**Equality Analysis guidance**

This Guidance Document sets out the Council’s process for undertaking an Equality Analysis (EA), formerly an Equality Impact Assessment or EQIA. **Failure to follow this guidance and undertake an Equality Analysis can lead to lengthy and expensive delays due to legal challenge**. **The guidance is to be used as a support tool for information and guidance on good practice and to support the equality analysis process.**

1. **The Equality Act 2010**

The Equality Act 2010 replaced previous anti-discrimination laws with a single Act**. It applies to Council rules and regulations in relation to employment and the provision of goods, facilities and services**. **It also covers the money we spend and the decisions we make.**

1. **The Public Sector Equality Duty**

The aim of the general duty is to ensure public authorities and those carrying out a public function consider how they can positively contribute to a fairer society through **advancing equality and good relations in their day-to-day activities. The duty ensures equality considerations are built into the design of policies and the delivery of services and that they are kept under review**. This will achieve better outcomes for all.

Public bodies are required to have due regard to the need to:

* **eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Act**
* **advance equality of opportunity between people who share a relevant protected characteristic and those who do not**
* **foster good relations between people who share a protected characteristic and those who do not**

This guidance refers to these three elements as the three ‘aims’ of the general duty and so when we discuss the general duty we mean all three aims.

The general duty covers the following protected characteristics:

* **Age**
* **Disability**
* **Gender reassignment**
* **Pregnancy and maternity**
* **Race (including ethnic or national origin, colour or nationality)**
* **Religion or belief ( including lack of belief)**
* **Sex**
* **Sexual orientation**
* **Marriage and civil partnership - but only in respect of the requirement to eliminate discrimination in employment.**

The phrase ‘protected group’ is sometimes used to refer to people who share a protected characteristic.

1. **When should I undertake an equality analysis?**

**Any ‘proposal’ (*such as introducing or amending a policy*) that requires ‘formal approval’ by a decision maker *(see page 4 for examples of decision makers*) will require an equality analysis to be undertaken**.

**An equality analysis should also be undertaken if you are planning to, or make changes** (*such as strategic budgetary decisions, grant-making programmes/commissioning, organisational/transformation change programmes, service delivery including withdrawal or reorganisation of services*).

Local authorities are required to **ensure there is sufficient evidence to consider whether the decisions they make will have a disproportionate impact on people that share one or more protected characteristics**.

This should also include **examining relevant evidence in order to ensure the policy or practice will not hinder the local authorities’ ability to meet the three aims of the general duty** as listed below;

* eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Act
* advance equality of opportunity between people who share a relevant protected characteristic and those who do not
* foster good relations between people who share a protected characteristic and those who do not

**Equality analysis should be factored in as early as other considerations such as risk, budget or health and safety. It should be informing and strengthening your activity whilst it is being developed and carried out. It is not a one-off exercise, it is ongoing and cyclical and enables equality considerations to be taken into account before a decision is made**.

Organisations have been successfully challenged in court for not complying with the equality duty because equality analyses have been conducted too late in the policy development process.

**Only policies and practices that are relevant to equality need to be assessed**. If you decide that a policy or practice is not relevant to equality then you should make a note of this.

**Relevance is to do with whether the policy or practice affects people sharing one or more protected characteristics. It is the potential for impact, not the impact itself**. If the policy or practice has the potential to affect one or more protected groups, then it is likely that an equality analysis is required. If it doesn’t, then there is no need to undertake one. *For example, given the significance of the gender pay gap nationally, any changes to pay and conditions will be relevant to gender equality.*

**Where it is not practicable or proportionate to undertake an assessment of the impact on people with protected characteristics in respect of a particular change, this decision should be recorded and a rationale provided. You should be able to evidence your decision-making**.

*Appendix 3 contains questions that can help you identify relevance for undertaking an equality analysis*

1. **Why do we have to carry out an equality analysis?**

Carrying out an equality analysis (EA) will help us meet our legal duties as well as bringing a number of benefits. It will:

* **Ensure that our decisions impact in a fair way:** equality analysis will help us ensure services meet the needs of the majority of people and where there is evidence that particular groups will be negatively affected by a decision, take actions to address this.
* **Make our decisions based on evidence:** equality analysis provides a clear and structured way to collect, assess and put forward relevant evidence
* **Make decision-making more transparent:** a process which involves those affected by the policy and which is based on evidence is much more open and transparent. This is more likely to engender trust in decision-makers and in your decisions.
* **Provide a platform for partnership working**: equality analysis provides an opportunity for organisations to work in partnership to consider the impact on members of their shared communities and how they might best collaborate and co-ordinate financial decisions.

