

Guide to Equality Impact Assessments (EIA):

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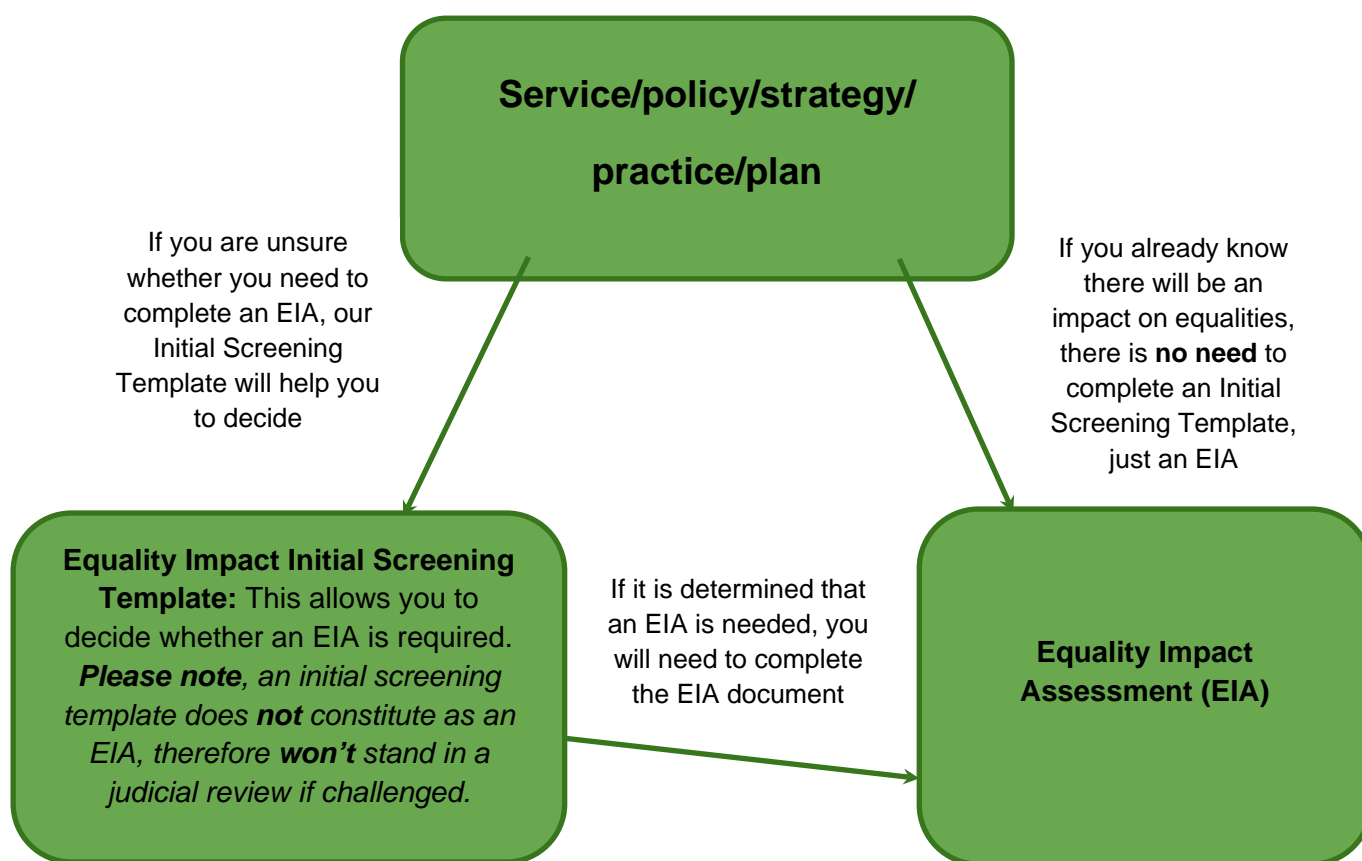
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What are Equality Impact Assessments (EIA)?

As a public sector organisation, we have a legal duty under the Equality Act 2010 and the Public Sector Equality Duty to identify and consider the impact and potential impact in terms of equality, of our activities. This could be a **new** or **revised service/policy/strategy/practice/plan**.

Equality Impact Assessments (EIA) are an anticipatory process that supports the Council to predict possible issues, and take appropriate action such as removing or mitigating any negative impacts, where possible, and maximising any potential for positive impact. An EIA assesses against our legal duties and ensures that the impact is assessed in a structured and robust way, which can be evidenced if challenged. If you are unsure whether you need to complete an Equality Impact Assessment (EIA), there is an Equality Impact Initial Screening Template to decide whether one is needed or not.



