development: <https://www.cipd.co.uk/>

Deaf Action: <http://www.deafaction.org.uk/>

Enable Scotland: <https://www.enable.org.uk/>

Equality and Human Rights Commission: <https://www.equalityhumanrights.com/en>

Equality Network: <https://www.equality-network.org/>

Guide Dogs: <https://www.guidedogs.org.uk/>

Inclusion Scotland: <http://inclusionScotland.org/>

Joseph Rowntree Foundation: <https://www.jrf.org.uk/>

LGBT Youth Scotland: <https://www.lgbtyouth.org.uk/>

Office for National Statistics: <https://www.ons.gov.uk/>

RNIB: <https://www.rnib.org.uk/>

Scottish Association for Mental Health: <https://www.samh.org.uk/>

Scottish Government Equality Evidence Finder:
<https://www.gov.scot/Topics/People/Equality/Equalities/DataGrid>

Scottish Government: <https://www.gov.scot/>

Scottish Human Rights Commission: <http://www.scottishhumanrights.com/>

Scottish Transgender Alliance: <https://www.scottishtrans.org/>

See Me Scotland: <https://www.seemescotland.org/>

Stonewall Scotland: <https://www.stonewallscotland.org.uk/>

The Poverty Alliance: <https://www.povertyalliance.org/>