

# Equality Analysis Guidance

## 1. Background

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The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. One of the provisions of the act was the introduction of the public sector equality duty (PSED). It means that public bodies have to consider all individuals when carrying out their day-to-day work – in shaping policy, in delivering services and in relation to their own employees. The PSED requires public authorities, in the exercise of their functions, to have **due regard** to the need to:

- Eliminate discrimination
  - eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act
- Advance equality of opportunity
  - Remove or minimise disadvantages suffered by people due to their protected characteristics;
  - Meet the needs of people with protected characteristics;
  - Encourage people with protected characteristics to participate in public life or in other activities where their participation is low
- Foster good relations between different people when carrying out their activities.
  - Fostering good relations involves tackling prejudice and promoting understanding between people who share a protected characteristic and others.

The protected characteristics are:

- age
- disability
- gender reassignment
- marriage or civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Public authorities are required to have due regard to the three aims of the general equality duty set out above when making decisions and when setting policies. Each aim must be considered in turn and separately. Understanding (or assessing) the impact of policies and practices on people with different protected characteristics is an important part of complying with the general equality duty. The University's approach to meeting the aims of the PSED is through Equality Analysis (also known as Equality Impact Assessment).

## **2. What should be assessed?**

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All new policies including any projects should have an equality analysis conducted. In addition any significant decision that will have an impact on staff, students or customers/partners of the University should be subjected to some form of assessment, eg new services/facilities, ways of working, organisational change.

Existing policies will be reviewed regularly. Every review of a policy, either as part of scheduled audits, or in response to changes that need to be made, should also review the equality analysis completed when the policy was introduced. If no equality analysis was completed then this should be completed as part of the review. The review should always consider any opportunities to advance equality in addition to ensuring that potential for discrimination has been mitigated.

Having 'due regard' to equality considerations may also involve assessing the impact on equality of a number of decisions that are made together that do not form a project or programme, eg a major review of a service. This would mean ensuring that there is sufficient information to understand the cumulative (or combined) impact of these decisions.

In addition to University generated policies we also need to understand the impact on equality when implementing a policy that has been developed elsewhere, for example by government. While responsibility for the policy itself may rest with government, if there are choices in how to implement the change then these need to be covered by an analysis in the same way as our own policies.

## **3. When to complete an equality analysis?**

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For new policies and projects, consider their potential impact on equality throughout the process of developing the policy/project lifecycle. The equality analysis should start early in the policy development process or at the early stages of a project and be repeated throughout the decision making process. It will help identify the stakeholders to be consulted and information to be collected. If data is not available to complete elements of the analysis at these early stages assumptions may be needed that can be validated later.

The analysis should form part of any post implementation reviews and data collected to check if assumptions remain valid and whether refinements are necessary based on actual data. Equality analysis should be repeated after implementation of new policies/projects and as part of any policy review or audit.

## 4. Who should undertake an equality analysis and who should you consult?

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Equality analysis is a core part of policy making and must be completed by the policy or project owner or a member of the team supporting them. To be completed effectively it requires a detailed understanding of the policy area and the proposed actions. However the analysis should not be completed without consulting others.

The EDI Unit and other teams working directly with particular stakeholder groups will advise decision makers in assessing potential issues for discrimination or adverse impact related to groups with particular protected characteristics and/or opportunities to advance equality or to foster good relations. This will steer the policy makers to review available data and information and to help identify key stakeholder groups who should be consulted to inform the equality analysis.

Consultation with people affected by a new policy is a normal part of good practice in decision making, and is an essential part of the analysis. The identification of who is affected by the change will largely dictate who should be consulted. For any major project or policy related to staff and students the campus Trades Unions/Students Union would be included in the consultation. The following staff networks can help provide input in relation to impact on protected characteristics:

- BAME Staff Network
- LGBT Staff network
- Sussex Parent and Carer Network
- Staff Disability Network
- Trans and Non-Binary Staff Network

Consultation should be started as early as possible. In some cases it may not be possible to consult at the earliest stages of the process and assumptions may be made pending consultation. It is important that where this occurs the project manager/policy maker identifies these as a risk and mitigates by scheduling contingency to rework elements when this consultation can be completed in case the analysis identifies any issues.