Equality Impact Assessments (EIA) are an effective way to:

- proactively identify potential discrimination and remove it
- improve policy development and service delivery
- identify how services can be made more accessible and appropriate
- avoid adopting unlawful or harmful proposals
- identify potential steps to advance equality and foster good relations
- become a better employer
- be more transparent and accountable
- make better, more informed decisions, first time round
- deliver value for money

Why carry out an Equality Impact Assessment (EIA)?

Whilst discrimination may never be intended, EIA identify the possibility that this may be a consequence of changes that we make, and allows us to plan ahead to minimise or avoid this.

Judicial review cases in respect of equality duties concern whether or not a public authority has paid/had due regard to the general equality duty when: making a decision, acting or failing to act. A judicial review is a procedure by which a person who has been affected by a particular decision, action or failure to act of a public authority may make an application to the High Court, which may provide a remedy if it decides that the authority has acted unlawfully by breaching the Public Sector Equality Duty. In the event of a legal challenge, for example a judicial review, the courts place significant weight on the existence of some form of documentary evidence of compliance with the Public Sector Equality Duty.

The following principles, drawn from case law, explain what we **must** do to fulfil our duties under the Equality Act:

- **Knowledge:** everyone working for the Council must be aware of our equality duties and apply them appropriately in their work. It is essential that the person completing the EIA should have knowledge and understanding of the service/policy/strategy/practice/plan.
- **Timeliness:** the duty applies at the time of considering options for change and/or before a final decision is taken – not afterwards.
- **Real consideration:** the duty must be an integral and rigorous part of your decision-making and influence the process.
- **Sufficient information:** you must assess what information you have and what is needed to give proper consideration.
- **No delegation:** the council is responsible for ensuring that any contracted organisations which provide services on our behalf can comply with the duty, are required in contracts to comply with it, and do comply in practice. It is a duty that cannot be delegated.
- **Review:** the equality duty is a continuing duty. It applies when a service, policy, strategy, practice or plan is developed or agreed, and when it is implemented or reviewed.
- **Proper record keeping:** to show that we have fulfilled our duties we must keep records of the process and the impacts identified.

The Public Sector Equality Duty

The three main aims of the Public Sector Equality Duty are as follows:

You must give 'due regard' (give active consideration) to the need to -

1. **Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Act.**
2. **Advance equality of opportunity between people who share a relevant protected characteristic and those who do not.**

This involves, in particular, having due regard to the need to:-

- remove or minimise disadvantages suffered by people due to their protected characteristics (*Glossary of protected characteristics can be found on page 10*).

- take steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people, for example, taking steps to take account of disabled people's disabilities;
- encourage people with certain protected characteristics to participate in public life or in other activities where their participation is disproportionately low.

3. Foster good relations between people who share a protected characteristic and those who do not.

This means tackling prejudice and promoting understanding between people from different groups and communities.

When do I need to complete an Equality Impact Assessment (EIA)?

An EIA should be an integral part at the **earliest stage** of development and **before** a final decision is made to go ahead with a change to monitor the actual impact of the implementation.

EIA should be considered when you are first looking at, for example:

- Planning or developing new services, policies, strategies, practices and plans
- Reviewing or amending existing services, policies, strategies, practices and plans
- Developing business services, policies, strategies, practices and plans
- Ending or substantially changing a service, policy, strategy, practice or plan
- Considering a change management process or organisational review, particularly those that could involve relocating staff or rationalisation of posts
- Any major communications
- Reviewing or introducing forms, leaflets, guidance or codes of practice

Who is responsible for Equality Impact Assessments (EIA)?

The person/s doing the EIA should have a detailed understanding of the policy or practice being assessed and be in a position to ensure changes can be made when needed.

The ownership and responsibility for EIA lies at Head of Service level, however, managers and staff play a key role in the assessment process as they will be involved in implementing the necessary actions identified and integrating equalities into planning.

Although it may be appropriate for one person to complete the Initial Screening Template, described below, it is recommended that the EIA be done by a small team to broaden the range of perspectives, skills and knowledge involved.

How do we carry out Equality Impact Assessments (EIA) at Warwickshire County Council?

Equality Impact Initial Screening Template

If you are unsure as to whether an EIA is required, you can complete an Equality Impact Initial Screening Template which can be found here (hyperlink) to decide.

It is important to consider whether:

- The service, policy, strategy, practice or plan is likely to be relevant to anyone because of their protected characteristics
- How it will impact on the employment and/or service provided to anyone with a protected characteristic/s
- How many people is it likely to affect?
- How significant are its impacts?
- Does it relate to an area where there are known inequalities?
- How vulnerable are the people (potentially) affected?

An Equality Impact Initial Screening Template does not constitute as an EIA, therefore won't stand in a judicial review if challenged. It is recommended that an EIA is completed unless there is little or no relevance to equalities. If you decide not to complete an EIA it is important to record your reasons for this on the Equality Impact Initial Screening Template.

