

## **Guidance on when is it necessary to carry out an Equality Analysis Assessment (EAA)** **– circulated to the Safer Stronger Communities Select Committee January 2020**

### **Introduction**

Equalities implications are an essential consideration in every report. By virtue of the public sector equality duty (PSED), the Council must have due regard to the need to:

- eliminate discrimination
- advance equality of opportunity
- foster good relations between different people when carrying out their activities.

This means that the Council has a legal duty to consider the implications of anything it does on the basis of people's protected characteristics as set out in the Equality Act 2010. The nine protected characteristics are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Being pregnant or on maternity leave
- Race
- Religion or belief
- Sex
- Sexual Orientation

### **When is an EAA needed?**

A formal EAA is sometimes needed and sometimes is not needed. Whether an EAA is needed or not will depend on various issues. An EAA needs to be completed where:

1. the likely impact of the particular policy or activity that relates to events, practices and decision-making processes is identifiable,
2. the relevance of the impact identified to any protected group is established and
3. it is proportionate to complete an EAA.

In some cases it may be difficult to judge the relevance of a particular policy or activity on equality. There then needs to be consideration as to whether it is proportionate to complete a formal EAA, and if so, to what scale. To determine the relevance and proportionality of an EAA there are a number of considerations to be taken into account including:

- not just the number of service-users, employees or the wider community affected, but the significance of the impact of protected characteristic groups;
- the extent to which it is likely to have a differential impact on people with particular protected characteristics;

- whether it is likely to have a disproportionate impact on a protected characteristic group and could there be other reasons for the disproportionate impact;
- Is it a major policy or activity, significantly affecting how functions or objectives are delivered?
- Will the policy or activity have a significant impact on how other organisations operate in terms of equality?
- Does the policy or activity impact on issues that been identified through engagement as being important to people with particular protected characteristics (and not necessarily their views on the differential impact)?
- Does the policy relate to an area with known inequalities?
- Does the policy relate to any of the Council's equality objectives?<sup>i</sup>

Where an EAA is completed it provides good evidence that correct processes have been followed in regards to the PSED. In other cases where a formal EAA is not necessary, there should be a record of the reasons why the proposed policy, practice or activity is not relevant to equality, or why it is not proportionate to carry out a formal EAA and what, if any, other steps are to be taken.

### **Procurement**

In relation to procurement, the Corporate Guidance on Reporting (updated in January 2020) provides that in the Equality Implications section of a procurement report, the impacts of the decision on different groups with protected characteristics and appropriate mitigations need to be considered. It goes on to state that whether a formal EAA is needed depends of the nature and scale of the impact(s) of the procurement matter on equality.

The guidance provided above fleshes out when is it relevant and proportionate to complete an EAA.

### **Where a formal EAA is not necessary**

There are cases where there may be little or no evidence of the potential disadvantage on protected characteristic groups. This may due to the policy or activity having no particular relevance to the PSED. A record of these reasons should be made.

### **Summary**

In light of the principles of relevance and proportionality as explained above, judgement should be made that is reliable as possible as to whether to complete a formal EAA, what

should be the scale of the EAA be (as to what extent should it breakdown people with protected characteristics), and whether it is necessary to carry out engagement activities with the affected groups, and monitor and review the particular policy, practice or activity. Obtaining more evidence can be valuable and key in demonstrating that the PSED is met, but only if it is proportionate and relevant.

As best practice, officers are encouraged to consider the potential equality implications of every project, task or service they are responsible for. However legal officers provide further advice as outlined in this note as to whether a full and formal EAA is required.

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<sup>i</sup> The list of considerations is non-exhaustive and is taken from the EHRC Guidance of Meeting the Equality Duty in Policy and Decision-Making, October 2014