

## 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.**

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?

This is an assessment of the revised Disciplinary Procedure, which will replace the existing policy which was introduced in 2012. There are no anticipated adverse effects for groups with protected characteristics.

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

The principal changes relate to clearly separating the policy from the guidance and having two clear documents instead of four previous documents. Changes have been made to simplify the process including removing the role of commissioning manager, other than by exception to enable line managers to carry out investigation and simplifying the appeals process. The informal process has also been strengthened to encourage early intervention and resolution and avoid unnecessary escalations. Changes have been made to reflect current working practices such as use of email communications and remote meetings. Reference has also been made to taking into account any disabilities and adjustments staff may during the process.

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

Some line managers, the Council's Corporate Management team, Law & Governance team, Unite and Unison leads and members of the People Team, were invited to comment on the proposed policy. The Policy will go before Council on 28<sup>th</sup> November 2022 for approval.

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

There are no adverse impacts envisaged upon those 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

Employment policies are subject to regular reviews of any changes made to legislation/ directives by central government. Any challenges to the policy that result in gaps or irregularities being found will be amended following further review, agreement between the employer and the local trade unions, and subsequent sign off from Council (if required).

All managers will receive training on this policy and regular meetings with respective service area Business Partners.

The effectiveness of the policy will be monitored through the number of disciplinary investigations, hearings and appeals that take place.

Lead officer responsible for signing off the EqIA: Gail Malkin

Role: Head of People

Date: xxxxx

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)
- Consultation
- 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 or Oxfordshire data observatory information where relevant)