

## Equality Impact Assessment Policy & Procedure

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## 1 Purpose of this policy and procedure

1.1 This document outlines our policy and procedure for conducting Equality Impact Assessments (EIA). It is closely connected to our

- [Strategic Equality Plan 2019-22](#)
- [Welsh Language Policy](#)

1.2 This document aims to ensure that EIAs of our policies are conducted consistently; in a timely manner; to a high standard and in line with our statutory duties and voluntary commitments.

## 2 Purpose of impact assessments

2.1 An impact assessment is a procedure which enables an organisation to consider the effects of its decisions, policies or services on different communities, individuals or groups. It aims to:

- anticipate or identify the consequences of this work on individuals or groups of service users/employees;
- ensure that any negative effects are eliminated or minimised;
- maximise opportunities for promoting positive effects.

2.2 An impact assessment may be a statutory requirement. However, it also represents good organisational practice. It helps to develop better policies and practices and aids transparency and accountability. It can also encourage individuals and communities to participate in decision making processes - giving them ownership of decisions and transforming institutional cultures and decision making.

## 3 Our duties and commitments to assess impact on equality

3.1 This section explains what impact assessments we must undertake by law or based on our voluntary commitments. However, the ultimate rationale for completing an EIA is that it can improve services for people, making these services better and fairer.

### Protected characteristics

3.2 The Equality Act 2010 ('the 2010 Act') defines 9 'protected' equality characteristics:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief – including lack of belief; and
- sex (gender)
- sexual orientation.

3.3 Under the 2010 Act, it is unlawful to [discriminate](#) against people possessing those characteristics or treat them unfairly in the provision of services and public functions. This is apart from very specific circumstances when discrimination may be allowed based on '[objective justification](#)'.

3.4 The Act also introduces [a duty to provide reasonable adjustments](#) for disabled people.

3.5 In addition, the 2010 Act also introduces the 'Public Sector Equality Duty', also known as the 'general duty'. Under the duty, when carrying out our functions, we must have 'due regard' to the need to:

- eliminate unlawful [discrimination](#), [harassment](#) and [victimization](#)
- advance equality of opportunity between different groups
- foster good relations between different groups.

3.6 Finally, under the Equality Act (Statutory Duties) (Wales) Regulations 2011, we must

- assess the likely impact of any proposed policies and practices, or any planned or proposed revisions of these policies and practices, on our ability to comply with the Public Sector Equality Duty;
- monitor the impact of these policies and practices; and
- publish reports on impact assessments.

### Socio-economic disadvantage

- 3.7 In addition to establishing the 'general duty' in relation to people with protected characteristics, the 2010 Act also introduces a so-called 'socio-economic duty'. The socio-economic duty requires key public bodies, when taking strategic decisions, to have due regard to the need to reduce the inequalities of outcome that result from socio-economic disadvantage.
- 3.8 Inequalities of outcome, socio-economic disadvantage or strategic decisions are not defined in the Act. The Welsh Government [statutory guidance](#) defines these terms as follows:
- inequality of outcome: any measurable difference in outcome between those who have experienced socio-economic disadvantage and the rest of the population;
  - socio-economic disadvantage: living in less favourable social and economic circumstances than others in the same society
  - strategic decisions: decisions which affect how the public body fulfils its intended statutory purpose over a significant period of time (not routine 'day-to-day' decisions).
- 3.9 Socio-economic disadvantage can be linked to many characteristics, such as area deprivation (e.g. rurality), low or no wealth or income (e.g. homelessness; unemployment), caring duties and other.
- 3.10 Differences in these characteristics can lead to inequalities of outcome in relation to education, health, work, justice and personal security, living standards and the ability to participate in decision making in communities or accessing services.
- 3.11 At PSOW, we do not have to comply with the socio-economic duty, but we are committed to work in its spirit. This commitment includes assessing the impact of our work on people experiencing socio-economic disadvantage.

