

Equality impact assessments – a brief history

Where do they come from?

I hope this isn't a silly question. It seems to me that equality impact assessments have arrived suddenly out of nowhere. What's the background? Where and when were they dreamed up, and why?

It's not a silly question at all! You're right that EQUIAs are new, though they're not quite as new as you may think. It's definitely useful to recall how, where, when and why they started, and to see that thinking about them has developed over the years, and is developing still.

The history of the legal phrase *impact assessment* goes back at least to the 1960s and was developed in the first instance with regard to the environment. It was given a boost internationally by the United Nations Environment Conference, *Only One Earth* that took place at Stockholm in 1972. The key underlying concern was to identify possible harmful effects for the physical environment of new industrial developments, projects and processes, *before* these were introduced. The first EU directive on this subject was issued in 1985. A standard international definition, published in 1999, is: 'the process of identifying, predicting, evaluating and mitigating the biophysical, social and other relevant effects of development proposals *prior to* major decisions being taken and commitments made.'

What are the key ideas?

An essential idea in environmental impact assessments is the concept of **unintended consequences** – bad things can happen without anyone deliberately intending them. Soil can be polluted, pesticides can cause declines in bird populations ('the silent spring'), the consumption of fossil fuels can damage the ozone layer, and so on.

Other key ideas include:

- the need to avoid harmful consequences if at all possible, combined with the need to mitigate those which cannot be avoided
- the need to consult not only with experts and specialists in environmental sciences but also with individuals and communities likely to be directly affected
- the need to publish assessments so that all interested parties can study and, if they wish, critique them
- The need for ongoing monitoring and review.

These essential ideas are relevant also in other areas of policy, for it can happen that the unintended consequences of a new policy or programme can involve injustice and disadvantage to certain groups and individuals. During the 1990s it was increasingly realised that unfairness affecting women, for example, or certain communities, can occur without this being consciously intended.

So the concept of equality impact assessments was developed, based on the same principles and underlying ideas as environmental impact assessments. The concept of unintended consequences in environmental matters was and is similar to that of indirect discrimination in legislation regarding gender and ethnicity.

The first EQUIAs internationally?

When were equality impact assessments, as distinct from environmental ones, developed?

The concept of gender impact assessments received international prominence through the World Conference on Women at Beijing, which in 1995 called on governments to 'mainstream a gender perspective into all policies and programmes so that, **before decisions are taken** an analysis is made of the effects on women and men respectively.' This requirement was then built into the Treaty of Amsterdam, Articles 2 and 3, 1997.

The first EQUIAs in the UK?

When were equality impact assessments introduced into UK law?

They were introduced first in Northern Ireland through the Northern Ireland Act 1998, Section 75. This built on Northern Ireland's Fair Employment and Treatment Act (FETO), which had made it unlawful to discriminate on the grounds of religious belief or political opinion.

The Northern Ireland Act extended the number of groups and communities that are protected against unfair discrimination. It was concerned not only with religious and political affiliation, that is to say, but also with disability, ethnicity and gender. It has been amended from time to time over the years and there are now nine categories of persons who are protected.

One of the requirements of the Northern Ireland Act was that all public authorities should draw up an equality scheme and that this should include arrangements for compiling and publishing impact assessments. The key idea in such assessments, as in those concerned with environmental matters (see above), was 'adverse impact'. As mentioned and emphasised below, however, thinking and legislation have moved on since this initial concern.

More recently, particularly due to thinking in relation to disability and gender, there has been growing emphasis on maximising potential positive impacts, as distinct from minimising possible negative ones.

The rest of the UK?

When were equality impact assessments introduced into the rest of the UK?

The first key legislative development in England, Scotland and Wales came with the Race Relations Amendment Act 2000. This introduced the requirement, similar to the one in Northern Ireland, that all public authorities should prepare and publish an equality scheme setting out how they intended to fulfil their duties to promote ethnicity equality and good relations between different communities.

Such schemes must include arrangements for assessing and consulting on the likely impact of proposed policies in relation to ethnicity equality; monitoring of policies for any adverse impact on the promotion of ethnicity equality; and publishing the results of such assessments, and of consultations on which they are based. The first ethnicity equality schemes had to be published by 31 May 2002 and to be reviewed by 31 May 2005.

(A semantic note: the term in legislation is 'race equality' not 'ethnicity equality'. The latter term is frequently preferred, however, as a more accurate reflection of the concerns which race relations legislation addresses.)

Detailed guidance on the conduct of race equality impact assessments was published by the Commission for Racial Equality (CRE) in 2002, and re-issued in 2005. The guidance did not and does not have legal force, and as yet there is no case law to clarify exactly what compliance with the legal duty to conduct impact assessments involves.

The guidance is substantial, however, and in the light of it government departments came under increasing pressure from the CRE to observe it. Pressure has also come from campaigners, activists and other interests, both directly and indirectly.

The requirement extended

When was the requirement to conduct equality impact assessments extended to issues of disability and gender?

It was not until December 2006 that all public authorities were required to publish disability equality schemes, the legal basis for this being the Disability Discrimination Act 2005, amending the Disability Discrimination Act 1995; and not until April 2007 that gender equality schemes were required, in accordance with the Equality Act 2006, which in turn amended the Sex Discrimination Act 1975.

Single equality schemes

What are 'Single Equality Schemes', and what is the legal basis for them?

It is legally permissible for an organisation to continue to publish separate schemes for disability, ethnicity and gender. But increasingly public authorities are choosing to combine their three separate schemes into a single scheme. At the same time they are choosing to conduct impact assessments which similarly deal with all three dimensions.

The DCSF published its first Single Equality Scheme on 4 December 2007, accompanied by an online workbook.

Changes over the years

Thank you for this history lesson! How has thinking about impact assessments changed or developed over the years?

An extremely important question. The most significant single development has been away from simply thinking about **adverse impacts** (the key concern in environmental matters) and towards thinking about **actively promoting greater equality**.

The key question, it follows, is not only: 'Might this policy have a negative or adverse impact?'

Also, it is: 'Does this policy have the potential to have a positive impact?'

If the answer to the latter question is yes, then the immediate follow-up question is: 'How can we ensure, then, that there really is a positive impact?'

The importance of this change in thinking cannot be over-emphasised. All equality impact assessments of policies, programmes and practices in the field of education must bear it in mind.

—

Source: Adapted slightly from *Equality Impact Assessments: a workbook*, created by the Equality and Diversity Unit at the Department for Children, Schools and Families and downloadable from <http://www.dfes.gov.uk/publications/des/docs/EQUIAWorkbook.doc>.