## 5. Areas to consider in an equality analysis

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The following questions should be considered but this is not an exhaustive list:

### General

- Who does the policy affect?
- How many people does the policy affect?

### Potential for discrimination

- How significant is the impact of the change on different groups of staff and students?
- Is it likely to affect people with particular protected characteristics differently?
  - Would the policy outcomes/service take-up differ between people with different protected characteristics?
  - Is any part of the policy unlawful under the Equality Act 2010<sup>1</sup>?
  - Have there been any previous concerns raised about the policy (for policy reviews)?

### Equality of opportunity and fostering good relations

- Does the policy relate to a service or facility that has been identified through engagement as being important to people with particular protected characteristics?
- Does the policy relate to an area with known inequalities?
  - If there is a greater impact on one group, is that consistent with the policy aims
  - Will the policy deliver practical benefits for certain groups?
- Does the policy relate to the University Equality, Diversity and Inclusion Strategy and goals?
  - Does the policy miss opportunities to advance equality of opportunity and foster good relations?

The guidance below explains the types of consideration you should make for each of these questions.

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<sup>1</sup> A proposed policy may be in breach of the Equality Act 2010 if it leads to direct discrimination, indirect discrimination, harassment or victimisation, or where there has been a failure to make a reasonable adjustment for disabled workers or service users.

### Who does the policy affect?

Section 4 sets out the principles of stakeholder consultation. Identifying the affected population is key to the analysis as it will help identify the data sets to use and the stakeholders to engage. It is important to think about everybody affected by a change in the analysis and not just the key stakeholders.

**Example** Making changes to teaching timetables will impact teaching staff and students but it could also affect those with responsibility for support services that enable teaching spaces to be used, eg security staff, cleaning staff, IT staff.

### How many people does the policy affect?

University wide policies/changes are likely to affect far more people than changes within a particular School or Directorate. It is important that the data sets that are used and the stakeholders who are consulted are appropriate in any analysis.

**Example** If you are considering closing a particular course it is important to look at the demographic data for students who have taken or are currently taking the course not just University level data sets.

### How significant is the impact of the change on different groups of staff and students?

Some changes will affect a very small group of individuals and others will be more universal, but it is the impact as well as the numbers affected that must be taken into consideration.

**Example** Relocating a particular service to a new building on campus may have very little impact for the majority of staff and students. However if the location is now less accessible this can have a significant impact for a particular staff member with a disability working in the team.

### Is it likely to affect people with particular protected characteristics differently?

Not all policies can be expected to benefit everyone equally, particularly if they are targeted at addressing particular issues affecting one group of people. The analysis should consider intersectionality<sup>2</sup> between the different protected characteristics.

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<sup>2</sup> Intersectionality is the cumulative way in which the effects of multiple forms of discrimination combine, overlap, or intersect in the experiences of individuals or groups. Some changes may have particular impact on specific groups eg female staff with a disability.

It is important to understand that a change of policy could have a different impact on different groups based on current practice. So if some teams have initiated a new way of working that looks like best practice then it is important to complete an equality analysis before rolling out wider. There is a risk that under representation of staff or students with certain protected characteristics has not identified a potential issue. Best practice in that area may not translate to other areas without adverse impact on particular groups.

**Example** A team has piloted daily meetings at 9.00 am to share feedback and make sure they are all aware of emerging issues. The pilot had universally positive feedback and it is now being considered for roll-out as best practice to all related teams. Consider the demographic of the pilot group compared to the wider demographics. Was the representation of part-time staff, staff with disabilities and staff with caring responsibilities a fair reflection of the wider staff population in the roll-out? Could this lead to direct or indirect discrimination? Should this be considered as best practice to consider subject to the needs of the team rather than mandated?

