

2012

Equality Analysis

Guidance and Form



Brent Council Equality Analysis Form

Please contact the Corporate Diversity team before completing this form. The form is to be used for both predictive Equality Analysis and any reviews of existing policies and practices that may be carried out.

Once you have completed this form, please forward to the Corporate Diversity Team for auditing. Make sure you allow sufficient time for this.

1. Roles and Responsibilities: please refer to stage 1 of the guidance	
Directorate: Regeneration & Growth Service Area: Property & Projects	Person Responsible: Name: Tony Nixon Title: Technical Officer Lands & Terrier Contact No: 0208 937 1565 Signed: Tony
Name of policy: Copland Community School – update and plans for a new build school and costs.	Date analysis started: 5/8/2014 Completion date: 5/8/2014 Review date: 5/8/2014
Is the policy: This is not a policy it is a proposal. This is a follow on report.	Auditing Details: Name: Sarah Chaudhry Title: Head of Strategic Property Date: 05/08/14 Contact No: 0208 937 1705 Signed: Sarah
Signing Off Manager: responsible for review and monitoring Name: Richard Barratt Title: Operational Director Property & Projects Date: 05/08/14 Contact No: 0208 937 1330 Signed: Richard	Decision Maker: Name individual /group/meeting/ committee: Cabinet Date: 26/8/14

2. Brief description of the policy. Describe the aim and purpose of the policy, what needs or duties is it designed to meet? How does it differ from any existing policy or practice in this area?

The aim of this report is to evaluate the latest proposals for Copland Community School (CCS) and adjacent land, which aim to deliver a redeveloped school in accordance with a scheme agreed between Brent Council and the Education Funding Agency (EFA). An Equality Analysis has already been undertaken in support of the 22nd April Committee Report which dealt with the wider principles behind the scheme, and this analysis will therefore concentrate on the specific Equalities impacts of the proposed development.

The redevelopment scheme will deliver:

- A much needed rebuilt Copland school
- The diversion of a public footpath dissecting the site
- Improved sports facilities with better arrangements for public access.
- A regeneration site.

All such development accords with the principles of the Wembley Area Action Plan, which has been subject to widescale consultation and analysis.

The scheme will assist the Council in delivery of the Wembley Area Action Plan, Education priorities, public access to sport and recreation, public safety through improvements to the footpath, and in the longer term access to housing and employment opportunities as part of the regeneration site that will be created on the site of the old school.

Policy and practice for the area has already been established by the Wembley Area Action Plan. The current proposals merely formalise these proposals and clarify the means of delivery.

3. Describe how the policy will impact on all of the protected groups:

The previous April 2014 provided an indepth analysis of the equalities impact of a new school building, this is therefore an update and concentrates on the impact of updated proposals concentrating on the local community.

Copland Community school is situated within the Wembley Central Ward
The 2011 Census showed that:

- The population of Wembley Central increased by 3,727 persons, or 33.9%, from 11,000 in 2001 to 14,727 in 2011
- The number of households increased by 30.0% resulting in an increase in the household size 3.4 persons
- The number of 0-4 year olds increased by 48.1% from 671 in 2001 to 994 in 2011
- Wembley Central had a 86.0% black, Asian and minority ethnic (BAME) population with an Asian population of 66.1% and a black population of 13.8%

- 31.5% of the ward's residents were born in the UK. 59.6% had a UK passport
- 90.8% of the residents in Wembley Central had a religion.

Other data sources tell us that:

- the median household income in Wembley Central is below the Brent median figure of £31,601 at £27,644.

The current proposals will result in a five court sports hall, and hard surfaced play on the existing playing fields. Access to such facilities will not only be ensured for Copland and adjoining primary schools at Elsley and St Josephs, but also by agreement with the Ark Academy to the wider community, with consequent beneficial impacts on health and well being.

The improvements to the playing field and an associated diversion of a footpath, which is currently poorly used, hidden from public view by high fences, and an invitation to anti social activity, will significantly improve security for those utilising the site, hence optimising health and well being outcomes.

Proposals for the regeneration area at the High Road frontage are yet to be developed, but the Wembely Area Action Plan envisages a mixture of housing and retail centred development, all with consequent positive impacts for the community.

