

Initial screening EqIA template

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.*

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.****
- 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?

The objective is to update the waste and recycling collection policy to encourage privately managed flats and houses of multiple occupation (H.M.Os) communal sites to provide equal capacity of landfill and recycling facilities

An impact of this proposal will be to reduce the amount of landfill space and that households would routinely have to recycle.

There is an aspiration that as a result of proactive communications and education initiatives more residents will buy into the culture of recycling and improve recycling rates across the city.

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

Every flat and HMO will be assessed fairly on the number of people living in the property. Advice will be based on an onsite inspection by a trained flats recycling officer.

The Council has secured the buy in from two local managing agents who have agreed to take part in a pilot exercise during the 12 months consultation process to ensure that a fair and robust process is in place.

No enforcement will take place within the first 12 months while the Council raises awareness amongst HMO landlords. The Council does not underestimate the potential difficulties in communicating effectively with a diverse range of property owners. To facilitate a more coordinated approach to this Direct Services have been working closely with the Environmental development HMO team for the past 18 months and will continue to do so throughout the pilot period and once the policy has been agreed and fully implemented.

Feedback from the pilot partners will inevitably flag up and highlight any

concerns over the equal application of the new policy and may give the Council a clear opportunity to add best practice examples and guidance to that already available to landlords via the website and other printed materials.

The Council will consider setting up a landlords' focus group to discuss the findings from the pilot and to ensure ongoing communication, engagement and buy in from landlords.

Direct Services have a Recycling Officer within their Waste Team and are already doing some work with primary school aged children around the broader cleaner greener agenda for Oxford. It might be that this could provide other innovative ways to get the recycling message across to existing landlords and communities, e.g. poster competitions or school projects to highlight the wider benefits of increasing recycling and reducing the costs of landfill.

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

The policy change has been discussed with key members of the elected parties and senior managers and officers. The report is subject to a C.E.B. Decision.

Once the report has been approved, the updated policy change will be available on the website for managing agents, Landlords, leaseholders and tenants. Leaflets and publications on waste and recycling are clear and simple for residents including pictorial leaflets anyone whose first language may not be English. The Council will ensure all leaflets and publications on waste and recycling are written in plain English and are clear and simple for residents across all communities to understand. This will include producing pictorial leaflets to further assist anyone whose first language may not be English. At this stage it is not considered an effective or proportionate use of resources to produce leaflets translated into a number of specific community languages, although this may be reconsidered if future recycling initiatives need to target key post codes or community groups.

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

The pressure to require the residents of Oxford to recycle is driven by elected members and by the financial pressures being exerted by the increase in landfill tax.

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 changes will be implemented with an annual review based on feed back from councillors, landlords, residents and any member of the waste and recycling team. Monitoring reports and annual reassessments will enable Council officers to forecast trends and pressures and to put in place any remedial actions as might be necessary to ensure communal flat sites are treated fairly

Lead officer responsible for signing off the EqIA: Jarlath Brine

Role: Equalities & Diversity Business Partner

Date: 2nd November 2012

Note, please consider & include the following areas:

- Summary of the impacts of any individual policies
- Specific impact tests (e.g. statutory equality duties, social, regeneration and sustainability)
- Post implementation review plan (consider the basis for the review, objectives and how these will be measured, impacts and outcomes including the “unknown”)
- Potential data sources (attach hyperlinks including Government impact assessments where relevant)