Please note: *It is important that you are clear and write in a way that could be understood by someone without a detailed knowledge of the area of work. Please use plain English, free from jargon and any acronyms written in full first time e.g. Equality Impact Assessment (EIA).*

If an EIA is required, the information in the rest of this document will help you to carry one out.

Equality Impact Assessment (EIA)

Proportionality

EIA's should be proportionate to the situation, considering for example:

- the size of the service or scope of the policy or practice
- the resources involved
- the numbers of people and stakeholders affected
- the scope of the likely impact
- the vulnerability of the people affected

The greater the potential adverse impact of the proposed service, policy, strategy, practice, or plan on a protected group (e.g. disabled people), and/or the more vulnerable the group in the context being considered, the more thorough and demanding the process of an Equality Impact Assessment required by the Act will be.

Scoping and Defining (Questions 1-6)

This section should explain what the background and context of the service, policy, strategy, practice or plan you are assessing is.

Information Gathering (Question 7-10)

What type and range of evidence or information do you need to use to help you make a judgement about the impact? It is important to make sure you have enough data to inform your EIA:

- What relevant data is available to the impact on protected groups? If none, it is recommended as good practice to gain some.
- Information may be taken from many sources, for example, stakeholders, customers, equality profile information, workforce profile data, local and national statistics, complaints, user feedback, demographic information including from the Warwickshire Insight Service.
- What further evidence is needed and how can you get it (e.g. further research or engagement needed with affected groups)
- What do you already know about needs, access and outcomes? It is helpful here to focus on each protected characteristic in turn and ask e.g. who uses the service, who doesn't and why? Are there differences in participation rates or outcomes for some groups and why?
- Has there been a key demographic change or trend locally? What might that mean?
- Does data/monitoring show that any policies or practices might create particular problems or difficulties for any groups?
- Is the service having a positive or negative effect on particular people in the community, or particular groups or communities?

A lack of evidence should **not** prevent an EIA from being undertaken. In cases where something is being introduced for the first time there may be little experience to draw on or other material evidence. In such cases you should make a judgment that is as reliable as possible.

Engagement and Consultation (Questions 10-13)

As part of information gathering you must engage and consult appropriately with those likely to be affected to fulfil the Public Sector Equality Duty, this could be people from the public or employees, depending on who the customers are. A clear corporate framework and consultation process is in place, which must be followed by anyone planning formal consultation or engagement activities.

Further information and advice about the guide to the corporate consultation process can be found at:

https://www.warwickdc.gov.uk/downloads/download/488/step_by_step_guide_to_responding_to_consultations

The approach will depend on the circumstances, however consider, for example:

- What do people tell you about the services?
- Are there patterns or differences in what people from different groups tell you?
- What information or data will you need from customers/communities?
- How should people be consulted? Consider:
 - (a) Consult when proposals are still at a formative stage
 - (b) Explain what is proposed and why, to allow intelligent consideration and response
 - (c) Allow enough time for consultation
 - (d) Make sure what people tell you is properly considered in the final decision
 - (e) Consult any groups for whom you have identified a potential negative impact

- Try to consult in ways that ensure all perspectives can be considered
- Identify any gaps in who has been consulted and identify a way/s to address this.

When you have completed your EIA and it has been signed off, it is advisable to save details of information used and consultation undertaken locally alongside your proposal or project documentation. This information will be useful if you are asked how you considered equality and diversity when developing your proposal, and in the event of any challenge.

Monitor and Evaluate (Question 14)

It is essential that EIA's aren't seen as a one off or separate exercise, it is important that they are monitored and reviewed as an on-going document. Ensure you state how you will do this.

Analysis of impact and potential actions (Question 15)

The EIA must get to grips fully and properly with actual and potential impacts, both negative and positive and any barriers:

- The equality duty does not normally stop decisions or changes, but means we must conscientiously and deliberately acknowledge, and seek to plan for, the anticipated impacts on people
- Be realistic: don't exaggerate speculative risks and negative impacts
- Be detailed and specific so decision-makers have a concrete sense of potential effects. Instead of, for example, "the policy is likely to disadvantage older men", say how many or what percentage are likely to be affected, how, and to what extent
- Questions to ask when assessing impacts depend on the context, for example:
 - Where, who, how, when, what is affected?
 - Are one or more protected groups affected differently and/or disadvantaged? How, and to what extent?
 - Is there evidence of higher/lower uptake among different groups? Which, and to what extent?
 - If there are likely to be different impacts on different groups, is that consistent with the overall objective?
 - If there is negative differential impact, how can you minimise that whilst taking into account your overall aims, for example, by amending your plan?
 - Could the effects amount to unlawful discrimination? If so you may wish to take specialist advice to consider alternative ways of achieving the proposal's aims and objectives to ensure that the Council acts lawfully
 - Does the proposal advance equality of opportunity and/or foster good relations? If not, could it?
 - Are there any barriers to accessing the service? If yes, how can they be overcome?
- Consider all three aims of the Public Sector Equality Duty:
 - Where you have identified impacts state what potential actions will be taken to remove, reduce or avoid any negative impacts and maximise any positive impacts or advance equality of opportunity
 - Be specific and detailed and explain how far these actions are expected to improve negative impacts
 - If mitigating circumstances are contemplated, explain clearly what the measures are, and the extent to which they can be expected to reduce/remove the adverse effects identified

- An EIA which has attempted to airbrush the facts is an EIA that is vulnerable to challenge.