### Welsh language

3.12 Under the Public Services Ombudsman (Wales) Act 2019, we have statutory duties in relation to the Welsh language.

3.13 These include duties to assess positive and negative impact of new or revised policies on:

- opportunities for persons to use the Welsh language, and
- treating the Welsh language no less favourably than the English language.

3.14 We must also consider how a new policy, or review or revision of an existing policy should be formulated to minimise the negative impact and maximise the positive impact.

### Integrated impact assessment

3.15 It is good practice to integrate impact assessments – that means, to look within one assessment at different aspects of equality. Integrating impact assessments can encourage more joined-up thinking and avoid duplication of time and effort. Our EIA procedure considers at the same time the impacts on protected characteristics, socio-economic characteristics and the Welsh language.

## 4 When to conduct an EIA

### High-level EIAs of our core functions

4.1 We will conduct high-level EIAs of our core functions: complaint handling, improvement, corporate services, financial management, information governance and IT.

4.2 These high-level EIAs will identify general areas of our work with positive or negative impacts on equality. They will also identify some general steps that we already take, or could take in the future, to enhance positive impact and mitigate negative ones.

### EIAs of policies, projects and decisions

- 4.3 In addition to our core functions, this EIA procedure will be applied to:
- our policies, procedures and strategies ('policies') – new or revised
  - our major projects – such as Own Initiative Investigations, customer satisfaction research or large-scale outreach events
  - our major decisions –decisions significantly affecting how we operate (for example, a decision to temporarily adjust the availability of our service).

## 5 Roles and responsibilities

- 5.1 The Management Team (MT) has overall responsibility for the strategic direction and governance of PSOW. The MT ensures that how we operate complies with all legal, statutory, and good practice guidance requirements. EIAs must be approved by the MT (policies) or a member of the MT (projects or decisions).
- 5.2 The Head of EDI is responsible for ensuring that the EIA Policy and Procedure is implemented correctly and consistently. They assist other members of staff in completing EIAs and keep records of all the EIAs completed. The Head of EDI is responsible for undertaking the high-level EIAs of our core functions, and reviewing them continuously.
- 5.3 Staff responsible for individual policies, projects and decisions complete EIAs of those policies, projects and decisions as needed.
- 5.4 All staff must be aware of our equality duties and commitments as explained in this document and other related equality policies.

## 6 Initial screening

- 6.1 Not every policy, decision or project must be subject to a full EIA. The legal requirement to assess impact on protected characteristics under the Equality Act 2010 allows to focus on those issues where potentially the most serious equality issues arise ('relevance' and 'proportionality').
- 6.2 This means that we are allowed to 'screen out' policies that are likely to have minimal equalities impact and therefore do not require a full assessment.

- 6.3 At PSOW, we will undertake full impact assessments of our core functions to help us identify areas of our work which have equality impacts. Those EIAs will serve as a model and reference point of assessments of more specific policies, projects and decisions.
- 6.4 We will undertake a full impact assessment of a policy, project or decision if it:
- relates to our functions or areas of work within those functions for [which EIA has identified equality impacts](#)
  - relates to our [Equality Objectives](#)
  - we have reasons to believe that it could disadvantage any group of people.

## 7 Identifying and addressing impact

- 7.1 Impacts identified through our EIA procedure may be negative or positive.
- 7.2 Negative impacts can be identified by asking 'Is there a risk that the function, policy project or decision could
- discriminate, directly or indirectly, against any group of people?
  - create barriers for people with some characteristics to access or participate in our work?
  - fail to meet the needs of some groups of people?
  - reduce opportunities for people to use Welsh, or mean we would treat the Welsh language less favourably than the English language?
- 7.3 Positive impacts can be identified by asking 'Is there a potential that the function, policy project or decision could
- help to reduce the risk of discrimination against any group of people?
  - remove or minimize disadvantage experienced by some people?
  - encourage different groups of people to access or participate in our work?
  - help to tackle prejudice?
  - help to promote understanding between different groups?
  - improve opportunities for people to use Welsh?
- 7.4 The legislation defining our equality duties and commitments (see section 3 above) sets out different requirements for measuring impact on protected characteristics, socio-economic disadvantage and the Welsh language. For example, it is unlawful to discriminate against people based on their protected characteristics, but not based on their socio-economic status.



