



## **Equality Analysis Guidelines**

***Guidance for decision makers and policy developers on assessing the impact of decisions, processes and policies on those legally protected from discrimination***

## Rationale

Our day to day decisions, overarching policies and associated processes affect individual students, members of staff and visitors, often profoundly.

A policy, process or decision that may seem fair and apply equally to everyone may, on closer inspection, adversely impact on a particular group of people. **Equality analysis (EA)** is a way of considering the effect of what we decide to do on different groups of individuals who have legal protection. It makes an assessment of impact which is why it is sometimes referred to as **Equality Impact Assessment (EIA)**.

EA protects the University from unwittingly discriminating against an individual or group, either directly or indirectly. It also allows us to take more positive action to improve the experiences and satisfaction of all students and staff in line with our mission and values.

Considering equality as part of our everyday business should improve decision making, and this in turn helps maximise student and workforce potential and raise customer satisfaction. We should be looking at how we act as an employer and educator; how we develop, evaluate and review policies; how we design, deliver and promote services and how we commission and procure from others.

## Legal background

The University has legal drivers which govern the way it should act in the performance of its duties. The Equality Act 2010 imposes a Public Sector Equality Duty on public bodies. This Duty has three aims and states that we must have 'due regard' to the need to:

- **Eliminate unlawful discrimination, harassment and victimisation** and other conduct prohibited by the Act.
- **Advance equality of opportunity** between people from different groups. This involves considering the need to:

- remove or minimise disadvantages suffered by people due to their protected characteristics (see explanation below)
  - 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 people from different groups. This involves tackling prejudice and promoting understanding between people from different groups.

The **protected characteristics** under the Public Sector Equality Duty are:

- |  |                           |
|--|---------------------------|
| ● Age  | ● Sex                     |
| ● Disability   | ● Sexual orientation      |
| ● Gender re-assignment   | ● Religion or belief      |
| ● Race (including ethnic and national origin, colour and nationality)            | ● Pregnancy and maternity |
| ● Marriage and Civil Partnership (only in terms of discrimination in employment) |                           |

In order to demonstrate ‘**due regard**’, the University must consider the three aims of the general duty (detailed above) when making decisions as an employer and as an education and service provider; for example, when:

- developing, evaluating and reviewing policies and practices
- designing, delivering and evaluating services, including education provisions
- commissioning and procuring services from others.

This means that any decision made (including the cumulative effect of any decisions taken), any policy developed or reviewed, any planned restructuring of a department or change programme must be examined to determine whether it could have a negative impact on particular groups of people protected under the Act.

This is particularly important as the legislation protects people both in terms of direct discrimination but also indirect discrimination. **Indirect discrimination** can occur when a provision, criterion or practice is applied equally but disadvantages people from a particular group and cannot be objectively justified.

It is worth remembering when looking at impact that the legislation also requires us to make **reasonable adjustments** for staff and students to enable them to fully participate in employment and education.

This process of examination of impact is called Equality Analysis (EA) and involves looking at equality information and the outcome of engagement in order to understand the effect, or potential effect, of decisions on groups with a protected characteristic. This is done for the following reasons:

- to consider if there are any unintended consequences for some groups
- to consider if a policy or decision will be fully effective for all target groups
- to identify any negative impact and eliminate or mitigate this
- to actively consider how changes to policy might advance equality and foster good relations.

We also have a legal duty to retain evidence that we have considered the Equality Act General Duty when formulating policy and making decisions. The University needs to produce evidence that equality has been considered, if challenged, and justify its actions.

## **How does this work in practice?**

Equality Analysis should be an integral part of policy development and decision-making at the University. All protected characteristics must be taken into account and considered from the very outset of policy formulation. This approach will be most effective when incorporated into day-to-day policy-making, business-planning and other governance decision-making arrangements. It can help to identify practical steps to tackle any negative effects or discrimination, to advance equality of opportunity and to improve relations between different groups.

In these guidelines, the term 'policy' is shorthand for what needs to be analysed. 'Policy' embraces the full range of our policies, practices, activities and decisions: essentially everything we do, whether it is formally written down or whether it is informal custom and practice. This includes our existing policies and any new policies under development.

We need to demonstrate the outcomes of our EA but we can be flexible in our approach to conducting the analysis, as different types of decisions, reviews and policies may require different approaches. The amount of information and the level of detail included and the extent of any consultation should be proportionate to the importance of the policy to equality and good relations.

