

Equality Act and Equality Duty - Briefing for Scrutiny Chairmen

Purpose

This note is to provide the Committee with information about the Equality Act 2010 and the Equality Duty, and the possible impacts of these for the Committee.

The Equality Act 2010

The Equality Act 2010 (the Act) replaces the previous anti-discrimination laws with a single Act. It simplifies the law, removing inconsistencies and making it easier for people to understand and comply with it. It also strengthens the law to help tackle discrimination and inequality. The majority of the Act came into force on 1 October 2010.

The Equality Duty

The new Equality Duty is a duty on public bodies and others carrying out public functions. The Equality Duty is designed to reduce bureaucracy while ensuring public bodies play their part in making society fairer by tackling discrimination and providing equality of opportunity for all. It ensures that public bodies consider the needs of all individuals in their day to day work – in shaping policy, in delivering services, and in relation to their own employees.

The new Equality Duty supports good decision-making – it encourages public bodies to understand how different people will be affected by their activities so that policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people's opportunities, public bodies are better placed to deliver policies and services that are efficient and effective. The Equality Duty therefore helps public bodies to deliver the Government's overall objectives for public services.

The new Equality Duty replaces the three previous public sector equality duties – for race, disability and gender. The new Equality Duty covers the following protected characteristics:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race – this includes ethnic or national origins, colour or nationality
- religion or belief – this includes lack of belief
- sex
- sexual orientation

It also applies to marriage and civil partnership, but only in respect of the requirement to have due regard to the need to eliminate discrimination.

The Equality Duty has three aims. It requires public bodies to have **due regard** to the need to:

- **eliminate unlawful discrimination**, harassment, victimisation and any other conduct prohibited by the Act;
- **advance equality of opportunity** between people who share a protected characteristic and people who do not share it; and
- **foster good relations** between people who share a protected characteristic and people who do not share it.

Having **due regard** means consciously thinking about the three aims of the Equality Duty as part of the process of decision-making. This means that consideration of equality issues must influence the decisions reached by public bodies – such as in how they act as employers; how they develop, evaluate and review policy; how they design, deliver and evaluate services, and how they commission and procure from others.

Having due regard to the need to **advance equality of opportunity** involves considering the need to:

- remove or minimise disadvantages suffered by people due to their protected characteristics;
- meet the needs of people with protected characteristics; and
- encourage people with protected characteristics to participate in public life or in other activities where their participation is low.

Fostering good relations involves tackling prejudice and promoting understanding between people who share a protected characteristic and others.

Complying with the Equality Duty may involve treating some people better than others, as far as this is allowed by discrimination law. For example, it may involve making use of an exception or the positive action provisions in order to provide a service in a way which is appropriate for people who share a protected characteristic – such as providing computer training to older people to help them access information and services.

Service and Community Impact Assessments

The Equality Act 2010 requires all public authorities to assess the impact of their policies on communities. In this context, 'policies' is a general term that could include strategies, projects or contracts.

In Oxfordshire County Council, this process is termed Service and Community Impact Assessments (SCIA). A SCIA is intended to ensure policies meet the diverse needs of individuals and communities.

- Assessments are available to Councillors when making a decision on whether to agree a new policy or not.

- Any new or amended policies, strategies, projects and contracts should have an initial assessment. This should be proportionate to the significance of the change and the potential impact.
- For example, a small change in procedure may require only one page, whereas a significant budgetary decision should have a full assessment. This must demonstrate what data or research has been used, feedback from consultations with affected groups and an action plan to mitigate any impacts. Partners, staff or stakeholders should also be involved to check the assumptions match the experience on-the-ground.
- Assessments should demonstrate that the impact on groups has been considered, identify risks and any explain mitigating actions that will be taken if the policy is implemented.
- We assess the impact of decisions on any relevant community, but with particular emphasis on:
 - Groups that share the nine protected characteristics
 - Rural communities
 - Areas of deprivation
- We also assess the impact on:
 - Staff
 - Other council services
 - Other providers of council services
- Once a decision is made the assessments are updated and then reviewed on a regular basis over the implementation of the project or policy or contract to ensure that the initial assessments were accurate, and that the impact of any changes in approach and learning from implementation are included.
- Completed Service and Community Impact Assessments are published on the public website at: www.oxfordshire.gov.uk/cms/public-site/equality-and-cohesion

Key Points for Consideration

- Meeting the Equality Duty does not mean difficult decisions can't be taken, or mean that impacts on particular groups can always be avoided.
- However, we must be able to demonstrate we have considered the impact as part of decision-making, and that proportionate actions are being taken to mitigate the potential impact as much as possible.
- All reports should include information about how they contribute to meeting the three aims of the Equality Duty.
- Significant changes in policy should be accompanied by a Service and Community Impact Assessment that demonstrates that consideration has been given to the potential impact and mitigating actions.

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