

Equality impact assessments and analysis – summary of key points

The legal background

1. All public bodies have a legal duty to analyse and assess the impact of their policies and practices, and the likely impact of their proposed policies and practices, on the furtherance of the three aims set out in equalities legislation, namely:
 - eliminate discrimination
 - advance equality of opportunity
 - foster good relations
2. Such analysis and assessment have been required since 2002 in the case of ethnicity, since 2006 in the case of disability, and since 2007 in the case of gender. The Equality Act 2010 extends the duty to age (though in the employer function only in the case of education), religion or belief, gender identity and transgender, and sexual identity.
3. Public bodies are affected in all their functions, particularly
 - as employers
 - as purchasers
 - in policy development
 - in service delivery.
4. Analysis and assessments must be undertaken whenever new policies are proposed and developed, and whenever existing policies are reviewed.
5. Analysis and assessment are particularly important in the case of high-profile policies, for example at government level when a green paper or white paper is being written, or when there is a ministerial announcement, or when there is substantial media, political or union interest.
6. Analysis and assessment valuably prompt policy-makers and decision-makers to ask questions, and to consider practical possibilities and opportunities, that they might not otherwise have thought of.
7. In the period 2007–2010 the equality and diversity unit at Department for Education (DfE) created an online workbook containing detailed guidance on how equality impact assessments should be conducted. The guidance is not statutory, but is a summary of the good practice that has been developed at the Department in recent years. It was updated and re-published in February 2011 and can be accessed at <http://media.education.gov.uk/assets/files/pdf/e/equality%20analyses%20workbook%20%20%20february%202011.pdf>

Two basic questions

8. In essence, the DfE guidance shows, there are only two questions. But they have to be answered with regard to several different strands of equality – age,

disability, ethnicity, gender, gender identity, religion or belief, and sexual identity – and those responsible for a policy have to be confident they have considered the full range of evidence available. Also, they need to answer follow-up questions.

9. The two basic questions and possible follow-ups are these.
 - **Could this policy or decision, or does this policy or decision, have a negative impact on one or more of the dimensions of equality – namely, could it increase inequalities that already exist?**
If so, how can we change or modify it, or minimise its impact, or justify it?
 - **Could this policy or decision, or does this policy or decision, have the potential to have a positive impact on equality, by reducing and removing inequalities and barriers that already exist?**
If so, how can we maximise this potential?
10. Case law has established that analysis and assessment must be conducted according to the following principles, amongst others:
 - They must be undertaken at the same time that a decision is being considered. Attempts to justify a decision as being consistent with legislation, when it was not in fact considered at the time of the decision, are not sufficient.
 - They must be exercised in substance – it is never just a question of ticking boxes. There must be a rigorous and open-minded attention to relevant evidence, including not only statistics but also evidence derived from meaningful consultation with staff and service-users.
 - They must be continuing – namely, they cannot be undertaken once and for all, but on the contrary must be continually revisited and reconsidered.
 - It is good practice to keep an adequate record showing how and when, and by whom, the equality duties have been considered and pondered. This disciplines decision-makers to undertake their equality duties conscientiously.

Support and assistance

11. As mentioned above (paragraph 7), the Department for Education has created an online workbook containing detailed guidance for civil servants on how equality impact assessments should be conducted. This was updated and republished in February 2011 and can be accessed at <http://media.education.gov.uk/assets/files/pdf/e/equality%20analyses%20workbook%20%20%20february%202011.pdf>
12. The contents of the workbook include:
 - a suggested structure for a full analysis
 - a template to fill in online
 - a statement of principles and criteria
 - summaries of key facts, findings, challenges and priorities
 - notes on how the conclusions of an analysis may be summarised.