Equality Analysis should start prior to policy development or at the early stages of a review. It is ongoing and cyclical and enables equality considerations to be taken into account before a decision is made or reviewed.

What should be assessed?

- New policies affecting students, staff, service users and visitors.
- Revision or refreshment of existing policies.
- Key decisions where EA should form part of the business case.

## **Who needs to undertake the Equality Analysis?**

The person who is making the decision or considering implementing a change or the person advising the decision-maker, needs to undertake the EA, with appropriate assistance and support. This exercise is not an administrative task but a core part of policy-making.

It is important to remember that EA is not about justifying what you have done after you have done it. It is about considering people and options before you decide what to do, and making sure these options take into account the implications for students, staff and visitors.

Some decisions will have no impact on equality issues and it will be enough just to have briefly considered what these might be.

Other decisions, reviews and policy developments could have a significant impact on individuals and equality. These will require much more careful consideration of data, consultation and evidence of any analysis undertaken.

All EAs should be reviewed by a senior manager and where the analysis relates to a matter which requires UEC approval, the Dean or Director must have had sight of the EA before the paper is submitted.

## **How do I know the appropriate level of action to take?**

The bullet points below provide some examples of how managers should deal with different types of decisions/actions.

Please note that it is the responsibility of each manager to make a decision on the potential equality impact of any decision/action although HR are happy to provide advice on request.

### **1. Major policy\* changes, which usually require executive sign off, with significant potential equality impact across the University, for example:**

- Formal written policies – revised or new
- Faculty/Service re-structures
- Major Investment proposals
- Any decision, proposal, document that needs the approval of the University Executive including:
  - changes to collective staff terms and conditions of employment
  - changes to the services provided to students/staff/members of the public
  - development of the physical estate and any change in location of functions

**Action required** - submit Equality Analysis and include statement within the proposal to UEC.

\* The term 'policy' includes a wide range of activities and not just formal written policies, for example; processes, practices, provisions, criteria, procedures, decisions and reviews.

### **2. Policy changes or decisions within Faculty/Service with minor potential equality impact, for example:**

- changes to website layout/format
- deciding to spend money from a pre-set budget
- changes to operational departmental procedure

## Action required:

### a) decisions made by working groups:

Keep records of equality considerations e.g. minutes, notes, e-mails, but not necessary to submit full Equality Analysis.

### b) decisions made by individual

Question the impact on equality at the time of the decision but no records need to be kept. These decisions are made within a framework of guidelines or as part of established procedures. If challenged, managers will still need to justify individual decisions made.

## What do I need to do?

There are seven simple stages to an Equality Analysis:

These can be used to think through any policy or decision but do also form the basis of the EA proforma:

1. **Consider** any potential impact on people with protected characteristics
2. **Collect** any relevant data so that you have enough information to make an informed decision
3. **Analyse** the evidence to assess if there is any adverse impact on particular groups with protected characteristics
4. **Eliminate** or reduce any adverse impact, where possible and consider potential for positive impact
5. **Decide** - make a decision and communicate as appropriate
6. **Submit** the Equality Analysis and keep evidence
7. **Monitor** actual impact and **review** policies

Detailed guidance notes follow which explain how each of these stages should be approached as part of an EA. It is important that enough evidence is recorded to justify any policy/decision that is taken, particularly where there is a significant impact on equality. A simple checklist is also available to act as a prompt when completing an EA.

Remember, EA concerns embedding consideration of the full diversity of student and staff as decisions are made, processes reviewed and mapped, and policies formulated.

The questions are designed as a framework for thinking through the impact or effect on people of your actions. The priority is to eliminate or mitigate adverse impact but there may also be scope for positive impact on those that are currently lack equality of opportunity.





## Detailed guidance notes

### Stage 1 - Consider any potential impact

Initially you will need to have a clear understanding of the policy, process or decision that is being developed or reviewed and how the aims relate to equality:

- What is the purpose of the policy?
- In what context will it operate?
- Who is it intended to benefit?
- What results are intended?
- Why is it needed?

At this early stage you can start to think about potential effects on protected groups. This could mean that you decide to change your overall policy aims in order to take better account of equality considerations.

Consider the relevance of the policy to equality and the proportionality of its potential impact on equality. This should provide a guide as to how much data you need to collect and how much consultation you need to carry out. Questions you may want to consider at this stage are:

- Does the policy affect students, employees or the wider community, and therefore potentially have a significant effect in terms of equality? (Remember that relevance of a policy will depend not only on the number of those affected but also by the significance of the effect on them.)
- Is it a major policy, significantly affecting how functions are delivered in terms of equality?
- Does the policy relate to functions that previous engagement has identified as being important to particular protected groups?
- Does or could the policy affect different protected groups differently?
- Does it relate to an area with known inequalities?
- Does it relate to an area where equality objectives have been set?

