

# University of Portsmouth

## Equality Impact Assessment (EIA)

### Guidance

Demonstrating “*due regard*”- meeting the requirements of public sector equality duty

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## **Summary**

### **What is this guidance about?**

This guidance document sets out the University's approach to meeting the requirements of the Equality Act 2010 concerning the ability to demonstrate due regard to consider equality implications of policy, procedure and all University activity, known as Equality Impact Assessment (EIA). The guidance sets out the responsibilities of everyone in ensuring we are able to demonstrate due regard to supporting staff and students.

### **Who is this guidance for?**

This guidance is for all staff involved in developing or updating policy, procedures or activities of the University. It will also be of interest to the wider public in relation to how the University meets its obligations in relation to the Equality Act 2010.

### **How does the University check this guidance is followed?**

Information contained in this guidance forms the procedure staff are required to follow to ensure an appropriate EIA is undertaken and equality considerations are included in policy development. This is a requirement before any committee or UEB sign-off of policy or procedure. The University encourages staff and students to raise questions about an EIA and to report any issues or concerns they may have that their needs are not being supported appropriately. From the knowledge shown by staff and the questions asked, the University believes the guidance is being followed.

### **Who can you contact if you have any queries about this guidance?**

All enquirers may contact the Equality and Diversity Manager on 023 9284 5774 or [dave.small@port.ac.uk](mailto:dave.small@port.ac.uk) .

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## 1. Introduction

The University of Portsmouth is committed to promoting and embedding the principles of equality & diversity (E&D), throughout all of its work with staff and students and the wider community. This commitment is highlighted in the institution's Vision and Values.

The University, through the requirements of the Equality Act 2010 (Public Duty), is required to be able to demonstrate that commitment in all policy and decision-making matters through considering "due regard" to eliminate discrimination, promote equality of opportunity and foster good relations between people with differing characteristics. In practice this means the University should consider the equality implications on staff and students of all of its **policies, procedures, and functions\***.

How this is done is not dictated in the Equality Act and organisations are free to develop their own mechanisms for delivering the requirements. The University's approach is that all policies, procedures and functions should undergo an **Equality Impact Assessment (EIA)**. This work should be undertaken prior to developing or reviewing a policy, and used to informing and shape its development. It should not be undertaken as an add-on at the end of the process.

The aim is that undertaking an EIA should not be an arduous task, but part of day to day activity. We all make decisions that are impactful, we think about the effect of doing something and the effect of that on other people. If the effect is not what we intended, we usually think about doing things differently.

It is the responsibility of those producing the policy to undertake the EIA, guided by the Equality and Diversity Team if required. UEB/Committee(s) approval for policies will not be given unless appropriate EIA considerations can be demonstrated.

Papers that are presented for UEB do require a UEB cover note. This document includes a section to be completed on equality and diversity, and demonstrates to UEB that appropriate E&D considerations have taken place.

This guidance lays out that procedure and offers guidance to support staff in undertaking EIA's.

***\*The term "policy" is used throughout this document to refer to any policy, procedure or function undertaken by the University***

## 2. The Public Sector Equality Duty

### 2.1 What is the public sector duty?

The public sector duty (the equality duty) is made up of a general duty which is supported by specific duties. The general duty requires public bodies, such as the University of Portsmouth (UoP), in the exercise of all its functions to have **due regard** to the need to

- Eliminate discrimination, harassment and victimisation
- Advance equality of opportunity
- Foster good relations

This requirement covers the 9 **protected characteristics**, namely:

- Age
- Disability
- Gender reassignment
- Gender
- Pregnancy and maternity
- Sexual orientation
- Marriage and civil partnership
- Race
- Religion and belief (and non-belief)

### 2.2 What might paying **due regard** mean for UoP?

For UoP, **due regard** might involve taking steps to:

- Remove or minimise disadvantages experienced by people studying, working at, or visiting the University due to their protected characteristic
- Meet the needs of people with protected characteristics, where these are different from the needs of other people studying, working, or visiting the University.
- Encourage people with protected characteristics to participate in public life or in other activities at the University where their participation is disproportionately low.
- Encourage positive interactions between people with differing protected characteristics

In practice this means understanding the impact of policy on people with different characteristics.

By taking this approach UoP will be able to consider whether a policy being proposed or reviewed will be effective and appropriate for different people. What this means in practice is staff establishing whether there are:

- Positive opportunities to promote equality
- Negative impacts
- The possibility of unlawful discrimination

### **3. Meeting the equality duty in policy, procedure and decision-making**

#### **3.1 What should be assessed?**

All UoP policy should be assessed. Initially this should be to determine if the proposal is equality relevant.

A policy is likely to be equality relevant if the answer is yes to questions asked in para 3.3.1. It is important to note that relevance of the policy will not only depend on the number of those affected by it, but also by the significance of the effect on them. For example, recruitment of staff affects all individuals so equality is relevant, but the purchasing and running of the heating system is not.