Please give details of the evidence you have used:

Detail on the Wembley Central Ward make up have been drawn from Diverse Brent Borough Profile.

4. Describe how the policy will impact on the Council's duty to have due regard to the need to:

(a) Eliminate discrimination (including indirect discrimination), harassment and victimisation;

Improvements to the playing fields and sporting provision, will result in more controlled use of the existing poor quality provision.

Therefore the proposals in the report are likely to positively impact the elimination of discrimination, harassment and victimisation.

(b) Advance equality of opportunity;

The scheme will also have significant positive impacts in terms of improved access to recreation for a locality characterised by mixed ethnic background, with increasing household size, and below the Brent average income.

Therefore the proposals are likely to positively impact equality of opportunity.

(c) Foster good relations

A new school, a better learning environment, improved educational standards and better behaviour will all contribute towards creating better relationships within the school community, the wider community in which the school is based, assisting with general regeneration in the local area all of which will contribute longer term in creating a more cohesive and sustainable community.

Of particular benefit will be public access to significantly improved sports facilities.

Therefore the proposals are likely to positively impact fostering good relations.

5. What engagement activity did you carry out as part of your assessment?

None directly for the purposes of this report. Instead regard has been had to the widescale consultation required for the Wembley Area Action Plan and to consultation undertaken by the IEB and ARK has already been mentioned in the April 2014 report.

i. **Who did you engage with?**

ii. **What methods did you use?**

iii. **What did you find out?**

iv. **How have you used the information gathered?**

v. **How has it affected your policy?**

6. Have you have identified a negative impact on any protected group, or identified any unmet needs/requirements that affect specific protected groups? If so, explain what actions you have undertaken, including consideration of any alternative proposals, to lessen or mitigate against this impact.

No – although as mentioned above during construction phase there will be impacts on the interim school and local area the impact of which will be mitigated through consultation at the appropriate time. It is worth emphasis that the proposals are to re-locate the existing public footpath.

Please give details of the evidence you have used:

Experience of delivering construction projects, school, residential, etc. the impacts are likely to be similar.

7. Analysis summary

Please tick boxes to summarise the findings of your analysis.

Protected Group	Positive	Adverse	Neutral
-----------------	----------	---------	---------

	impact	impact	
Age	X		
Disability	X		
Gender re-assignment			X
Marriage and civil partnership			X
Pregnancy and maternity			X
Race	X		
Religion or belief			X
Sex			X
Sexual orientation			X

8. The Findings of your Analysis

Please complete whichever of the following sections is appropriate (one only).
Please refer to stage 4 of the guidance.

No major change

Your analysis demonstrates that:

- *The policy is lawful*
- *The evidence shows no potential for direct or indirect discrimination*
- *You have taken all appropriate opportunities to advance equality and foster good relations between groups.*

Please document below the reasons for your conclusion and the information that you used to make this decision.

N/A

Adjust the policy

This may involve making changes to the policy to remove barriers or to better advance equality. It can mean introducing measures to mitigate the potential adverse effect on a particular protected group(s).

Remember that it is lawful under the Equality Act to treat people differently in some circumstances, where there is a need for it. It is both lawful and a requirement of the public sector equality duty to consider if there is a need to treat disabled people differently, including more favourable treatment where necessary.

If you have identified mitigating measures that would remove a negative impact, please detail those measures below.

Please document below the reasons for your conclusion, the information that you used to make this decision and how you plan to adjust the policy.

N/A

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 amount to unlawfully discrimination, either direct or indirect discrimination.

In cases where you believe discrimination is not unlawful because it is objectively justified, it is particularly important that you record what the objective justification is for continuing the policy, and how you reached this decision.

Explain the countervailing factors that outweigh any adverse effects on equality as set out above:

Please document below the reasons for your conclusion and the information that you used to make this decision:

Yes – as per the April 2014 Executive report, additionally community access to new sporting facilities and improved playing fields will greatly improve local provision and encourage increased interest and involvement positively impacting health and wellbeing. .

Stop and remove the policy

If there are adverse effects that are not justified and cannot be mitigated, and if the policy is not justified by countervailing factors, you should consider stopping the policy altogether. If a policy shows unlawful discrimination it must be removed or changed.

