

Equalities Impact Assessment

Camden Council

What is an Equality Impact Assessment?

An Equality Impact Assessment (“EIA”) is a way of analysing a proposed organisational policy or decision to assess its effect on people with protected characteristics covered by the Equality Act 2010*. To meet the Council’s statutory duty the EIA should also address issues of advancing opportunities and fostering good relations between different groups in the community.

It is essential that you start to think about the EIA process before you develop any new activity or make changes to an existing activity (such as a change of policy or formal decision). This is because the EIA needs to be integral to service improvement rather than an ‘add-on’. If equality analysis is done at the end of a process it will often be too late for changes to be made.

The courts place significant weight on the existence of some form of documentary evidence of compliance with the Public Sector Equality Duty* when determining judicial review cases. Having an EIA as part of the report which goes to the decision makers and making reference to the EIA within that report helps to demonstrate that we have considered our public sector equality duty and given “due regard” to the effects the decision will have on different groups.

The EIA must be considered at an early stage of the formation of a policy/decision and inform its development, rather than being added on at the end of the process. The EIA form should be completed and updated as the policy / decision progresses and reviewed after the policy or change has been implemented.

If a staff restructure or organisational change is identified as necessary following the review of an activity then an EIA needs to be completed for both stages of the process, i.e. one when the activity is reviewed and one when the restructure or organisational change is undertaken.

Please note all sections must be completed. However the obligation is to have due regard and it may be that while an issue requires the completion of an EIA, the matters at hand may not lend themselves to some of the obligations, for example fostering good relations. As long as this has been properly considered it is legitimate to conclude that this cannot be applied in a particular case.

Name of proposed decision/policy being reviewed:
London Accommodation Pathfinder

Explanatory Notes

What is our Public Sector Equality Duty (PSED)

Under section 149 of the Equality Act 2010 (the Act/ EqA 2010) all public authorities must, in the exercise of their functions, have 'due regard' to the need to:

1. Eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act (s149(1)(a));
2. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (s149(1)(b)); This involves having due regard to the need to:
 - o remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - o take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it (section 149(4)); and
 - o encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
(Section 149(3), EqA 2010.)
3. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (section 149(1)(c)). This involves having due regard, in particular, to the need to tackle prejudice and promote understanding (section 149(5), EqA 2010).

Section 149(6) makes it clear that compliance with the duties in section 149(1) may involve treating some people more favourably than others, but that is not to be taken as permitting conduct that would otherwise be prohibited by or under the Act (this includes breach of an equality clause or rule or breach of a non-discrimination rule (section 149(8)).

Section 146(4) states that the steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take into account of disabled persons' disabilities.

Under the Duty the relevant protected characteristics are: Age, Disability, Gender reassignment, Pregnancy and maternity, Race, Religion or belief, Sex, Sexual orientation.

- In respect of the first aim only i.e. reducing discrimination, etc. the protected characteristic of marriage and civil partnership is also relevant.
- In meeting the needs of disabled people we have a duty to take account of their disability and make reasonable adjustments to our services and policies where appropriate. Under s29 of

the Act a person (a "service-provider") concerned with the provision of a service to the public or a section of the public (for payment or not) must not discriminate against a person requiring the service by not providing the person with the service. In addition, a person must not, in the exercise of a public function that is not the provision of a service to the public or section of the public, do anything that constitutes discrimination, harassment or victimisation.

- We must be able to demonstrate that we have considered and had due regard to all three parts of this duty. We must also look for anything that directly or indirectly discriminates.

What do we mean by "due regard"?

- This is not a question of ticking boxes, but should at the heart of the decision-making process.
- decision-makers must be made aware of their duty to have due regard – so understand the legal requirements on them;
- There should be an analysis of the data – who is this going to affect and how will it put against the legal requirements
- We need to have thought about these duties both before and during consideration of a particular policy and we need to be able to demonstrate that we have done so
- The Duty is "non-delegable" so it is for the decision maker themselves to consider with assistance from the report and officer analysis. What matters is what he or she took into account and what he or she knew so it is important to have the relevant papers accompanying the report. The report should make explicit reference to the EIA. the duty is continuing so while this guide is aimed at the point of decision we should at appropriate points review our duties against the decision/policy
- The decision maker must assess the risk and extent of any adverse impact and the ways in which such risk may be mitigated before the adoption of a proposed policy or decision has been taken
- Officers reporting to or advising decision makers must not merely tell the decision maker what he/she wants to hear but need to be "rigorous in both enquiring and reporting to them"
- The duty should be reconsidered if new information comes to light

