

Ashford Borough Council

# EQUALITIES IMPACT ASSESSMENT

NOVEMBER 2017



# Equality Impact Assessment

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1. An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:

- (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
- (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
- (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
- (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

## Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:
- (a) Eliminate discrimination, harassment and victimisation;
  - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).

3. These are known as the three aims of the general equality duty.

## Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership\*
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

\*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

## Due regard

5. Having 'due regard' is about using good equality information and analysis at the right time as part of decision-making procedures.
6. To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations. This can involve:
- removing or minimising disadvantages suffered by people due to their protected characteristics.
  - taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.
  - encouraging people with certain protected characteristics to participate in public life or in other activities where it is disproportionately low.
7. How much regard is 'due' will depend on the circumstances. The greater the

potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.

8. In terms of timing:

- Having 'due regard' should be considered at the inception of any decision or proposed policy or service development or change.
- Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
- The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.

**Case law principles**

9. A number of principles have been established by the courts in relation to the equality duty and due regard:

- Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty and so EIA's must be attached to any relevant committee reports.
- Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one so that it needs to be considered not only when a

policy, for example, is being developed and agreed but also when it is implemented.

- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

The Equality and Human Rights Commission has produced helpful guidance on "Meeting the Equality Duty in Policy and Decision-Making" (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or service development or change and other decisions likely to engage the equality duty. [Equality Duty in decision-making](#)

<b>Lead officer:</b>	Simon Cole
<b>Decision maker:</b>	Cabinet
<b>Decision:</b> <ul style="list-style-type: none"> <li>• Policy, project, service, contract</li> <li>• Review, change, new, stop</li> </ul>	<p>Approve the schedule of responses to the public consultation on the proposed 'Main Changes' to the Regulation 19 draft Local Plan to 2030 (published in July 2017), attached as Appendix 2 to the cabinet report;</p> <p>Agree the proposed further minor amendments to the Regulation 19 version of the Local Plan to 2030 set out in Appendix 3;</p> <p>Recommend to Full Council to authorise the Head of Planning to submit the Local Plan to 2030 attached as Appendix 1 to this report (as amended by the further minor amendments in Appendix 3) to the Secretary of State for independent public examination;</p> <p>Grant delegated authority to the Head of Planning to:</p> <ul style="list-style-type: none"> <li>a. make any further modifications he considers necessary or desirable before or during the examination,</li> <li>b. ask the Inspector to recommend modifications to the draft Local Plan under Section 20 (7C) of the Planning and Compulsory Purchase Act 2004, if such modifications are considered necessary to make the Plan sound,</li> <li>c. take any action he deems necessary to progress the draft Local Plan through the examination process.</li> </ul>
<b>Date of decision:</b> The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	7 <sup>th</sup> December 2017
<b>Summary of the proposed decision:</b> <ul style="list-style-type: none"> <li>• Aims and objectives</li> <li>• Key actions</li> <li>• Expected outcomes</li> <li>• Who will be affected and how?</li> <li>• How many people will be affected?</li> </ul>	<p>The new Local Plan to 2030 will replace the adopted Core Strategy 2008 and the other geographically based Development Plan Documents that form part of the Borough's current development plan, except for the Chilmington Green AAP.</p> <p>A draft version was subject to public consultation in summer 2016 and a series of proposed main changes to the draft Plan were consulted upon for 8 weeks this summer.</p> <p>The Cabinet is now asked to approve the final submission version of the Local Plan to 2030 and recommend that the Full Council approves the submission of the Plan for public examination.</p>
<b>Information and research:</b> <ul style="list-style-type: none"> <li>• Outline the information and research that has informed the decision.</li> </ul>	The information and research that has informed Local Plan decisions has been extracted from a vast number of different documents. Evidence base documents such as the SHMA, SHELAA and SAs, as well as various strategy and review

<ul style="list-style-type: none"> <li>• Include sources and key findings.</li> </ul>	<p>documents have all influenced the development of the Local Plan to some extent.</p>
<p><b>Consultation:</b></p> <ul style="list-style-type: none"> <li>• What specific consultation has occurred on this decision?</li> <li>• What were the results of the consultation?</li> <li>• Did the consultation analysis reveal any difference in views across the protected characteristics?</li> <li>• What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics?</li> </ul>	<p>An initial Regulation 19 consultation took place during the summer of 2016 and a total of 2866 representations were made. Following consultation and a number of contextual changes including the Government's publication of the Housing White Paper, a series of revisions to the 2016 version of the draft Local Plan were proposed.</p> <p>Subsequently, a further Regulation 19 'Main Changes' consultation took place during the summer of 2017. All of the main changes to the Plan were detailed within Appendix 1 and Appendix 2 documents and a total of 1178 representations were received.</p> <p>A separate background document is available which lists the representations made and the Council's proposed response.</p> <p>The difference in views of those with protected characteristics was not analysed as part of the response to representations process.</p> <p>The approval of the decision will have no differential impact on people with different protected characteristics.</p>

**Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.**

When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.

<b>Protected characteristic</b>	<b>Relevance to Decision High/Medium/Low/None</b>	<b>Impact of Decision Positive (Major/Minor) Negative (Major/Minor) Neutral</b>
<u>AGE</u> Elderly	Low	Positive
Middle age	Low	Positive
Young adult	Low	Positive
Children	Low	Positive
<u>DISABILITY</u> Physical	Low	Positive
Mental	Low	Positive

Sensory	Low	Positive
<u>GENDER RE-ASSIGNMENT</u>	Low	Positive
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	Low	Positive
<u>PREGNANCY/MATERNITY</u>	Low	Positive
<u>RACE</u>	Low	Positive
<u>RELIGION OR BELIEF</u>	Low	Positive
<u>SEX</u> Men	Low	Positive
Women	Low	Positive
<u>SEXUAL ORIENTATION</u>	Low	Positive

<b>Mitigating negative impact:</b> Where any negative impact has been identified, outline the measures taken to mitigate against it.	N/A
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<b>Is the decision relevant to the aims of the equality duty?</b>	
Guidance on the aims can be found in the EHRC's <a href="#">Essential Guide</a> , alongside fuller <a href="#">PSED Technical Guidance</a> .	
<b>Aim</b>	<b>Yes / No / N/A</b>
1) Eliminate discrimination, harassment and victimisation	N/A
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	N/A
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	N/A

<b>Conclusion:</b>	
<ul style="list-style-type: none"> <li>Consider how due regard has been had to the equality duty, from start to finish.</li> <li>There should be no unlawful discrimination</li> </ul>	Due regard has been made to the equality duty from start to finish of the Ashford Local Plan 2030.

<p>arising from the decision (see guidance above ).</p> <ul style="list-style-type: none"> <li>• Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified.</li> <li>• How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported?</li> </ul>	<p>There will be no unlawful discrimination arising from the decision.</p> <p>The proposal meets the aims of the equality duty as all sections of the community, including those with protected characteristics, have the opportunity to comment on the draft Local Plan during public consultations. The planning department is committed to ensuring that everyone is able to comment on plans that may have an impact on them, which is reiterated in the Statement of Community Involvement (SCI).</p> <p>Monitoring of the policies, procedures and decisions and their implementation will be reported in the annual Authority Monitoring Report.</p>
<p><b>EIA completion date:</b></p>	<p>27/11/2017</p>