Please document below the reasons for your conclusion and the information that you used to make this decision.

N/A

9. Monitoring and review

Please provide details of how you intend to monitor the policy in the future.
Please refer to stage 7 of the guidance.

In the short term we will work with the IEB, ARK and EFA to deliver proposals in the report. In the longer term we will monitor through review of future Ofsted reports and by enforcing contractual arrangements with ARK to ensure Community access.

10. Action plan and outcomes

At Brent, we want to make sure that our equality monitoring and analysis results in positive outcomes for our colleagues and customers.

Use the table below to record any actions we plan to take to address inequality, barriers or opportunities identified in this analysis.

Action	By when	Lead officer	Desired outcome	Date completed	Actual outcome

Please forward to the Corporate Diversity Team for auditing.

Introduction

The aim of this guidance is to support the Equality Analysis (EA) process and to ensure that Brent Council meets its legal obligations under the Equality Act 2010. Before undertaking the analysis there are three key things to remember:

- It is very important to keep detailed records of every aspect of the process. In particular you must be able to show a clear link between all of your decisions and recommendations and the evidence you have gathered.
- There are other people in the council and in your own department who have done this before and can offer help and support.
- The Diversity and Consultation teams are there to advise you.

The Equality Act 2010

As a Public Authority, Brent Council is required to comply with the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. These duties require Brent Council to have 'due regard' to the need to

- Eliminate discrimination, be it direct or indirect discrimination
- Advance equality of opportunity between persons who share a relevant protected characteristic and others who do not share it; and
- Foster good relations between people who share a protected characteristic and those who do not share it

The equality duty covers:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity

- Marriage and civil partnership (direct discrimination only)
- Race
- Religion or belief
- Sex (formally known as gender)
- Sexual orientation

What is equality analysis?

Equality Analysis is core to policy development and decision making and is an essential tool in providing good services. Its purpose is to allow the decision maker to answer two main questions.

- Could the policy have a negative impact on one or more protected groups and therefore create or increase existing inequalities?
- Could the policy have a positive impact on one or more protected groups by reducing or eliminating existing or anticipated inequalities?

What should be analysed?

Due consideration of the need for an Equality Analysis should be addressed in relation to all policies, practices, projects, activities and decisions, existing and new. There will be some which have no equalities considerations, but many will. Where an EA is undertaken, some policies are considered a higher risk than others and will require more time and resources because of their significance. This would include:

- Policies affecting a vulnerable group such as young people, the elderly and people with a disability
- Policies related to elective services such as Sports Centres or Libraries
- High profile services
- Policies involving the withdrawal of services
- Policies involving significant reductions in funding or services
- Policies that affect large groups of people
- Policies that relate to politically sensitive issues

It can sometimes be difficult to identify which policies are more sensitive. If you are in doubt seek advice from a more senior officer or the Diversity Team.

When should equality analysis be done?

The EA must be completed before the policy is sent to the decision maker but should be carried out at the earliest possible stage. The advantage of starting early is that the equalities data informs and shapes the policy as it develops and progresses and this allows more time to address issues of inequality. You should also bear in mind that several changes may be happening at the same time. This would mean ensuring that there is sufficient relevant information to understand the cumulative effect of all of these decisions.

