

Equality, Social Inclusion and Health Impact Assessment (ESHIA) Guidance

Introduction

It is a legal requirement for local authorities to assess the equality and human rights impact of changes proposed or made to services. It is up to us as an authority to decide what form our may take and is about what is considered to be needed in a local authority's area, in line with local factors such as demography and strategic objectives as well as with the national legislative imperatives.

Tamworth Borough Council does this using a template called Equality, Social Inclusion and Health Impact Assessment (ESHIA). This provides:

- A mechanism to systematically assess the possible effects that a policy, project or decision is likely to have on different people. It can assist to identify possible discrimination by analysing policies, projects, practices, processes, procedures, services and decision, to make sure they do not discriminate or disadvantage people and will help towards improving or promoting equality.
- An opportunity to identify any mitigating action that can be taken to improve outcomes
- A mechanism for contributing to compliance with the Public Sector Equality Duty.

ESHIA forms part of the committee paper documentation for elected members to consider in decision making processes and are a crucial component within such considerations as well as demonstrating an open and transparent approach. For committee reports it will be presented as an appendix to the committee report.

The legal context

The Equality Act 2010, together with the Human Rights Act 1998, forms a framework for equality, diversity, social inclusion and human rights.

Tamworth Borough Council seeks to ensure that, like other public authorities, it is compliant with the Public Sector Equality Duty. The Public Sector Equality Duty (PSED, or "the duty") requires public authorities to have due regard to certain equality considerations when exercising their functions and making decisions. The Equality Duty can be found in sections 149 to 157 of the Equality Act 2010.

Government guidance was last updated in December 2023. The statutory duty ensures that organisations consider how their functions will affect people with different protected characteristics. The protected characteristics are:

1. Age
2. Disability
3. Gender reassignment

4. Marriage and civil partnership
5. Pregnancy and maternity
6. Race
7. Religion or belief
8. Sex
9. Sexual orientation

There is also intersectionality between the protected characteristics. For example, a person with a disability would be in the groupings for 'age' and 'disability', and if they described themselves as having a faith they would then also be in the grouping of 'religion and belief'.

These functions include their policies, programmes and services. The duty supports good decision making by helping decision makers understand how their activities affect different people. It also requires public bodies to monitor the actual impact of the things they do.

Government guidance states that the officer undertaking the screening must determine how much weight should be given to the various factors informing the decision. The duty does not mean that decisions cannot be made which disadvantage some people, provided it does not constitute unlawful discrimination, but the officer should be aware of the equality impacts of these decisions and consider how they could positively contribute to the advancement of equality and good relations. The officer should consider ways of preventing or balancing the effects that their decision may have on certain groups. They should decide which mitigations, if any, they might want to put in place in reconsidering the decision. The mitigation should be proportionate. It is a legal requirement, making decisions without due regard is unlawful.

Responsibility for complying with the general duty falls with the decision maker which is usually the elected members where reports are presented to committee. It is therefore essential that the decision maker sees the assessments that officers have made to ensure compliance with the general duty.

What is the duty?

The general duty requires public authorities, in the exercise of their functions, to have due regard to the need to:

1. Eliminate unlawful discrimination, harassment, victimisation and any other unlawful conduct prohibited by the act.
2. Advance equality of opportunity between people who share and people who do not share a relevant protected characteristic.
3. Foster good relations between people who share and people who do not share a relevant protected characteristic.

Having 'due regard' means properly considering the three aims identified in the Act, and how they relate to the function being exercised and then deciding what weight to give them. A proportionate approach should be taken to the resources spent on duty compliance, depending on the circumstances of the case and the seriousness of the potential equality impacts on those with protected characteristics.

Eliminating unlawful conduct prohibited by the act means eliminating discrimination, harassment, victimisation, failure to make reasonable adjustments and any other conduct that is prohibited under the act.

Advancing equality of opportunity means having due regard, in particular to the need to:

- Remove or minimise disadvantages suffered by people due to their protected characteristics.
- Take steps to meet the different needs of people who share a relevant protected characteristic.
- Encourage participation in public life or any other activity by underrepresented groups.
- Take steps to meet the different needs of disabled persons.

Considering people's different needs and taking steps to meet those needs can be relevant to avoiding indirect discrimination.

Fostering good relations means having regards to the need to deal with prejudice and support understanding. For example, some decisions have the power to bring divided groups together and to support their mutual understanding. Other decisions may inadvertently cause people with one protected characteristic to blame people with another for a social problem.

The local context:

Our ESHIA goes further than just the protected characteristics and includes several other elements including safeguarding of the vulnerable, social inclusion, armed forces, health, the environment and climate change.