If you decide that a policy is not relevant to equality, you will need to document the reasons for this and the information that you used to make this decision. A simple statement of no relevance to equality without any supporting information will not be sufficient, nor will a statement that no information is available.

## Stage 2 - Collect any relevant data

Decide what information you need in order to assess if there may be an adverse impact on any protected group. For example, the number of people who may be affected and these people broken down by protected characteristic. In addition, you may need to consider those people working on a part-time basis or fixed-term contract or those with caring responsibilities.

You may also want to consider information from staff/student surveys, and national data for benchmarking may also be useful. In most cases this type of basic data will be sufficient; however, if there is not enough data to enable accurate judgement on equality impact, it **may** be necessary to collect further information. You should consider whether you need to take any steps to fill in the information gaps.

In some cases it may be appropriate to consult with groups such as staff, students and trades unions at this stage. This will enable the gathering of information and ideas to better inform a decision.

If data is lacking, then new consultations or collection of evidence may need to take place. HR can advise on this.

Examples of data:

- Diversity profile of staff and/or students
- Levels of service uptake
- Changes in participation rates
- Survey results , including national surveys such as the NSS
- Evidence of exclusion, proportionally lower responses or under-representation
- Enquiries, feedback, comments, complaints linked to the relevant policy area
- Recommendations from audit reports
- References to the University's values and mission, people strategy or equality and diversity strategy.

## Stage 3 - Analyse the evidence

Use the information that you have gathered to assess whether your decision has an actual or potential negative impact on a particular group of people either through direct or indirect discrimination.

Explain how the evidence shows **whether or not** there is an adverse impact. Evidence-based policy-makers should ask – ‘what will happen, or not happen, if we do things this way?’

Equality Analysis forms a central part of this process by asking you to think about what would happen in relation to equality and good relations, ie could it undermine equality of opportunity or harm good relations? Remember that Equality Analysis is not simply about identifying and removing negative effects or discrimination, but it is also an opportunity to identify ways to advance equality and/or to foster good relations.

Ways in which **adverse** impact can be identified include looking for:

- a lower participation rate of equality target groups compared to others
- certain groups having lower success rates in particular processes
- whether eligibility criteria appear to disadvantage certain groups
- whether access to services/benefits is reduced/denied in comparison with other groups
- whether a group faces increased difficulty as a result of a decision
- whether a decision reduces benefits disproportionately for one group.

There may be cases where differential impact is justifiable, for example:

- to address the needs of a particular group through positive action
- for business efficiency reasons
- for health and safety reasons
- for national security reasons.

Decide if any negative impact identified is justifiable or not. Liaise with HR if you believe that a negative impact on a particular group may be justified. In these circumstances, it must be made explicit why this is the case.

Equally, the analysis may demonstrate that the evidence shows no potential for discrimination and that you have taken all appropriate opportunities to advance equality and foster good relations between groups. If this conclusion is reached, remember to document the reasons for this and the information that you have used to make this decision.

## Stage 4 - Eliminate or reduce any adverse impact and promote equality

Investigate why there might be an adverse impact - questions that can assist this process include the following:

- What are the **causes** of the adverse impact?
- Are there any **alternative measures** or **interventions** that would achieve the aims of the decision/review without having an adverse impact?
- Are there any **additional measures** which could be adopted that would further advance equality of opportunity in the context of this review?

Find measures that can reduce or eliminate the adverse impact and identify actions.

Interventions that could be considered as ways of mitigating adverse impact include:

- adopting a positive action approach (please seek advice from HR)
- training and re-skilling options
- considering alternative structures/actions/approaches
- mainstreaming equality and diversity approaches within existing management/corporate activities
- using marketing and public relations to raise the profile of an issue could be particularly relevant to the positive duty, as institutions must promote and be seen to be promoting good relations.

If there are adverse effects that are not justified and cannot be mitigated, you will need to reconsider whether the policy or decision is implemented at all. It is not just a matter of showing that we have had regard to equality, it is about whether, in all of the circumstances, we have given an appropriate degree of regard. This means that it must be proportionate to how relevant a function is to equality.