#### **3.2 When should assessment take place?**

It is important that the EIA process is embedded in day-to-day policy making and takes place at the very early stages of policy or project development. This ensures that any changes/amendments to a policy take into account actions needed to eliminate any negative impacts and are built into the policy prior to sign-off and implementation. A final policy presented for sign-off which has taken into account the outcomes of the EIA gives confidence to UEB/Committees that the policy takes into account due regard for staff and students.

#### **3.3 How does assessment take place?**

There is no prescribed methodology for an institution to follow when assessing the impact of the equality duty on its policy and decision making processes. The process described here aims to be not overly time consuming or arduous, but still allows for appropriate considerations of the impact on equality to be considered and addressed.

The policies should be developed along the lines of three stages, using the template in annex A as the tool to document the decision making process:

- Stage 1 - Research and development
  - Consider whether the policy is equality relevant
  - Consider how the policy affects people and what information is available
  - Analyse the equality information
  
- Stage 2 - Consultation on the draft
  - Consult relevant staff/students on the findings of the analysis
  
- Stage 3 - Completion
  - Decide on actions
  - Identify when to monitor and review
  - Record EIA

### 3.3.1 Stage 1 - Research and development

- **Consider whether policy is equality relevant**

Ask the following questions:

- Does the policy affect students, staff and those visiting the University?
- Does implementation of the policy involve “face to face” contact?
- Does the policy involve making a decision which may concern a person’s individual characteristics or circumstances?
- Is the implementation of the policy likely to have a significant impact on someone’s life or well-being?
- Could the policy affect particular protected groups differently?
- Are there any previous concerns raised about the policy?
- Is there information indicating an adverse impact on a protected group?

- **Consider how the policy affects people and what information is available**

Ask the following questions:

- How does the policy relate to equality?
- Who are the main stakeholders?
- Which protected groups is it relevant to?
- What equality information is available
- What are the information gaps?
- Which groups could be usefully engaged?

This stage provides the evidence base for decisions which will be made at a later. The amount of time and effort that is put into collecting data should be both proportional to the priority level given to the particular policy and relevant to the policy in question.

- **Analyse the equality information**

Ask the following questions:

- Could the policy outcomes differ between different protected groups?
- Could the policy disadvantage or discriminate against different protected groups?
- Is there unlawful discrimination?
- If there is a greater effect on one group, was it intended?
- Is any differential impact positive or negative?
- Could the policy advance equality and foster good relations?

Where a policy is being reviewed, the existing data should be able to tell you if there has or has not been an equality issue as a result of its operation in the past. If there is no equality data, but it is needed, an interim analysis must be undertaken with plans highlighted on how and when data will be gathered. It is also advisable to indicate in the policy how and when equality will be monitored.

Extract from Employee Alcohol and Drugs Policy which documents how equality impact will be monitored

#### **8. Equality Impact Assessment**

This Policy recognises that the needs of those who do not drink alcohol, in some cases for religious reasons, must be catered for when planning events.

Measuring impact of misuse of alcohol and drugs in relation to protected characteristics should be through data analysis of formal disciplinary cases where alcohol or drugs are highlighted as a factor. Reports of disciplinary cases are presented at the Human Resources Committee and it will be for that Committee to discuss actions needed in light of data analysis presented to them.

### **3.3.2 Stage 2 - Consultation**

- **Consult relevant staff/student groups on the findings of the analysis**

Consultation with other people on a new policy is a normal part of good decision making. Consulting for the purpose of the EIA should be conducted at the same time. For equality purposes this could include consulting with staff networks, appropriate staff/student focus groups or wider staff/student surveys. The E&D team can offer advice on consultation options if required.



### 3.3.3 Stage 3 - Completion

- **Decide on Actions**

**No major change:** Your analysis demonstrates that the policy is robust, the evidence shows no potential for discrimination and, where possible, appropriate opportunities to advance equality and foster good relations have been taken.

**Adjust the policy:** Take steps to remove barriers or better advance equality. This could be to collect equality information not previously available.

**Continue the policy:** Take forward the proposal despite the identification of adverse effects or missed opportunities to advance equality. It is important that you record the objective justification for continuing with the policy and how the decision was reached. If it is not considered appropriate to change the policy or practice, other interventions should be considered. Examples include staff training, marketing, communications and publicity campaigns or positive action initiatives. When considering actions to address the adverse impact for one equality group, it is important to ensure that this does not result in adverse impact being created for another group.

**Stop and remove the policy:** If there are adverse effects which cannot be justified or mitigated you may have to consider stopping the policy altogether.