This is so we are thinking as carefully and completely as possible about all Tamworth groups and communities, including people who we may describe as vulnerable, for example due to low income or due to safeguarding concerns, as well as people in what are described as the nine 'protected characteristics' of groups of people in our population. We demonstrate equal treatment to people who are in these groups and to people who are not, through having what is termed 'due regard' to their needs and views when developing and implementing policy and strategy and when commissioning, procuring, arranging, or delivering services.

Incorporating health, wellbeing and social inclusion means data can be collected and analysed more proactively. This equips service areas to have due regard to the three aims when considering and planning service changes, and to link in with climate change considerations.

The ESHIA also brings health and wellbeing more to the fore, as part of the work we do and through the work we do with partners to ensure that health is within all our policies. It demonstrates Tamworth Borough Council is working to address health inequalities within our communities.

Almost every aspect of our lives impacts our health and ultimately how long we will live. This includes our jobs and homes, communities, access to education and public transport and whether we experience poverty or discrimination. These factors are often referred to as the 'wider determinants of health'.

We have a duty to improve the health of the local population in Tamworth. In effect this means that health is everyone's business. Therefore, the potential health and health inequalities impact of new strategies, policies, plans and programmes should always be carefully considered to maximise the positive impacts.

Health is also both an enabler and opportunity for us all. A healthier population will mean more people in work, a stronger economy, better attainment at school, and less demand on health and care services.

The health section of the assessment will consider individual factors, like lifestyle, as well as the wider determinants of health such as education, housing, green spaces, environment, and employment. It can create “win-win” solutions e.g. good spatial planning has many non-health benefits but if designed appropriately it can increase physical activity, improve mental health and reduce carbon emissions, all of which improve health.

It also provides the opportunity to amend the design of a proposed plan, strategy, policy, or project if necessary and can be used to assess the positive aspects of a proposal (e.g. the creation of good jobs), and the negative effects (e.g. air pollution impacting vulnerable groups). It is particularly focused on looking at how disadvantaged groups may be affected, to minimise the risk of widening inequalities.

Ultimately it will inform decisions on how we can maximise the positive and minimise the negative health impacts. It informs decisions as to whether the impact on health of a particular proposal is acceptable or not. It assists the decision-makers by giving them better information, but it does not make the decision for them. The approach uses a range of quantitative, qualitative, and participatory techniques.

Stage 1 – initial screening to identify adverse impact

The aim of this stage is to help to identify whether there may be any potential adverse impact on people from a protected characteristic or other groups that we have included. Where equality issues are not affected, or there is little impact on people of the policy or service change, we only complete this initial stage or the form.

Stage 2 – full analysis

This stage provides an opportunity to explore whether there may be a positive, negative or neutral impact on different groups of people and decide if any action needs to be taken to design out, minimise or enhance it.

Stage 3 – develop an action plan

Undertaking stage 2 analysis helps to identify whether there will be any significant impact resulting from our practice or service change decision. The action plan will help to develop measurable interventions that will help ensure we mitigate or remove any impact.

Why should an ESHIA be undertaken?

- Understanding the likely impact of action you propose to take will help you to ensure that you are using Council resources as efficiently and fairly as possible.
- Where the assessment identified potential inequality or inefficiency you have an opportunity to make changes to mitigate any potential adverse impact identified.

- Findings can be used in assessing cumulative impact of a number of policies for particular protected groups.
- It enables you to identify and take action to reduce the likelihood of possible unlawful discrimination which might otherwise result from the implementation from the policy.
- It supports us in considering how we can advance equality of opportunity and foster good community relations between people who share one or more of the protected characteristics.
- Service user consultation.

At what stage should the ESHIA be carried out?

- As soon as there is enough detail to carry out meaningful analysis and consultation.
- While it is still possible for findings to influence final proposals.
- Where significant changes to an existing policy or service is under consideration.
- When a planned review is being carried out.
- When you become aware of significant changes in the target recipients for an existing policy.
- The assessment should be undertaken at timely points in the development and implementation of a proposed change. This enables energies to be focussed on review, monitoring and ongoing evidence collection about the positive or negative impacts of a service change upon groupings in the community, and for any adjustments to be considered and made accordingly.

How much time and other resources should be allowed for completion of the ESHIA?

- This will depend upon the scale and complexity of the proposals. Resources allocated should be in proportion to the business change proposal and the number of people likely to be affected. It should be undertaken at the formative stage so that it is integral to the decision-making process for change.
- The outcome of the ESHIA is only one factor in the overall decision-making process. Other factors such as financial or legal matters may have equal or greater influence over the decision.

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