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| **Good Practice**A local authority used an equality analysis to review the take-up of its meals on wheels service.  It found there was very little use of the service by people from certain ethnic minority communities.  The authority decided to renegotiate the contract and provide a wider variety of meals more likely to appeal to a wider range of people.  There was a dramatic increase in take-up by ethnic minority people, as well as improved satisfaction levels among ‘White British’ users who said the choice and quality of the food had improved. In doing this, the authority not only improved its service but saved money as well. |

**If we do not undertake equality analysis effectively, we are left open to compliance action by the Equality and Human Rights Commission or legal action by others.** At the very least, this would damage the council’s reputation. In the worst cases, the courts have ruled that councils have to re-start strategy development, commissioning or projects from the very beginning, costing millions in the process.

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| **Did You Know?**There was a successful challenge to Birmingham City council's decision to withdraw funding from various specialist advice services. The council claimed it had carried out an equality analysis.  However, the court said that this was inadequate because they had not consulted the specialist advice services and their service users about the specific impact that the termination of funding would have on them. |

The processes involved in conducting an equality analysis should not be looked on as an end in itself. **The aim of the assessment is the promotion of equality of opportunity and thus the outcomes, mitigation and improvements from the equality analysis are central**. This process is merely the mechanism to support staff at all levels in identifying potential outcomes and tailoring them to benefit all members of the community as well as staff.

**A good equality analysis will lead to actions which can either be implemented immediately or may need to be carried forward into a service or team business plan - unless there is evidence that there is no negative impact on any groups**.

**It is important to monitor the actual impact of a policy as it is implemented and to revisit the assessment as part of any review.**

1. **Who is responsible for carrying out an Equality Analysis?**

Equality & Diversity legislation applies to everyone, and every member of the Council’s staff is responsible for dutifully carrying out the Equality & Diversity policies of the organisation.

**Every member of staff leading on a Council ‘proposal’ or savings proposal is responsible for ensuring that their work does not have an adverse impact on any of the protected characteristics**.

**Ultimately, whoever sign’s off the ‘proposal’ is responsible for ensuring an equality analysis is undertaken. When signing off a proposal, the decision maker or decision making body also agrees that the equality analysis is judged to be suitably effective to cover the Council in the event of any legal claim.**

1. **Advising a decision maker**

The Council is responsible for the compliance with the Equality Act and ensuring decisions are made with due regard to the equality duty. **The decision maker must be made aware of the facts or evidence before making the decision**. A decision maker may be a person (*for example the chief executive, executive director or director*) or a group of people (*for example, boards, cabinet, committees or the governing body of a school*).

In order to demonstrate that proper consideration has been given to the equalities duty, decision makers must:

* **be given all the facts about potential equality impacts before making decisions**
* **show that they have given due regard to the equality impacts on legally protected groups**
* **ensure that relevant reports include the equality analysis**

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| **Did you know?**The London Borough of Harrow’s decision to restrict home care services to those with critical needs only was held to be unlawful because there was no evidence that the particular obligations of the disability equality duty had been clearly brought to the attention of the Councillor’s making the decision. |

**If the person who is making the decision or the person that advises the decision-maker does not carry out their role effectively, legal action could be taken against the Council.**

**7. Joint and Partnership Working**

Where the Council works in partnership, for example in Local Service Boards or in Community Safety Partnerships, **it is important to consider how to develop a shared approach to meeting the general and specific duties**.

This may include a joint approach to assessing how the work of the partnership may impact on groups of people sharing protected characteristics. This should ensure that there is no duplication of effort and that responsibility is clearly allocated and information is properly shared.

**8. Undertaking the Equality Analysis**

An in-depth analysis must consider:-

**1. What evidence do we have?**

**2. How will what you’re doing affect the nine protected characteristics?**

**3. Mitigation, Actions and Options**

**4. Sign Off**

The following pages outline each key stage of the Councils equality analysis template in more detail and provide a list of questions for you to think about at each stage:-

**Evidence** (*section 3 of Equality Analysis Template/Form*)

The **use of data and consultation is vital in any** **equality analysis**. The equality analysis prompts you to undertake an initial analysis of existing data and consultation for possible **evidence of differential impact on protected groups**. A detailed analysis of local, regional and national data may be needed should impacts be identified.

It may also be helpful to consider areas in which you can work with other Councils or organisations when collecting data and this may save time/resources and help build a bigger picture.

The Equality Duty requires you to use relevant information when assessing the impact on groups of people sharing protected characteristics of a policy or practice being proposed or reviewed.

**Section 3 of the form (impact of the proposed change) requires you to bring together and present any relevant evidence, information, data or consultation/engagement you have about your activity**.

In an analysis, it is seldom acceptable to state simply that a policy will universally benefit/disadvantage everyone, and therefore individuals will be affected equally whatever their characteristics. **The analysis should be more robust than this, demonstrating consideration of all of the available evidence and addressing any gaps or disparities revealed. Specific steps will be required in order to address an existing disadvantage or meet different needs**.