- **Identify when to monitor and review**

Equality Impact is an ongoing process that does not end once the policy has been agreed or implemented. For example, the actual effect of a policy will only be truly known once it has been introduced or demographics of staff and students may change and lead to different needs. It is therefore recommended that analysis is reviewed; this could be before or at the same time as the standard policy review date. This does not mean repeating the original analysis but rather reflecting on the experiences of implementation. This information could be included in the policy paragraph on equality and diversity (already highlighting how the impact of the policy will be measured).

- **Recording/documenting the EIA**

UoP can be asked to show evidence of EIA having been undertaken and how due regard has been demonstrated. Therefore, whatever method is used to inform on the decision making process needs to be recorded. It will be up to those who own the policy to provide this.

This could include:

- Retaining the EIA template (annex A) or any other template used

- Highlighting on UEB/Committee cover note EIA considerations undertaken
- Highlighting within the policy itself equality considerations, methods to be used for monitoring of impact and data review timescales.

The law is unambiguous in that what is open to challenge is the process and evidence used to come to the decision rather than the decision itself. Therefore, it is unlikely that legal challenges would be made on the basis that the outcome appears to favour one group over another, unless this decision is in itself unlawful

With that in mind, the EIA **must** demonstrate that equality issues are considered **during** the decision making process and influenced the final decision, for example by highlighting and mitigating the negative effects of a decision on a specific group.

#### **4. Equality Impact – developing this policy and monitoring outcomes**

This guidance has been developed to ensure that appropriate considerations around equality impact across all protected characteristics are taken when developing university policy. The guidance was developed using best practice from Equality Challenge Unit (ECU) and the feedback received from staff undertaking EIA's. Undertaking the EIA will need to be demonstrated prior to sign-off by UoP committees/UEB. The Equality and Diversity team will monitor complaints/issues raised by staff and students as well as those using the guidance to ensure the procedure provides the correct support to those developing policy as well as delivering appropriate due regard outcomes. E&D will also deliver EIA workshops to support this guidance, delivered as part of the University's Learning and Development Programme

## Annex A- Equality Impact Assessment (EIA) Template

Before carrying out the EIA, you should familiarise yourself with the UoP EIA Policy. This along with other guidance, resources and information, are available at:

<http://www.port.ac.uk/departments/services/equalityanddiversity/equalityanalysis/>

EIA covers all policies, functions, provisions, practices, activities and organisational change/restructure, but will be referred to as “policy/practice” hereinafter.

### A. Policy/Practice (name and brief description)

### B. Reason for EIA (tick)

- Proposed new policy/practice       Proposed change/amend to existing policy/practice  
 Undertaking a review of an existing policy/practice       Other (please state)

### C. Person responsible for the policy/practice

Name:

Job Title:

Faculty/Business area:

### D. Decision not to undertake EIA

- There is no requirement to conduct a full EIA (go to section I)

*Explain reasoning for this decision*

**E. Evidence Considered.** What data or other information have you used to inform the development of this assessment

**F. Consultation.** Have you consulted staff/students/service users including those from under-represented groups? What were their views?

**G. Promoting equality.** Does this policy have a positive impact on equality, prevent discrimination or foster good relations? If so, provide evidence of this. Could it do more?

## H. Identifying the adverse impact

Identify any issues which could have an adverse impact on any of the following characteristics:

- 1- Race    2-Gender    3-Disability    4-Sexual Orientation    5-Married/Civil Partnership    6-Age  
 7-Religion/Belief    8-Transgender    9-Carers (direct discrimination)    10-Maternity/Pregnancy    11-Other considerations

<b>Impact/issues Identified</b>	<b>Group impacted (1-11)</b>	<b>Evidence</b> <i>(referring to section E&amp;F above)</i>	<b>Adjustments/Justification</b> <i>Can adjustments be made? Can barriers be removed? Can issues be justified?</i>	<b>Proposed Action</b> If the issue cannot be justified, what action(s) will be taken to address?


## F. EIA Outcome

Select one of the four outcomes to indicate how the development/review of the policy/practice will be progressed

- NO CHANGE REQUIRED – the assessment is that the policy/practice is/will be robust
- ADJUST POLICY/PRACTICE – this involves taking steps to remove any barriers, to better advance equality and/or to foster good relations in line with H above
- CONTINUE POLICY/PRACTICE – This is despite the potential adverse impact, which can be mitigated or justified
- STOP THE POLICY/PRACTICE – as there are adverse effects that cannot be prevented, mitigated or justified

## G. Action and Monitoring

Specify the actions required for implementing findings from the EIA and how the implemented policy/practice will be monitored in relation to equality impact. This should be highlighted clearly within the policy/practice.

When, how and by whom will the policy/practice next be reviewed:

## H. Retaining the EIA

*Where will the completed EIA be retained and who needs to be contacted should it be requested. This information should be highlighted clearly within the policy/practice*

## I. Sign-off

**EIA undertaken by** *(usually the lead for developing the policy/procedure/function)*

Name(s)

Job Title

Dept/Faculty

Date