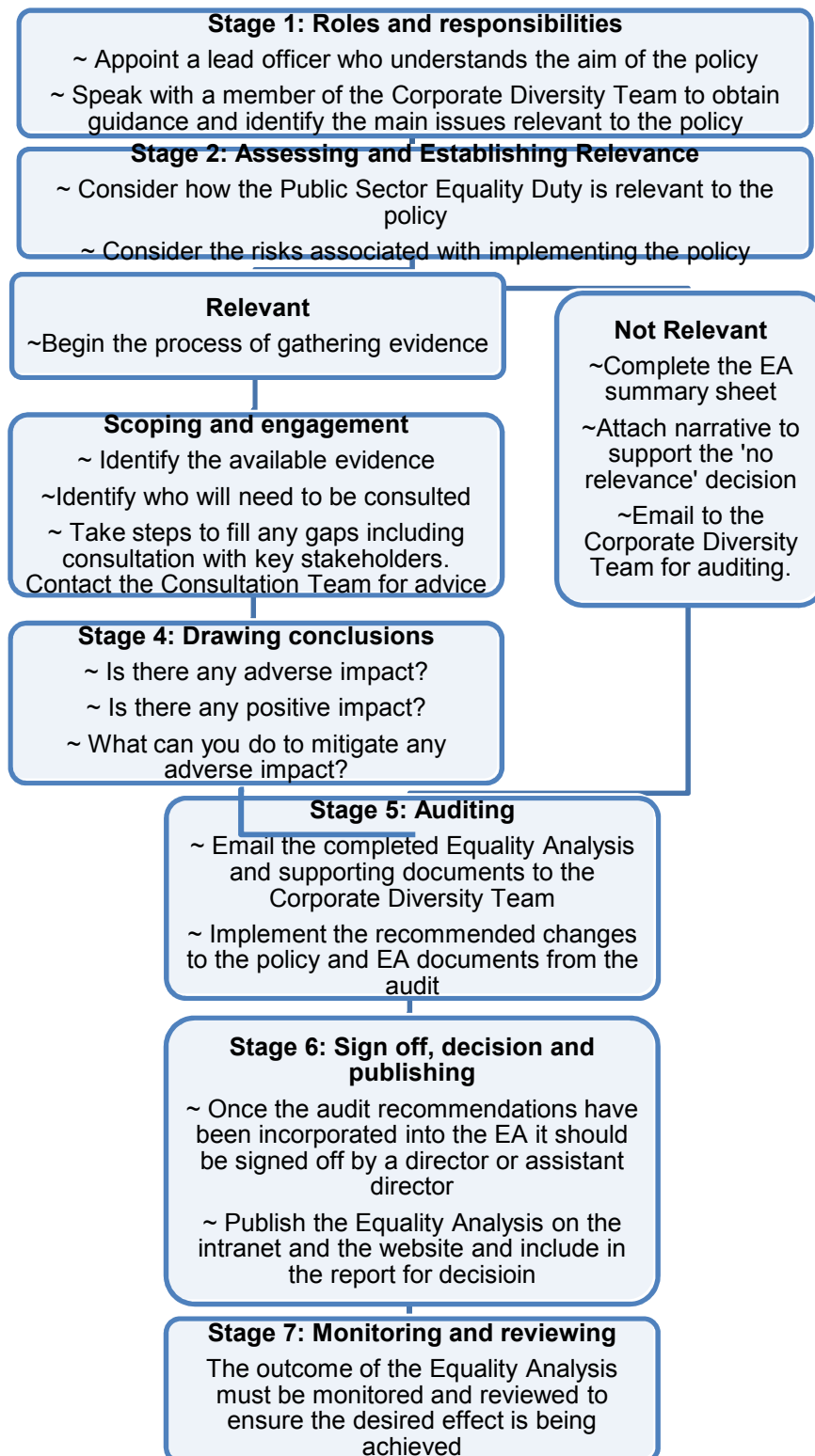
Positive action

Not all policies can be expected to benefit all groups equally, particularly if they are targeted at addressing particular problems affecting one protected group. (An

example would be a policy to improve the access of learning disabled women to cancer screening services.) Policies like this, that are specifically designed to advance equality, will, however, also need to be analysed for their effect on equality across all the protected groups.

Brent Council's Equality Analysis Process

This flow chart sets out the process for carrying out an EA. Details on each stage of the process follow. Please note that it may be necessary to consult the Corporate Diversity team at each stage and that Legal may also need to be involved. This should be factored in to the time scale.



Stage 1: Roles and Responsibilities

The first stage in the process is to allocate the following roles.

