

# Budget 2014-15 Equality Impact Assessments (EIAs) for impacts on Service-Users and Staff: Process, Assessment and Planned Actions

## 1. Introduction

**1.1** This report describes the process of Equality Impact Assessment (EIA) made on the budget proposals for 2014/15 and analyses the findings. The council has a legal duty under the Equality Act 2010 to evidence that we have paid 'due regard' in our budget decision-making to the need to:

- eliminate unlawful discrimination,
- advance equality of opportunity and
- foster good relations between persons who share a relevant protected characteristic<sup>1</sup> and those that don't.

**1.2** Budget EIAs evidence how the council is considering impacts on legally protected groups as part of the decision-making process and action we will take where needed. The list of identified impacts for budget proposals affecting staff and service-users is available in Appendix 13.

**1.3** The report describes:

- the council's legal duties in the budget-setting process (section 2),
- the national and local context (sections 3 and 4)
- the council's approach to and aims in Equality Impact Assessment (EIA) as part of decision-making (section 5),
- which legally protected groups (staff and service-users) are identified at this stage as potentially experiencing disproportionate impacts, from individual or cumulative proposals (section 6),
- in relation to service-users:
  - council-wide cumulative impacts identified at this stage (section 7),
  - the over-arching actions which will be needed to mitigate negative impacts and maximise positive impacts (section 8),
- in relation to staff:
  - council-wide cumulative impacts identified at this stage (section 9),
  - the over-arching actions which will be needed to mitigate negative impacts and maximise positive impacts (section 10),

## 2. Our legal duties

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<sup>1</sup> 'Protected characteristics' are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. (Also marriage and civil partnership, but only in relation to eliminating discrimination.)

**2.2** Under the equality duty set out in the Equality Act 2010, public authorities must have ‘due regard’ to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a protected characteristic and those who do not.

**2.3** The protected groups covered by the equality duty are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnerships (only in respect of eliminating unlawful discrimination). Assessment has also been included of impacts and actions in relation to child poverty.

**2.4** The law requires that public authorities demonstrate that they have paid conscious and rigorous attention to the aims of the equality duty in their decision-making. An evidenced process assessing the potential impact on equality of budget proposals is the primary way in which the council can demonstrate that we have had ‘due regard’ to this equality duty.

**2.5** By law, our assessments of impact on equality must:

- Contain enough information to enable a public authority to demonstrate it has had ‘due regard’ to the aims of the equality duty in its decision-making
- Consider ways of mitigating or avoiding any adverse impacts.

Our Budget EIA process meets these requirements.

**2.6** The Public Sector Equality Duty (PSED) does not prevent councils from making difficult decisions such as reorganisations and relocations, redundancies, and service reductions, nor does it prevent decisions which may affect one group more than another group.

**2.7** The duty enables public bodies to demonstrate that they are making financial decisions in a fair, transparent and accountable way. This involves considering the needs and the rights of different members of the community, how impacts will affect them and mitigating negative impacts as fully as possible. This is achieved through assessing the impact that changes to policies, procedures and practices could have on people because of their legally protected characteristics.

**2.8** Nationally, there have been a number of successful legal challenges to funding decisions because public authorities have failed to show such consideration during the process. In such cases, the public authority may have to start the decision-making process again, with improved consultation and evidence gathering to identify the impact on particular groups.

*“Even when the context of decision-making is financial resources in a tight budget, that does not excuse compliance with the PSEDs [Public Sector Equality Duties], and there is much to be said for the proposition that even in straitened times the need for clear, well informed decision-making when assessing the impacts on less advantaged members of society is as great, if not greater.”*

Blake J in R (Rahman) v Birmingham City Council  
[2011] EWHC 944 (Admin)

### **3. National context**

**3.1** The budget proposals are being developed within the context of ongoing reduced public funding to local government.

**3.2** Key national issues that may have an equalities impact include:

- austerity measures which are resulting in reductions in public expenditure across most of public services;
- the national welfare reforms; and
- reforms to adult social care and health.

### **4. Local context**

**4.1** The council's corporate priorities are detailed in the [Corporate Plan](#):

- Tackling inequality
- Creating a more sustainable city
- Engaging people who live and work in the city
- Modernising the Council

**4.2** Relevant local priorities and context includes:

- Substantial proactive work to support financial inclusion;
- A collaborative approach across the council to help mitigate the impacts of welfare reform where possible;
- Close partnership working across social care and health both for children's services and adults'; and
- A strong focus on improving educational attainment and opportunities for access to employment for our young people.