7.5 Our integrated EIA procedure goes beyond our legal duties, and considers negative and positive impacts on protected characteristics, socio-economic characteristics, and the Welsh language.

### 8 Evidence and engagement

8.1 The EIA procedure must be based on evidence. It is not enough to rely on assumptions about possible impacts – you must consider a broad range of data that will inform the assessment.

8.2 This may include existing data such as:

- quantitative data (e.g., equality profile of the people affected; numbers of people affected; demographic information; employment statistics; satisfaction surveys)
- qualitative data (e.g., case studies; reports; survey feedback)

8.3 At the heart of compliance with the [Public Sector Equality Duty](#) is the principle of engagement with potentially affected groups. Where a policy, project or decision is relevant to a particular stakeholder group, we must do our best to consult with or involve a representative of this group as early as possible.

8.4 If the evidence available to conduct an EIA is insufficient or not reliable, we may need to pause the procedure and look for the evidence required.

8.5 Previous EIAs may be of help as a reference point. All EIAs are kept on our Intranet.

8.6 All evidence that we used to conduct an assessment **must** be recorded. This record is essential to demonstrate our due regard to Public Sector Equality Duty, socio-economic duty and Welsh language policy standards.

### 9 Outcomes

9.1 The final step of the procedure involves recording outcomes. There are three main possible outcomes:

- proceed – no changes
- proceed – changes needed
- do not proceed

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- 9.2 It is **unlawful** to proceed with a policy, decision or project which would discriminate against people who share protected characteristics (includes failing to provide reasonable adjustments). This is apart from very specific circumstances in which discrimination may be allowed based on '[objective justification](#)'.
- 9.3 If we need to make changes to a policy, project or decision, the outcomes report must specify a plan to make these changes and assign responsibilities for any actions.
- 9.4 A completed EIA must be approved by the Management Team (for policies) or by a member of the Management Team (for projects and decisions).
- 9.5 The final version of the completed EIA must be shared with the Head of EDI who will store and keep a record of all the EIAs.

### 10 Publication

- 10.1 We must publish the results of assessments of impact on protected characteristics where the impact or likely impact is deemed to be 'substantial'.
- 10.2 For simplicity, we will publish all full impact assessments on our website. We will also publish summaries of these assessments in our annual equality report.

### 11 Monitoring and review

- 11.1 The policy will be reviewed every two years and will be published internally and externally.

### Appendix A: Equality Impact Assessment Form

Our [Equality Impact Assessment form is available here](#).

### Appendix B: Common questions and answers

**Q:** When do I need to complete an EIA?

**A:** You must complete an EIA every time you develop a new policy, or you review an existing one. You must also complete an EIA if you are planning a major project or are responsible for a major decision significantly changing how we operate. As an organisation, we also conduct full high-level EIAs of our core functions.

**Q:** Do I always have to undertake a full EIA?

**A:** No. Sometimes it will be enough to undertake only initial screening of a policy, project or decision. You will only have to go on to the full impact assessment if your policy, project or decision

- relates to our functions, or areas of work within those functions, which may have equality impacts. You can find out about those impacts in [the high-level EIAs of our core functions here](#).
- relates to our [Equality Objectives](#).
- you have reasons to believe that it could lead to discrimination against any group of people. To decide whether there is a risk of discrimination, you will have to review some evidence.

**Q:** What is the purpose of high-level EIAs of our functions?

**A:** We conduct these EIAs to identify the general areas of our work with positive or negative impacts on equality. Once we have identified these areas, we can make sure that all our policies, projects or decisions related to those areas consider the possible positive or negative impacts identified and apply the appropriate measures to enhance or mitigate those impacts. Since the high-level EIAs already collate a wide range of relevant evidence, the more details assessments of our policies, projects and decisions need to only list any additional evidence that we considered.