Role	Responsibilities and tasks
Decision maker - the person or group making the policy decision (e.g. CMT/Executive/Chief Officer).	<ul style="list-style-type: none"> • Check that the analysis has been carried out thoroughly: • Read and be familiar with the EA and any issues arising from it and know, understand and apply the PSED. (The evidence on which recommendations are based must be available to this person.) • Take account of any countervailing factors e.g. budgetary and practical constraints
The officer undertaking the EA	<ul style="list-style-type: none"> • Contact the Corporate Diversity and Consultation teams for support and advice • Develop an action plan for the analysis • Carry out research, consultation and engagement if required • Develop recommendations based on the analysis • Submit the EA form to the Diversity team for audit with the evidence and any other relevant documents including the report the EA will be attached to • Incorporate the recommendations of the audit • Include the Equalities Analysis in papers for decision-makers
The Corporate Diversity Team. Usually an individual officer will be assigned at the start of the process	<ul style="list-style-type: none"> • Provide support and advice to the responsible officer • Carry out the audit of the EA to monitor quality standards and ensure it is sufficiently rigorous to meet the general and public sector duties. • Return the analysis to the responsible officer for further work if it fails to meet the necessary standard • Consult Legal if necessary (this stage of the process will take at least 5 days)
The council officer responsible for signing off the EA. Usually a senior manager within the relevant directorate	<p>Ensure:</p> <ul style="list-style-type: none"> • That the EA form is completed • That any issues raised as part of the auditing process have been fully dealt with • That the EA, the evidence used and any issues arising from the analysis are brought to the attention of the decision maker • Ensure that the findings are used to inform service planning and wider policy development.

Stage 2: Assessing and Establishing Relevance

We need to ensure that all of our policies and key decisions, both current and proposed, have given appropriate consideration to equality. Consideration of the need for an EA needs to be given to all new policies, all revised policies, all key decisions and changes to service delivery need an EA. Those that are more relevant will require more resources and data.

The following questions can help you to determine the degree of relevance, but this is not an exhaustive list:

Key Questions:

- Does the policy have a significant effect in terms of equality on service users, employees or the wider community? 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?
- Will it have a significant effect on how other organisations operate 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 (for example, access to public transport for disabled people, racist/homophobic bullying in schools)?
- Does it relate to an area where equality objectives have been set by Brent Council?

If the answer to any of the above is “yes”, you will need to carry out an Equalities Analysis.

“Not relevant”

If you decide that a policy does not impact on any of the equality needs contained in the public sector equality duty, you will need to:

- Document your decision, including the reasons and the information that you used to reach this conclusion. **A simple statement of no relevance to equality without any supporting information is not sufficient, nor is a statement that no information is available.** This could leave you vulnerable to legal challenge so obtaining early advice from the Corporate Diversity team would be helpful.
- Complete the EA Form and send it to the Corporate Diversity Team for auditing. If the Corporate Diversity Team advises that policy is relevant then you will need to continue the EA process (See flowchart). If the Corporate Diversity Team advises that the policy is not relevant then you will need to have it signed off, publish it and put in place monitoring arrangements for the policy.

Stage 3: Scoping

Scoping establishes the focus for the EA and involves carrying out the following steps:

- Identify how the aims of the policy relate to equality and which aspects have particular importance to equality.
- Identify which protected groups and which parts of the general equality duty the policy will, or is likely to, affect.
- Identify what evidence is available for the analysis, what the information gaps are, and establish which stakeholders can usefully be engaged to support the analysis.

Think about:

- The purpose of the policy, and any changes from any existing policy
- The reason for the policy
- The context
- The beneficiaries
- The intended results

At this early stage you should start to think about potential effects on protected groups. This could mean that you decide to change your overall policy aims or particular aspects of the policy in order to take better account of equality considerations. It is often easier to do this at an earlier stage rather than having to reconsider later on in the process.

Sources of information

It is important to have as much up-to-date and reliable information as possible about the different groups likely to be affected by the existing or proposed policy. The information needed will depend on the nature of the existing or proposed policy, but it will probably include many of the items listed below:

- The Brent Borough profile for demographic data and other statistics
- Census findings; the 2011 census data will be available during 2012
- Equality monitoring data for staff and/or service users
- Reports and recommendations from inspections or audits conducted on service areas
- Previous reports that have been produced either on a similar topic or relating to the same service user group
- Responses to public enquiries on similar topics e.g. Freedom of Information requests
- Comparisons with similar policies in other departments or authorities to help you identify relevant equality issues.
- Analysis of enquiries or complaints from the public to help you understand the needs or experiences of different groups.
- Recent research from a range of national, regional and local sources to help you identify relevant equality issues.
- Results of engagement activities or surveys to help you understand the needs or experiences of different groups.