**If you do not have relevant evidence, data, or information consider how you can increase your understanding of the equality issues in the short term before completing robust research at a later date**. Complete section 3.2 of the equality analysis template/form detailing further research required e.g. surveys, further engagement, and how you will monitor the activity if implementation is required immediately. Ensure you provide a date for completion.

The following questions should be kept in mind when analysing your data:

**What data?**

What do I want to know?

Who can help me determine what information is needed and where to get this?

What information is needed to ensure that all perspectives are taken into account?

What existing quantitative & qualitative data is available, in-house and externally?

What additional data is needed?

**How do I collect this data?**

It is important to reiterate that various data collection techniques are likely to be used during the process of undertaking an equality analysis, including both quantitative and qualitative methods.

By way of example, the following could each play a role (although this list is not intended to be exhaustive):-

* Census information
* Complaints received
* Results of relevant engagement / consultation
* Service user profiles / statistics
* Inspectorate reports
* Customer satisfaction surveys / comments
* Staff surveys
* Service / performance monitoring information
* Local, regional or national research reports
* Joint Strategic Health Needs Assessments

**What does this data tell me?**

What does this data tell me about any of the different groups?

Are there any trends that the data is showing me and how do they relate to each group?

Does the data tell me about the needs of each group?

Are there any gaps in my data?

How will I address these gaps?

**How will what you’re doing affect the nine protected characteristics?**

When assessing the impact of the policy or proposal it is important to look at how it might impact differently on protected groups, vulnerable groups and socio-economic factors. **You must also consider the impact on the Council’s** [**equality policy objectives**](https://www.croydon.gov.uk/sites/default/files/articles/downloads/Opportunity_and_Fairness_Plan.pdf). This should be informed by the data gathered and consultation undertaken.

**You may want to consider**:-

Do you know the experience of different groups in relation to this proposal?

Could the impact of this proposal be different for different groups?

Do people from each of these groups access / have the same benefits in relation to this proposal?

What are the needs of each group in relation to this proposal?

Is the proposal intended to increase equality of opportunity by permitting or requiring affirmative or positive action or action to redress disadvantages?

**Consultation is very important and key to demonstrating that you are meeting the equality duties**. It must be carried out with relevant public bodies, voluntary, community, trade union and other interest groups, such as staff, with an interest in the matter. It needs to be proportionate and relevant. Make sure you also consider the scale of the degree of the consultation. You don’t want to over-consult on a small policy or practice and you don’t want to under-consult on an important policy. **It should be timely, open and inclusive, and conducted in accordance with the principles detailed in the Council’s** [**Consultation Framework**](https://intranet.croydon.gov.uk/working-croydon/communications/consultation-and-engagement/consultation-framework) **.**

**It will be important to ensure that sufficient time and resources are dedicated to the consultation process to encourage full participation particularly by marginalised groups**. In this section of the report you should clearly outline who you consulted and what they said and how you kept them informed of decisions and actions taken in the following stages.

The specific duties require listed bodies to meet the engagement provisions as part of assessing the impact on people with protected characteristics. This will help listed bodies to understand better the impact of their proposals on the different characteristics.

You can obtain further information, support and guidance around consultation and engagement by clicking [here](https://intranet.croydon.gov.uk/working-croydon/communications/consultation-and-engagement/starting-engagement-or-consultation)

**Mitigation and Improvement Plan (***section 5 of the Equality Analysis Template/Form)*

**Once you have assessed the impact of a policy or proposal, the next stage – the most important stage – is identifying options and alternatives to mitigate or eliminate any negative impact**. Options considered could be adapting the proposal, changing the way it is implemented or introducing balancing measures to reduce the impact etc.

**When considering each option you should think carefully about how it will reduce any negative impact, how it might impact on other groups and how it might impact on relationships between groups and overall issues around community cohesion and the Councils Equality Objectives.**

You should clearly demonstrate how you have considered various options and the impact of these, with a detailed rational behind decisions and a justification for those alternatives that have not been accepted.

When considering your options the following questions may be helpful:-

* How does each option further or hinder equality of opportunity?
* How does each option reinforce or challenge stereotypes which constitute or influence equality of opportunity?
* What are the consequences for the group concerned and for the Council of not adopting an option more favourable to equality of opportunity?
* How might each option impact on community relationships and perceptions?
* How will the relevant group be advised of the new or changed policy or service?
* What are the costs of implementing each option?
* Will the social and economic costs and benefits to the relevant group of implementing the option outweigh the costs to the Council or other groups? An evaluation of net social benefits achieved by adopting each option must be considered. Does the Council have any obligations, which would be breached by, or could be furthered by, each of the options?

There may be occasions where differential/negative impact can be justified as part of a wider strategy associated with positive action in relation to particular groups, or where the proposal deliberately attempts to encourage equality of opportunity for a particular group. Where this is the case you should clearly explain this.

