

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 8 protected characteristics defined under the Act. These protected characteristics are: **age, disability, race, gender reassignment, pregnancy and maternity, religion or belief, sex and/or sexual orientation.***

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->*

1. Which group (s) of people has been identified as being disadvantaged by your proposals? What are the equality impacts?

There are no anticipated adverse effects for groups with protected characteristics. This is because the policies flow from statutory obligations and enshrine the consistent and lawful treatment of staff, e.g. female (Maternity Policy) employees throughout pregnancy, the maternity period and return (s) to work. However:

Those who are agency workers, or consultants or self-employed contractors can't benefit from these policies, as they're not employees. They can however apply for leave through their respective organisations or employers.

Age – the requirement for 26 weeks' continuous service is a universal statutory qualifying condition for the statutory rights. It has an adverse impact on probationers and new starters who have less than 26 weeks. However, because the Council's recruitment policy is to recruit on merit, regardless of background, this is unlikely to adversely affect any protected characteristic, including younger or older applicants.

No detrimental impact is envisaged by the removal of the fixed term policy because the principles are enshrined in the Council's standard contract and other policies such as the organisational change policy.

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 Flexible Working Policy will be updated to incorporate statutory changes. The policy has a slightly different focus and may sometimes be triggered by the other family friendly policies. Its primary aim is that it will provide equality of opportunity in employment and work practices to support work-life balance. Closely associated objectives are the positive influences on raising staff morale, reducing absenteeism and improving the recruitment and retention of staff, especially those with protected characteristics. The policy explicitly encourages managers to facilitate requests unless they cannot be accommodated for business or operational reasons.

The Family Friendly policy suite and the Flexible Working policy apply to full and part-time employees regardless of the number of hours worked. The only universal qualifying condition is the minimum statutory condition of employees having achieved 26 weeks' continuous service.

The Council also proposes to remove its current separate policies on Fixed-Term Contracts of Employment and Job Share on the basis that those areas will be comprehensively covered by other recruitment and retention policies.

Specific advice and guidance is available via the government website: www.direct.gov.uk (see Work and Families section)

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 Councils' Law & Governance team, Unite and Unison leads, OD Learning & Performance Consultant and Equalities & Diversity Business Partner were invited to comment on the proposed set of policies and reach agreement on the changes. At this point the policies will go before CEB for approval in February 2012.

The Parental Leave Procedure has been a statutory entitlement for a significant period but has now been formalised in a new policy. It impacts positively on staff with disabilities in line with the Equality Act 2010. The policy confirms that the entitlement for parental leave for staff for the purpose of caring for a disabled child is a maximum of 18 weeks (5 weeks more than standard parental leave). See Section 3.2. In addition, Section 5.3(a) of the Flexible Working Policy recognises that there can be positive discrimination in favour of parents caring for children with a disability and increases the eligibility to cover children under 18.

Disabled people have been involved by [inviting Lynne Hooper, the Council's access officer, for suggestions], and involving the trade unions in the proposals by consulting them.

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. For those agency workers who may not benefit from the policies, they are considered to be protected under commensurate legislation affording them statutory protection as employees of their agencies or their own companies.

It is considered that a negligible number of workers will lose out by being agencies employees or because of the 26 week qualifying criterion. Those that do may request equivalent rights directly through their employer, or by waiting 6 months.

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

Policies will be 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 CEB (if required).

All managers will receive training in these areas via policy bite briefings from February 2012 or through regular meetings with respective service area Business Partners.

Lead officer responsible for signing off the EqIA:

Role:

Date:

Note, please consider & include the following areas:

- Summary of the impacts of any individual policies
- Specific impact tests (e.g. statutory equality duties,)
- 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