- Local press and other media. This will tell you whether there is public concern about possible equalities implications and help you to highlight issues for engagement

Many of these sources will be consulted as a matter of course when reviewing or developing a policy. Equalities considerations are one part of the policy process, not an extra.

Service user information

The type of information you need will depend on the nature of the policy. However, information relating to service users is usually essential. Consider:

- The full range of information that you already have about the user group e.g. information contained within service reviews, audit reports, performance reviews, consultation reports
- Who actually uses the service?
- When do they use it?
- How do they use it and what are their experiences?
- Are there alternative sources of provision that could be accessed?
- Who will be using the service in the future?
- Information from groups or agencies who deliver similar services to your target group e.g. survey results from voluntary and community organisations.

Identify your information gaps

If you do not have equality information relating to a particular policy or about some protected groups, you will need to take steps to fill in your information gaps. This could mean doing further research, undertaking a short study, conducting a one off survey or consultation exercise, holding a focus group etc.

Engagement

The Consultation team are available to advise on all aspects of engagement. You may wish to carry out engagement, which can help you to:

- Gather the views, experiences and ideas of those who are, or will be, affected by your decisions.
- Base your policy on evidence rather than on assumptions
- Check out your ideas
- Find solutions to problems and develop ways to overcome barriers faced by particular groups.
- Design more appropriate services,
- Monitor and evaluate the success of your policies and understand where improvements may be necessary.
- Avoid the costs of remedying and adapting services after their implementation
- Pre-empt complaints, which can be costly and time-consuming.

But remember you don't always have to consult or embark upon engagement if you already have enough information to assess the likely impact of the policy change on the equality needs, and if there is no other legal duty to consult. This engagement

can form part of the broader consultation being carried out around service changes. You can also use recent engagement and research activities as a starting point, for example on a related policy or strategy and you can use documentation resulting from other equality analysis that Brent Council (or others) have undertaken.

For your engagement to be effective you will need to:

- Think carefully about who you should engage with. You will need to prioritise those who are most likely to be affected by the policy and those who will experience the greatest impact in terms of equality and good relations.
- In regard to people with a disability, as good practice it is recommended that they should be actively involved in engagement activity which directly affects them or the services that they receive.
- Make sure that the level of engagement is appropriate to the significance of the policy and its impact on equality
- Consider what questions you will need to ask, in order to understand the effect of the policy on equality. If you find it difficult to frame suitable questions you may take advice from the Corporate Diversity and Consultation teams
- Link into existing forums or community groups or to speak with representatives to help you reach less visible groups or those you have not engaged with before.
- Create opportunities for people to participate in supportive and safe environments where they feel their privacy will be protected, or via technology such as the internet
- Think of strategies that address barriers to engagement. Other people in the council have experience of this and can advise, as can the Corporate Diversity team and the Consultation team.

Stage 4: Drawing conclusions

You will need to review all of the information you have gathered in order to make a judgement about what the likely effect of the policy will be on equality, and whether you need to make any changes to the policy.

You may find it useful to ask yourself “What does the evidence (data, consultation outcomes etc.) tell me about the following questions”:

- Could the policy outcomes differ between protected groups? If so, is that consistent with the policy aims?
- Is there different take-up of services by different groups?
- Could the policy affect different groups disproportionately?
- Does the policy miss opportunities to advance equality and foster good relations, including, for example, participation in public life?
- Could the policy disadvantage people from a particular group?
- Could any part of the policy discriminate unlawfully?
- Are there other policies that need to change to support the effectiveness of the policy under consideration?

If the answer to any of the above is "yes", you should consider what you can do to mitigate any harmful effects. Advice from the Diversity team will be particularly helpful at this stage.

You will also want to identify positive aspects of the policy by asking yourself:

- Does the policy deliver practical benefits for protected groups?
- Does the policy enable positive action to take place?
- Does the policy help to foster good relations between groups

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**
- **Adjust the policy**
- **Continue the policy**
- **Stop and remove the policy**

(please see EA form for detailed descriptions of each decision)

Decisions may involve careful balancing between different interests, based on your evidence and engagement. For example, if the analysis suggests the needs of two groups are in conflict, you will need to find an appropriate balance for these groups and for the policy in question. The key point is to make sure the conclusions you reach can be explained and justified. Speak to the Diversity team if you are unsure. As a result of your analysis you may need to develop new equality objectives and targets. These should be documented on the EA form.