**9. What happens if you don’t equality assess relevant decisions properly?**

**Authorities which fail to carry out equality analysis risk making poor and unfair decisions which may discriminate against particular groups and worsen inequality. The decision may be open to legal challenge, which is both costly and time-consuming.**

If the impact of your decisions on different groups is not considered this may lead to avoidable poorer outcomes which bring additional financial burdens at a later stage.

If people feel that the Council is acting high-handedly or without properly involving its service users or employees, they are likely to be become disillusioned with how we make changes or improvements.

**10. Monitoring and review**

Assessing for impact on the Council’s ability to comply with the general equality duty does not end with the introduction of the change. Particularly with new policies, an assessment will have helped to anticipate likely effects of the policy on people with protected characteristics. The reality is that the actual impact of the policy will only be known once it has been introduced and implemented.

**It is not enough to make the changes which are expected to eliminate adverse impact or advance equality. It is necessary to use monitoring, evaluation and review processes to ensure that the actual impact matches with the impact which was anticipated, and that relevant actions have been implemented.**

**It is very important that any actions identified by an equality analysis are acted upon.** There are a number of ways you can ensure this happens:

•adding issues to a project risk register

•adding actions into a project delivery plan or business as usual

•linking actions to the departmental or corporate performance dashboards which are now including equality measures

•setting up a review group for the equality analysis

**11. Decision making and publication**

In the case of a new policy, decision-making is likely to focus on whether to adopt the policy and on the evaluation of options within the policy proposal. For an existing policy, the decision may be to determine whether a revision is needed, and, for a policy that is already being revised, it may be about the form of those revisions.

Documenting equality analysis is important to ensure that the general and specific duties are being met. The Council makes equality analysis on key decisions public, in the interests of transparency and accountability.

**12. Advice and Guidance**

For advice, guidance and support on completing your Equality Analysis, please contact the Equalities Manager yvonne.okiyo@croydon.gov.uk

**Appendix 1 Equality Analysis Flow Chart (Process)**

EQUALITY ANALYSIS PROCESS

Proposal

Is there sufficient evidence to help us understand the likely or actual effect of proposal on people with different protected characteristics?

NO

YES

Contact Equalities Manager to check if evidence is sufficient

COMPLETE EQUALITY ANALYSIS FORM

SEND FORM TO EQUALITIES MANAGER FOR FEEDBACK

SIGN OFF by Equalities Manager & Director

SIGN OFF by Equalities Manager & Director

PUBLICATION

High level EAs published on Council website

**Appendix 2 Using an Equality Analysis to evidence due regard**

Guidance document and Flowchart are available to officers

EQUALITY ANALYSIS (EA) PROCESS

1. Identifying the aims of the policy

This is to identify ‘likely’ impacts on the 9 protected groups covered under Equality Act 2010

1. Consideration of available data, research and evidence

Are the ‘likely’ impacts positive or negative? If there is insufficient data and evidence to ascertain the likely impact, consultation and engagement may be required

1. Assessment of ‘likely’ impacts against the 9 protected groups
2. Publication
3. Making a decision and Sign off
4. Consultation and Engagement
5. MITIGATION – Consideration of measures to alleviate adverse impact and alternative proposals (if possible)

How can any negative impacts be mitigated? What other options are available to ensure we have shown due regard?

In some cases, it may not be possible to mitigate a negative impact. HOWEVER, where we have identified an impact we have to show and evidence ‘due regard’ and think about possible alternatives in relation to the proposal.

Proposals – Consultations will depend upon the nature of proposal and evidence within the EA

All EAs must be signed off by Equalities Manager and Director

We have a legal duty to publish EAs. This will be undertaken by the Policy team. Completed EAs to be sent to the Equalities Manager

**Appendix 3 Screening for relevance**

The following questions can help to identify relevance. This is not an exhaustive list.

* Does the change affect people? This includes service users, employees or the wider community (therefore likely to have significant effect on groups of people with protected characteristics?) The relevance of a change will depend not only on the number of those affected, but also the significance of the effect on them.
* Is it a major change, significantly affecting how functions are delivered in relation to people with protected characteristics?
* Will it have a significant effect on how other organisations operate in relation to equality? (For example, a national strategy or inspection criteria)
* Does it relate to functions that previous engagement activities have identified as being important to particular characteristics?
* Does it relate to the Council’s equality objectives and outcomes?
* Does it relate to an area where there are known inequalities? (For example, disabled people’s access to public transport; the gender pay gap; racist or homophobic bullying in schools, etc.)
* Does it relate to a change where there is significant potential for reducing inequalities or improving outcomes? (For example improving access to health services for transsexual people; or increasing take-up of apprenticeships by female students, etc.)
* Does it relate to an area where there is a lack of published research or other evidence?