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What is due regard? In my view, it is the regard that is appropriate in all the circumstances. These include on the one hand the importance of the areas of life of the members of the disadvantaged ... group that are affected by the inequality of opportunity and the extent of the inequality; and on the other hand, such countervailing factors as are relevant to the function which the decision-maker is performing"

Lord Justice Dyson

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We need to take a sensible and proportionate approach to this based on the nature of the decision or policy being reviewed

Section 1 - WHAT IS BEING ANALYSED?

Question 1: What is changing and why?

If the issue is going for decision, e.g. at Cabinet meeting, what are the decision makers being asked to decide? If you are reviewing a policy what are its main aims? How will these changes affect people?

Camden is being asked to agree the Commissioning Strategy for the London Accommodation Pathfinder (LAP). This is Alternative to Custody provision for 16-17 year old males and is a multi-authority pan-London partnership with Camden acting as lead local authority. Males are disproportionately represented in custody in London (98%) and Black and Minority Ethnic Groups are over-represented (78%). The aim is to provide a community-based alternative to custody, which will reduce re-offending and improve outcomes for the 16-17 year olds, with the provision for males and priority for those from a BAME background. The provision will offer 20 places, five in each of four locations in North, East, South and West London. The proposal directly addresses the disproportionately high levels of males from a BAME background in custody and will reduce this. The Camden Local Commissioning and Procurement Board paper (11/5/2021) sets out the proposal in detail.

Question 2: Do those from protected groups benefit or will they experience specific and disproportionate impacts? Will there be any direct or indirect discrimination?

Gather relevant equality data and information to show who will be affected by this decision and how. Set this out below. Include the results of any consultation or engagement. If you have identified any information gaps set out what these are.

The LAP directly addresses the over-representation of males (98%) and those from a BAME (78%) background in custody across London. As part of the development to date, we have engaged young people with experience of youth custody, including males from a BAME background in the development of the proposed model for the LAP. Young people highlighted a range of ideas and concerns, including issues related to their safety, which have been addressed in the design. The LAP will provide an alternative to custody for males aged 16-17, which will reduce re-offending by this group and improve their longer term outcomes through psychologically informed provision and a focus on addressing issues related to mental health and self-esteem, with development of life-skills and employment related training.

Question 3: Analysing the evidence outlined above, does the proposed decision have an impact (positive or adverse) on our duty to eliminate discrimination/harassment and victimisation, advance equality of opportunity or foster good relations between different groups in the community (those that share characteristics and those that do not)?

The LAP will have a positive impact through reducing the numbers and proportion of young people aged 16-17 in custody, particularly those from a BAME background. This will also improve outcomes for this group and reduce the risk of future harm to this group and the wider community.

**Question 4: If there is an adverse impact, can it be avoided?
If it can't be avoided, what are we doing to mitigate the impact?**

No adverse impact expected in relation to equalities.

**Question 5: Could any part of the proposed activity discriminate unlawfully?
Can we advance equality of opportunity via this decision/policy?
Can we foster good relations via this decision/policy?**

The LAP addresses significant issues of disproportionality in relation to young people in custody. There is no unlawful discrimination in the proposed model. The LAP will advance equality of opportunity by providing an alternative to custody for males aged 16-17, with a priority for those from a BAME background. Through reducing re-offending and improving outcomes including greater independence and employment, particularly for young BAME men, the LAP will help to foster good relations more widely.

EIA prepared by: Frank Offer

Date: 23/04/2021

EIA checked by: Eve Stickler Director of Early Intervention and Prevention

Date: 26/04/2021

EIA approved by: _____

Date: _____

(Relevant Director Sponsor)

What to do upon approval

For organizational change: If your EIA relates to internal staff, please send to your HR Business Adviser.

For all other EIAs: Please add to the discussion on the [Equalities in Camden](#) Yammer group, you can do this by using the “Share something with this group..” box, attaching your draft to your message.