**Q:** What evidence do I need to conduct an EIA?

**A:** First, look at the [high-level EIA of our relevant functions here](#). They include a wide range of relevant evidence. Look also at previous EIAs of the same policies, projects and decisions. All our EIAs are stored on our Intranet. You will also be able to find relevant EIAs completed by other organisations. Beyond that, consider other quantitative and qualitative evidence that may be relevant to your specific policy, project or decision. Think also about who you need to engage with to get feedback on your policy, project or decision.

**Q:** What do I do with a completed EIA?

**A:** A completed EIA must be approved by the MT (for policies) or by a member of the MT (projects or decisions). You will need to send the approved EIAs to the Head of EDI, who will keep them on our Intranet and publish them on the website if necessary.

### Appendix C: Glossary

#### Discrimination

Discrimination means less favourable treatment because of someone's protected characteristics. It includes a situation where someone is wrongly assumed to have a particular characteristic and when someone is connected to a person with protected characteristics. Discrimination may be direct (when someone is treated less favourably because of a protected characteristic) or indirect (when a function, policy, project or decision is applied equally to everyone but has a disproportionate negative effect on people who share a protected characteristic).

#### Harassment

Harassment means unwanted behaviour related to a protected characteristic, or of a sexual nature, that has the purpose, or effect, of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

#### Public Sector Equality Duty

The Public Sector Equality Duty, also known as the 'general duty' states that, when carrying out their functions, public bodies must have 'due regard' to the need to:

- eliminate unlawful [discrimination](#), [harassment](#) and [victimization](#)
- advance equality of opportunity between different groups
- foster good relations between different groups.

### Objective justification

The Equality Act says that indirect discrimination can be justified if there's a good enough reason for treating someone unfavourably. It also allows, in specific circumstances, for direct age discrimination. A defence on these grounds is known as 'objective justification'.

Objective justification may apply to the following circumstances:

- occupational requirement: sometimes, having a protected characteristic is an occupational requirement and certain jobs need to be reserved for people with that protected characteristic
- positive action: employers are allowed to take steps to encourage people from groups sharing a protected characteristic who have different needs; have a past track record of disadvantage; or have a record of low participation
- direct age discrimination: in some specific circumstances it is permissible to treat some age groups less favourably. For example, a GP can offer flu jabs to over 65s only. Direct discrimination can only ever be justified in the context of the complainant's age, and not in relation to any of the other protected characteristics.
- discrimination arising from disability: in very specific circumstances, it is not unlawful to discriminate against someone based on something connected to their disability. This is only when a person who discriminates against someone else can show that they didn't know, or couldn't reasonably have expected to have known, that that person was disabled.

To rely on the objective justification defence, the employer, service provider or other organisation must show that its policy or age-based rule was for a good reason – that it is 'a proportionate means of achieving a legitimate aim'. According to EHRC guidance, to prove objective justification:

- the aim must be a real, objective consideration and not in itself discriminatory (for example, ensuring the health and safety of others)
- there must be no alternative measures available that would meet the aim without too much difficulty and would avoid such a discriminatory effect: if proportionate alternative steps could have been taken, there is unlikely to be a good reason for the policy or age-based rule
- it is insufficient to argue based on cost only - if the aim is simply to reduce costs because it is cheaper to discriminate, this will not be legitimate.

### Reasonable adjustments duty

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This duty is applicable if the way that we carry out our functions places a disabled person at a substantial disadvantage to someone who is not disabled. In such circumstances we have a duty to offer reasonable adjustments. Reasonable adjustments may include 'provisions, criteria and practices', 'physical features' and 'provision of auxiliary aids'. In other words, they may involve:

- changing the way things are done
- making changes to overcome barriers created by the physical features in the office
- providing extra equipment or securing assistance.

The duty to offer reasonable adjustments is an 'anticipatory duty'. This means that we must think in advance about what people with a range of disabilities might reasonably need.

### **Victimisation**

Victimisation means treating a person badly because they have made or supported a complaint about discrimination or harassment or because they are thought to have done one of these things.