Stage 5: Auditing

Once you have completed the EA you will need to complete the EA Form and send it to the Corporate Diversity Team for auditing. It is important to ensure that the EA Form is completed as fully as possible. Documenting all of your analysis is important to ensure that you can show how the general and specific duties are being met. This aspect of the analysis has been subject to legal challenge so you need to be able to show how you reached your conclusions. The audit process involves the Corporate Diversity Team reviewing the completed form, the information and evidence. Sometimes this may require advice from Legal. You need to bear in mind that this will take at least five days. The team will send you back a feedback form with comments and recommendations which you will need to action prior to the sign off of the form.

Stage 6: Sign Off, Decision and Publishing

Once the EA Form is completed, the document must be signed off and the completed document must be sent to the Corporate Diversity Team to be published on the council website.

Decision-making

In order to have due regard to the aims of the public sector equality duty, decision-making must be based on a clear understanding of the effects on equality. This means that Directors, CMT and others who ultimately decide on the policy are fully aware of the findings of the EA and have due regard to them in making decisions. They are also entitled to take into account countervailing factors such as budgetary and practical constraints.

Stage 7: Monitoring and Reviewing

Your EA, and any engagement associated with it, will have helped you to anticipate and address the policy's likely effects on different groups. However, the actual effect of the policy will only be known once it has been introduced. You may find that you need to revise the policy if, for instance:

- Negative effects do occur
- Area demographics change, leading to different needs,
- Alternative provision becomes available
- New options to reduce an adverse effect become apparent

You will need to identify a date when the policy will be reviewed to check whether or not it is having its intended effects. This does not mean repeating the EA, but using the experience gained through implementation to check the findings and to make any necessary adjustments. Consider:

- How you will measure the effects of the policy?
- When the policy will be reviewed (usually after a year) and what could trigger an early revision (see above)?
- Who will be responsible for monitoring and review?
- What type of information is needed for monitoring and how often it will be analysed?
- How to engage stakeholders in implementation, monitoring and review?

Section 3: Glossary

Civil partnership: Legal recognition of a same-sex couple's relationship. Civil partners must be treated the same as married couples on a range of legal matters.

Direct discrimination: This refers to less favourable treatment of one individual, if, because of that person's protected characteristic, that person is treated less favourably than another. Direct discrimination cannot be justified unless it is discrimination on the grounds of age.

Disability: A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

Equality information: The information that you have (or that you will collect) about people with protected characteristics that will help you to show compliance with the equality duty. This may include the findings of engagement with protected groups and others and evidence about the effect of your policies on protected groups. It includes both qualitative and quantitative information, as well as evidence of analysis you have undertaken.

Gender reassignment: This is the process of transitioning from one sex to another. See also trans, transgender, transsexual.

Harassment: Unwanted conduct related to a protected characteristic that has the purpose or effect of violating a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. It may also involve unwanted conduct of a sexual nature or be related to gender reassignment or sex.

Indirect discrimination: This is when a neutral provision, criterion or practice is applied to everyone, but which is applied in a way that creates disproportionate disadvantage for persons with a protected characteristic as compared to those who do not share that characteristic, and cannot be shown as being a proportionate means of achieving a legitimate aim.

Mitigation: This is when measures are put in place that lessen the negative effects of a policy or policies on protected groups.

Objective justification: Your provision may indirectly discriminate against a particular group if:

- It is a proportionate means to achieve a legitimate end
- The discrimination is significantly outweighed by the benefits
- There is no reasonable alternative to achieve the legitimate end

For example, some employers have policies that link pay and benefits to an employee's length of service, such as additional holiday entitlement for long-serving employees. This may indirectly discriminate against younger people who are less likely to have been employed for that length of time, but in most circumstances it is seen as being a proportionate way of encouraging staff loyalty.

Direct discrimination on the grounds of age can also be objectively justified (no other direct discrimination can be).