## Stage 5 - Make a decision and communicate

Decision-making may involve careful balancing between different interests following the evidence obtained through data analysis and engagement. For example, where a policy justifiably benefits certain groups, steps may also be needed to counter any resentment amongst other groups or inaccurate perceptions of 'favourable treatment'. This might involve some communication work but the key point is to make sure that the conclusions reached can be explained.

Decision-making should be based on a clear understanding of the effects on equality, which means that the person who ultimately makes a decision or decides on the policy, has to be fully aware of the findings and have due regard to them in making decisions.

Having considered the potential or actual effect of your policy on equality, you should be in a position to make an informed judgement about what should be done with your policy. There are four main steps that you can take:

- **No major change** – your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination and that you have taken all appropriate opportunities to advance equality and foster good relations between groups. If this conclusion is reached, remember to document the reasons for this and the information that was used to make this decision. Bring evidence of your analysis to the attention of any other people involved in the decision-making process.
- **Adjust the policy** – this involves taking steps to remove barriers or to better advance equality. It can mean introducing measures to mitigate the potential effect. Remember that it is lawful under the Equality Act to treat people differently in some circumstances, for example taking positive action or putting in place single-sex provision where there is a need for it. It is both lawful and a requirement of the general equality duty to consider if there is a need to treat disabled people differently, including more favourable treatment where necessary. Please seek advice from HR on any positive action measures being considered.

- **Continue the policy** – this means adopting your proposals, despite any adverse effect or missed opportunities to advance equality, provided you have satisfied yourself that it does not unlawfully discriminate. In cases where you believe discrimination is not unlawful because it is objectively justified, it is particularly important that you record the objective justification for continuing the policy, and how you reached this decision. This must be agreed with your Dean or Director before continuing with the proposal.
- **Stop and remove the policy** – if there are adverse effects that are not justified and cannot be mitigated, you will need to consider stopping the policy altogether. If a policy shows unlawful discrimination it *must* be removed or changed.

There is also an opportunity to highlight any potential positive impact that can be achieved whilst reconsidering the policy, process or procedure.



## Stage 6 - Submit the Equality Analysis and keep evidence

Once you have completed your analysis, where appropriate, include the following statement at the end of the document:

*'Equality issues have been taken into account during the development of this document/policy/review and all protected characteristics have been considered as part of the Equality Analysis undertaken.'*

Please submit your EA [here](#).

Documenting your analysis is important to ensure that the University is complying with the Public Sector Equality Duty. This documentation demonstrates that a genuine assessment has been carried out at a formative stage, prior to a decision being made, so it is important to keep evidence such as meeting notes, e-mails, minutes, data etc as well as the EA checklist and any associated documents, data or information which informed your analysis locally for future reference.

## Stage 7 - Monitor actual impact and review policies

Remember that circumstances change over time, for example:

- demographics can change which may lead to different needs
- alternative provisions can become available
- new options to reduce an adverse effect could become apparent

Equality Analysis is an ongoing process that does not end once a policy or decision has been agreed or implemented. This does not necessarily mean repeating the Equality Analysis, but using the experience gained through implementation to check the findings and to make the necessary adjustments. However, there will be a stage prior to policy adoption or decision implementation where the Equality Analysis is considered 'complete' in the sense that it is sufficiently robust and detailed to properly inform decision-making.

Where appropriate, the policy/decision should be reviewed at a future date which should be identified and clearly stated as part of the Equality Analysis. The length of time between one analysis and the next will depend on the relevance of the policy to equality issues and any potential impact on groups with protected characteristics. A judgement will need to be made regarding an appropriate timescale.

## Key points to remember

- Equality Analysis is an integral part of policy development and review, informing policy as it develops. If integrated well, Equality Analysis will be a tool for improved decision-making and it should not mean unnecessary additional activity.
- The objective is to understand the effects of a policy on equality and any actions needed as a result.
- The time and effort involved should be in proportion to the importance of the policy to equality and good relations.
- Equality Analysis involves looking for what steps could be taken to advance equality as well as eliminate discrimination, including any action to meet the needs of those affected or to remove or minimise disadvantage.
- Without good evidence, good Equality Analysis will be difficult to achieve. A lack of information is never an excuse for not analysing the effect on equality, as some evidence will almost always be available. Where it is not available, take steps to gather it.
- The insights from engagement with employees, students, trade unions and other people affected are important evidence for your Equality Analysis.
- Document your Equality Analysis and publish it at the earliest available opportunity.
- Monitor the actual impact and review the policy as appropriate – Equality Analysis is an ongoing process

## Support and Advice

For further information or support, please contact your link HR Team.