Does the policy relate to a service or facility that has been identified through engagement as being important to people with particular protected characteristics?

Some services or facilities we provide can be more relevant to certain groups of staff or students or people with a particular protected characteristic may be more likely statistically to use these services and facilities. Some may be obvious based on the service, but others may be less obvious and it will be important to analyse relevant demographic data and feedback from stakeholders of the service to identify these.

**Example** In the earlier example about relocating a particular service to a new building on campus in a less accessible location this can have a significant impact for students with disabilities who may be statistically more likely to use the service relocated than the average for the student population.

Does the policy relate to an area with known inequalities? Does it relate to the University Equality, Diversity and Inclusion Strategy and goals?

[Inclusive Sussex](#), the University Equality, Diversity and Inclusion Strategy, sets out the necessary steps to ensure that all members of the Sussex community have equal access to opportunities.

If the policy or strategy is directly relevant to the goals of the strategy or the specific targets in the strategy it is important that reference is made to that link. This is clear for any project or policy that is designed to help deliver the strategy. Some projects will be enablers for changes that will help deliver Inclusive Sussex ie it is not the primary objective of the work but will deliver capability to

make other changes to policy or procedure that would. For other projects and policies it is important to complete the analysis to check for direct or indirect discrimination.

## 6. Analysis and Data

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Identify the affected population, ie the staff, students or others that will be impacted by the changes under consideration, and gather basic information to understand the demographic of the groups. High level data relating to protected characteristics of our staff and students is published annually on the Equality, Diversity and Inclusion Unit webpages. This information is based on HESA data. The Equality, Diversity and Inclusion Planning Officer in the University Planning Team can provide more detailed breakdowns of information allowing analysis to focus on the affected population. Any request for data or analysis needs to be planned in advance to enable workload planning.

Other University sources of information are:

- University level data sets published in relation to pay gaps
- School level awarding gaps for students
- School and Institutional Athena SWAN application data sets
- Staff and Student Survey data
- Analysis of complaints from staff and students
- Recommendations from inspections, audits or reviews can also help identify any concerns about equality matters.

The data/information sets should be used alongside the key findings of any consultation and engagement undertaken. Comparisons with similar policies in other organisations can also help identify relevant equality issues. The data needed will depend on the project or policy.

**Example** —When reviewing a recruitment policy for disability equality we should examine our current demographic for staff with a disability in comparison to data for the sector and the local area. We should also look for evidence about our current recruitment policy eg:

- establishing how many people with a disability have applied for posts
- how many were appointed by role/grade and
- reasons for leaving given by staff with a disability

Once you have the relevant data, start to think about potential impacts on people with different protected characteristics, and intersectionality of those groups. The analysis will help identify where there is most risk of adverse impact on a particular group or opportunity to promote equality. Think about which aims of the general equality duty and which protected characteristics your policy is

most relevant to. Understanding the impact on different groups is a key step in identifying whether a policy might unlawfully discriminate.

**Example** — In developing a new approach to student facing services to increase access times overall but reduce the level of face to face services provided initial analysis identifies a number of different elements as being relevant to equality. There are potential impacts on all staff who deliver the service and the students who use it but the key areas of focus in the analysis where indirect or direct discrimination might occur could be:

- some students with a disability make more use of face to face services
- staff with caring responsibilities may find it harder to provide services during the extended hours

For some students with a disability, alternative channels and access to support over a longer period may increase their access to the services. For others with different disabilities, a reduction in face to face services may mean they are receiving a reduced service if they are unable or unwilling to use other service options. In this case the service being provided would need to be part of the consideration and whether students with a disability are more likely to access it than students with no disability. For example, if the service related to reasonable adjustments then the impact on the population of students with a disability is likely to be much more significant.

For staff there is a risk of indirect discrimination, eg women are more likely to be carers. If all staff have to cover shifts in the extended hours this may be an issue. However if the changes allowed staff to work more flexibly based on their circumstances to accommodate caring needs then this may be a change that promotes equality of opportunity.

