

Initial Equalities Impact Assessment screening form

Prior to making the decision, the Council's decision makers considered the following: guide to decision making under the Equality Act 2010:

*The Council is a public authority. All public authorities when exercising public functions are caught by the Equality Act 2010 which became law in December 2011. In making any decisions and proposals, the Council - specifically members and officers - are required to have **due regard** to the 9 protected characteristics defined under the Act. These protected characteristics are: **age, disability, race, gender reassignment, pregnancy and maternity, religion or belief, sex, sexual orientation and marriage & civil partnership***

The decision maker(s) must specifically consider those protected by the above characteristics:

- (a) To seek to ensure equality of treatment towards service users and employees;*
- (b) To identify the potential impact of the proposal or decision upon them.*

The Council will also ask that officers specifically consider whether:

- (A) The policy, strategy or spending decisions could have an impact on safeguarding and / or the welfare of children and vulnerable adults*
- (B) The proposed policy / service is likely to have any significant impact on mental wellbeing / community resilience (staff or residents)*

If the Council fails to give 'due regard', the Council is likely to face a Court challenge. This will either be through a judicial review of its decision making, the decision may be quashed and/or returned for it to have to be made again, which can be costly and time-consuming diversion for the Council. When considering 'due regard', decision makers must consider the following principles:

- 1. **The decision maker is responsible for identifying whether there is an issue and discharging it.** The threshold for one of the duties to be triggered is low and will be triggered where there is any issue which needs at least to be addressed.*
- 2. **The duties arise before the decision or proposal is made, and not after and are ongoing.** They require **advance** consideration by the policy decision maker with conscientiousness, rigour and an open mind. The duty is similar to an open consultation process.*
- 3. The decision maker must be **aware of the needs of the duty.***
- 4. The **impact of the proposal or decision must be properly understood first.** The amount of regard due will depend on the individual circumstances of each case. The greater the potential impact, the greater the regard.*
- 5. **Get your facts straight first!** There will be no due regard at all if the decision maker or those advising it make a fundamental error of fact (e.g. because of failing to properly inform yourself about the impact of a particular decision).*
- 6. What does 'due regard' entail?
 - a. **Collection and consideration of data and information;***
 - b. **Ensuring data is sufficient to assess the decision/any potential discrimination/ensure equality of opportunity;***
 - c. **Proper appreciation of the extent, nature and duration of the proposal or decision.****

Appendix 3

7. **Responsibility** for discharging can't be delegated or sub-contracted (although an equality impact assessment ("EIA") can be undertaken by officers, decision makers must be sufficiently aware of the outcome).
 8. **Document the process** of having due regard! Keep records and make it transparent! If in any doubt carry out an equality impact assessment ("EIA"), to test whether a policy will impact differentially or not. Evidentially an EIA will be the best way of defending a legal challenge. See hyperlink for the questions you should consider <http://occweb/files/seealsodocs/93561/Equalities%20-%20Initial%20Equality%20Impact%20Assessment%20screening%20template.doc>
1. Within the aims and objectives of the policy or strategy which group (s) of people has been identified as being potentially disadvantaged by your proposals? What are the equality impacts?

Compliance with national legislation applies equally to everyone and national legislation has been subjected to parliamentary scrutiny and an Equality Impact Assessment by the Government before it is implemented.

The initial Equalities Impact Assessment has highlighted that there are eight groups with protected characteristics that have been identified as having the potential to be impacted by this Enforcement Policy:

- All persons aged above 10 years old – the age of criminal responsibility in the UK
- People whose first language is not English– those with limited or no ability to understand how the policy/law affects them day to day
- People who do not speak English as a first language (or at all) – those with limited or no ability to understand how the policy/law affects them day to day
- People with mental health issues – those who lack capacity to understand the way this policy may affect them day to day
- Households with a low income – those households who may lack the financial income to pay fixed penalty notices or fines
- Unemployed people – those individuals who may lack the financial income to pay fixed penalty notices or fines
- Young people not in employment education or training – those who may lack financial income to pay fixed penalty notices or fines and be financially dependent upon their parent(s)/carer(s).
- Rough Sleepers/homeless – those who may lack the financial income to pay fixed penalty notices or fines

In order to mitigate the potential impact upon the groups identified by the initial Equalities Impact Assessment the balance of proceeding with an enforcement action will need to be on a case by case basis.

Dutyholders also have a right to legal redress should they feel that an enforcement decision was unfairly/unlawfully taken; this can be via the Council's Complaints system, an appeal process, or at a court hearing. Service users can use the Council's Complaints system if they believe we have failed to adequately enforce the law.

Appendix 3

The Council's policy is based on templates provided by the Government's Better Regulation Delivery Office and has therefore been developed using nationally approved best practice.

By maintaining the number of services covered by an enforcement policy the potential for actions causing inequality will be reduced.

Enforcement activity is monitored whenever practicable to assess its impact on protected characteristics.

Many of the enforcement activities undertaken by the council are initiated to protect vulnerable individuals with protected characteristics and the policy has a positive effect on equalities.

2. In brief, what changes are you planning to make to your current or proposed new or changed policy, strategy, procedure, project or service to minimise or eliminate the adverse equality impacts?

Please provide further details of the proposed actions, timetable for making the changes and the person(s) responsible for making the changes on the resultant action plan

In order to mitigate the potential impact upon the groups identified by the initial Equalities Impact Assessment the balance of proceeding with an enforcement action will need to be on a case by case basis.

The issues that relate to an ability to pay are also covered by the Council's Corporate Debt Policy.

3. Please provide details of whom you will consult on the proposed changes and if you do not plan to consult, please provide the rationale behind that decision.

Please note that you are required to involve disabled people in decisions that impact on them

No consultation is required. The policy is a renewal of an existing policy with no changes proposed.

There will be no direct or indirect adverse impacts on disabled people. As many of the enforcement activities undertaken by the council are initiated to protect vulnerable individuals with protected characteristics, the policy will

Appendix 3

have a positive effect on equalities.

4. Can the adverse impacts you identified during the initial screening be justified without making any adjustments to the existing or new policy, strategy, procedure, project or service?

Please set out the basis on which you justify making no adjustments

In order to mitigate the potential impact upon the groups identified by the initial Equalities Impact Assessment the balance of proceeding with an enforcement action will need to be on a case by case basis.

The policy has been in place for 3 years with no identifiable adverse impacts on people or groups with protected characteristics.

5. You are legally required to monitor and review the proposed changes after implementation to check they work as planned and to screen for unexpected equality impacts.

Please provide details of how you will monitor/evaluate or review your proposals and when the review will take place

The Enforcement Group consisting of services who carry out enforcement work at the council will undertake reviews and consistency checks across enforcement activity and assess equality impacts. Develop approach using national best practice to consider impacts.

Enforcement activity is reviewed annually by each regulatory service as part of developing the following years' Service Plan.

Enforcement Activity is monitored on a case by case basis to ensure unexpected equality impacts do not occur. For example statutory notices have to be countersigned by senior officers, prosecutions and civil penalties have to be approved by Service Managers/Heads of Service and then passed to Law and Governance for further scrutiny.

Lead officer responsible for signing off the EqIA: Ian Wright

Role: Head of Service for Regulatory Services and Community Safety

Date: 22/1/2019