Positive action: Lawful actions that seeks to overcome or minimise disadvantages that people who share a protected characteristic have experienced, or to meet their different needs (for example, providing mentoring to encourage staff from under-represented groups to apply for promotion).

Pregnancy and Maternity: Pregnancy is the condition of being pregnant. Maternity is the period after giving birth and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, including as a result of breastfeeding.

Proportionality: The weight given to equality should be proportionate to its relevance to a particular function. This may mean giving greater consideration and resources to functions or policies that have the most effect on the public or on employees.

Race: This refers to a group of people defined by their colour, nationality (including citizenship), ethnic or national origins.

Reasonable adjustment: Public authorities making adjustments to the way in which they carry out their functions so that disabled people are not disadvantaged by the way in which those functions are carried out. This is with regard to policies, practices or procedures, premises, and the provision of auxiliary aids or services.

Relevance: How far a function or policy affects people, as members of the public, and as employees of the authority. Some functions may be more relevant to some protected groups than to others, and to one or more of the three elements of the general equality duty. The function or policy may still be relevant if the numbers affected by it are very small.

Religion or belief: Religion means any religion, including a reference to a lack of religion. Belief includes religious and philosophical beliefs including lack of belief (for example, Atheism). Generally, a belief should affect your life choices or the way you live for it to be included.

Sexual orientation: This is whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

Trans: The terms 'trans people' and 'transgender people' are both often used as umbrella terms for people whose gender identity and/or gender expression differs from their birth sex, including transsexual people (those who propose to undergo, are undergoing or have undergone a process of gender reassignment to live permanently in their acquired gender), transvestite/cross-dressing people (those who wear clothing traditionally associated with the other gender either occasionally or more regularly), androgyne/polygender people (those who have non-binary gender identities and do not identify as male or female), and others who define as gender variant.

Transgender: An umbrella term for people whose gender identity and/or gender expression differs from their birth sex. They may or may not seek to undergo gender reassignment hormonal treatment/surgery. Often used interchangeably with trans.

Transsexual: A person who intends to undergo, is undergoing or has undergone gender reassignment (which may or may not involve hormone therapy or surgery). Transsexual people feel the deep conviction to present themselves in the appearance of the opposite sex. They may change their name and identity to live in the preferred gender. Some take hormones and have cosmetic treatments to alter their appearance and physical characteristics. Some undergo surgery to change their bodies to approximate more closely to their preferred gender. Transsexual people have the protected characteristic of gender reassignment under the Equality Act 2010. Under the Act, gender reassignment is a personal process rather than a medical one and it does not require someone to undergo medical treatment in order to be protected.

Victimisation: Subjecting a person to a detriment because they have made a complaint of discrimination, or are thought to have done so; or because they have supported someone else who has made a complaint of discrimination. Victimisation is unlawful under the Equality Act 2010.

A Summary of the Equality Act 2010

The Equality Act 2010 replaces the existing anti-discrimination laws with a single Act. The legislation covers:

- Employment and work
- Goods and services
- The exercise of public functions
- Premises
- Associations
- Transport
- Education

The act prohibits:

- Direct discrimination
- Indirect discrimination
- Discrimination by association
- Discrimination by perception
- Discrimination arising from disability
- Victimisation
- Harassment

The new legislation no longer refers to 'diversity strands' instead it introduces the concept of 'protected characteristics or groups, the protected characteristics are:

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

The Public Sector Equality Duty

The public sector equality duty requires that the council must, in the exercise of its functions, 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 who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

These are generally referred to as the three arms of the duty. In relation to 'fostering' there is a duty to have due regard to the need to tackle prejudice and promote understanding.

Equality of opportunity is expanded by placing a duty on the Council to have due regard to the need to:

- Remove or minimize disadvantages connected to a characteristic of a protected group.
- Take steps to meet the needs of protected groups.
- Encourage participation of protected groups in public life where participation is proportionately low.

There is also a specific requirement that councils must take steps to take account of a person's disability and there is a duty to make reasonable adjustments to remove barriers for disabled people. The duty is 'anticipatory'. For example, Brent Council cannot wait until a disabled person wants to use its services, but must think in advance (and on an ongoing basis) about what people with a range of impairments might reasonably need.