If the analysis of the policy or project has identified the potential for negative impacts on people sharing particular characteristics you need to consider what steps can be taken to mitigate these effects or what changes are needed to the policy to eliminate them. Any potential for unlawful discrimination needs to be addressed.

Remember that assessing impact on equality is not simply about identifying, and mitigating or removing, negative effects or discrimination. It is also an opportunity to identify ways to advance equality of opportunity and foster good relations. This may involve building positive action measures into the delivery of services or employment policies, as permitted by the Equality Act 2010. The analysis may identify an issue that is caused by a related policy that needs to change to enable this policy to be effective in making a positive change to equality of opportunity.



## 7. Recording the analysis

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Documenting the evidence used as part of any analysis will support any response to challenges or complaints about policies internally and externally. The weight given to equality issues should be proportionate to the significance of the policy. Generally, where the policy is likely to have an adverse impact on large numbers of people who share a protected characteristic, a more detailed analysis should be provided. When the number of people affected is small, the weight given to equality considerations is not necessarily less if the policy would have a serious impact on the individuals concerned.

The equality analysis should be reviewed in the decision on how to proceed. The following are all options:

- **Continue as planned** – the assessment demonstrates that the policy shows no potential for discrimination. The reasons for this conclusion and the information used would be documented.
- **Continuing as planned with mitigations** – There may be other factors (such as other policy aims or financial constraints) which make it reasonable to decide to adopt the policy despite its adverse equality impact. This option can be used where the policy does not unlawfully discriminate, or where any potential discrimination is indirect and can be objectively justified. It may involve taking steps to mitigate adverse impacts. It is important that the reasons for the decision and the evidence that supported these reasons are documented.
- **Change** – This involves making changes to the policy or project to address the findings in the analysis. This may be to make a significant change or a small change to all or part of the policy. Documenting these changes helps show how the policy has been designed based on the equality analysis. This may be to introduce or change measures designed to increase equality. It is lawful under the Act to treat people differently in some circumstances or adopting proportionate positive action measures that benefit people sharing protected characteristics. Document the reasons for any changes proposed and the information used to make this recommendation.
- **Stop** – If analysis of the policy shows a high probability of unavoidable discrimination which (where the law allows it) cannot be objectively justified and changes cannot be made then the policy/project should be stopped. This outcome is normally only likely at the early stages of policy or project development.

## 8. Monitor and review

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Equality analysis is an ongoing process that does not end once the policy has been agreed or implemented. For example, the actual effect of a policy may only be known once it has been introduced or demographics of staff and students may change and lead to different needs. It is

therefore recommended that the equality analysis is reviewed; this could be before or at the same time as the standard policy review date. A review should take account of the experiences of implementing the policy and highlight any further impact identified (both positive and negative). Where a negative impact is identified, action should be taken to mitigate the impact or objective justification given.

DRAFT

**UNIVERSITY OF SUSSEX EQUALITY ANALYSIS FORM**

Name of Policy/Project

Is this New/Existing

Assessment conducted by:

Date of Assessment:

School/Professional Services area:

**1. Evidence considered.** What data or other information have you used to evaluate if this policy is likely to have a positive or an adverse impact upon protected groups when implemented?

**2. Consultation.** Have you consulted staff or student representatives including those from protected groups? What were their views?

**3. Promoting equality.** Does this policy have a positive impact on equality? What evidence is there to support this? Could it do more?

**4. Identifying the adverse impact of policies** Has the analysis identified any evidence that the policy/project could lead to direct or indirect discrimination? If yes please reference the relevant issues in Annex A and describe the mitigations or changes proposed

**5. Action** What action is recommended as a result of this analysis?

- **Continue as planned**
- **Continue as planned with added mitigations**
- **Change policy/project**
- **Stop**

**6. Status of Equality Analysis**

First Iteration

Second Iteration

Final

Post Implementation

**7. Monitoring** How will you monitor the impact of the policy on protected groups?

Give details of future reviews of the policy/ project that are planned including standard audits.