Outcomes of Assessment (Question 16)

- Summarise the actions identified from the EIA and diarise what needs to be done by when and who is responsible.
- To ensure that you are meeting the ongoing equality duty under the Act to keep the impact of policies and practices under review, it is important you identify when the review is to happen.

Saving and Publishing Findings

The completed forms are important documents and the Equality and Human Rights Commission may request to examine them in the event of any challenge.

Further Guidance and Advice

For further guidance and advice on the completion of EIA, please contact Human Resource Team on 01926 456854 or HR.BusinessPartners@warwickdc.gov.uk

The Equality and Human Rights Commission (EHRC)'s guidance on assessing equalities impact is available at: <https://www.equalityhumanrights.com/en/publication-download/meeting-equality-duty-policy-and-decision-making-england-and-non-devolved>

Glossary

Protected Characteristics as defined by the Equality Act 2010:

Age

A person belonging to a particular age (e.g. 32 year olds) or a range of ages (e.g. 18 - 30 year olds).

Disability

A person has a disability if they have a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

Sex

Both men and women are covered under the Act.

Gender reassignment (often referred to as transgender or trans)

a transgender person is someone who proposes to, starts, or has completed a process to change his or her gender. A person does not need to be under medical supervision to be protected.

Race

This includes ethnic or national origins, colour or nationality, and includes refugees, migrants, gypsies and travellers. Refugees and migrants are people whose intention is to stay in the UK for at least twelve months (excluding visitors, short term students and tourists). This definition includes asylum seekers; voluntary and involuntary migrants; people who are undocumented; and the children of migrants, even if they were born in the UK.

Religion or Belief

Religion refers to any religion with a clear structure and belief system. Belief means any religious or philosophical belief. The Act also covers lack of religion or belief. Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

Sexual Orientation

Refers to an individual's sexuality. The Act therefore protects lesbian, gay, bisexual and heterosexual individuals.

Pregnancy and Maternity

Protection is during pregnancy and any statutory maternity leave to which the woman is entitled. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth. Protection includes treating a woman unfavourably because she is breastfeeding.

Marriage and Civil Partnership

Marriage can either be between a man and a woman, or between partners of the same sex (as defined by Marriage (Same Sex Couples) Act 2013). Same-sex couples can also have their relationships recognised as 'civil partnerships'.

Please note that the under the Public Sector Equality Duty the protected characteristic of marriage and civil partnership applies with regard to the first general duty of the Act, eliminating unlawful discrimination, only.

Discrimination: The unjust or prejudicial treatment of an individual or group, on the grounds of a protected characteristic.

Protected Characteristic	Questions to ask when considering the impact of a service/policy/strategy/plan change:
Age	<ul style="list-style-type: none">• How do you engage with different age groups?• Do you use inclusive imagery and language?

	<ul style="list-style-type: none"> • Are your services accessible to different age groups in terms of location but also time? • Does your workforce reflect the age profile of the areas you operate?
Race	<ul style="list-style-type: none"> • Have you built positive relationships with ethnic minority community organisations and community advocates to facilitate the involvement of different racial and ethnic groups? • Do you employ different ways to engage with different racial and ethnic groups in the areas in which you work?
Religion and Belief	<ul style="list-style-type: none"> • Are your services sensitive to different religious requirements e.g. times a customer may want to access a service, religious days and festivals and dietary requirements
Disability	<ul style="list-style-type: none"> • Is information and are services accessible to people who have a range of different disabilities?
Gender Reassignment	<ul style="list-style-type: none"> • Do your services meet the needs of trans customers and are they appropriate to the gender of which they identify? • Are records fully reflective of the gender identity of a trans customer and do staff feel empowered to communicate appropriately with trans customers?
Sex	<ul style="list-style-type: none"> • Do your services consider that men and women may articulate different needs and aspirations? • Are your services accessible to men and women in terms of location and time?
Sexual Orientation	<ul style="list-style-type: none"> • Do you build positive relationships with the LGBT community?
Pregnancy and Maternity	<ul style="list-style-type: none"> • Do your services support breastfeeding mothers or parents with children?
Marriage and Civil Partnership (applies to eliminating unlawful discrimination only)	<ul style="list-style-type: none"> • Do publicity, information, policies and procedures treat marriage and civil partnership equally?