### **5. Brighton & Hove City Council Approach**

**5.1** The council has used a Budget EIA process to identify the main potential disproportionate impacts arising because of people's protected characteristics and on child poverty. Where relevant they draw on existing service EIAs.

**5.2** The aims of an Equality Impact Assessment become especially important at times of straitened budgets, enabling us to:

- think about what the council is trying to achieve;
- consider what impact the decision will have on different groups;
- target resources to those who are most vulnerable;
- fund services which respond to people's diverse needs
- save money by getting it right first time.

**5.3** Service leads completed EIAs on budget proposals where the proposed changes potentially impact on service provision. The document presented to

Members lists all the disproportionate impacts on groups because of their protected characteristic. It also identifies the planned actions to mitigate negative impacts.

**5.4** A consultation event was held in December with community and voluntary sector groups, hosted by Community Works and feedback was either incorporated into the relevant EIA and/or was responded to directly by managers.

**5.5** All the EIAs have been reviewed by the Communities, Equality and Third Sector Team and discussed by the Executive Leadership Team to consider overall impacts and ensure consistency.

**5.6** The Human Resources team has assessed the equalities impacts on staff which are known at this stage and EIA templates have been completed for all proposals affecting staff. This process will continue through staff consultation processes to enable staff to raise specific and additional issues. Information which might identify individuals has been withheld from this document to protect confidentiality, but all information has been provided to managers and will be used to inform the implementation of agreed proposals.

**5.7** For groups of over 20 staff equalities data has been used to assist the identification of potential impacts. Where there are fewer than 20 staff affected data has not been produced to protect the confidential sensitive equalities information provided by staff. EIAs have been completed in these instances with regard to known information about the staff group and proposals made.

**5.8** Since the equality duty is a continuing duty which must be complied with when implementing and reviewing a decision, assessment of equality impacts and response to them will continue after budget decisions are agreed. Data from these EIAs will also be shared with relevant managers. This will enable managers to identify the best ways to implement the decisions to minimise negative or disproportionate impacts on legally protected and socially excluded groups.

## **6. Impacts identified across all proposals**

**6.1** The EIA process and consultation have been based on identifying whether or not impacts are likely to be different for a person because of their protected characteristic (with a focus on where impacts may be worse) and if so, list the proposed mitigating actions

**6.2** There has also been an overall assessment of:

- the impact of funding changes from one service on another across the council (cumulative impacts);
- consideration of what mitigating actions can be taken, and how we can monitor, evaluate and take action on impacts which may occur.

**6.3** The overall assessment is that there is no evidence across the EIAs of discrimination in the Budget proposals.

**6.4** However, the EIAs do highlight concerns about the council's ability to achieve our Corporate Plan objective of 'tackling inequality' in service delivery and particular attention has been given in relation to the impact of proposals on disabled staff. Therefore we have identified key activities to ensure continued progress against this aim. More details are below.

## **7. Service-Users: Identified Cumulative Impacts**

**7.1** The EIA template highlights where officers identify a cumulative impact linked to other services or the wider local/national context. The Communities, Equality and Third Sector team has also considered all the EIAs to assess where groups may be impacted by more than one change across the council.

**7.2** Impacts are identified across a number of budget proposals for the following protected characteristics:

- age (older and younger people)
- disability
- ethnicity
- gender (women and men)

**7.3** These are the result of proposed changes to a number of services targeted towards these groups. Specific actions to mitigate impacts arising from each proposal are defined within the relevant EIAs. In addition council-wide mitigating actions are detailed below.

**7.4** Cumulative impacts from proposals:

**7.4.1** Increased fees and charges in a number of services may accumulate for individuals and families, especially for those who will be affected by national changes in benefits and housing allowances, national employment trends and increases in food prices and fuel prices. Those at risk of financial exclusion are likely to be most affected and this may disproportionately include people covered by the law. Significant one off and recurrent resources are available in support of the council's Financial Inclusion Strategy, including various discretionary funds detailed elsewhere, and the action plan set out in the Financial Inclusion Strategy continues to be implemented to improve advice and support and reduce financial exclusion. In particular, closer working with banks, advice agencies and council income collection and recovery services is aimed at ensuring that financial inclusion is promoted to help people on low incomes to manage their finances and any debts, and avoid getting into difficulties wherever possible. A cumulative impact assessment on fees and charges is included in the 'Budget Equality Impact Assessments 2014-15: identified impacts and actions' document.

**7.4.2** Changes to specialist services and contracts (eg: Learning Disability, Mental Health) raise potential issues for mainstream services in relation to increased demand. In addition, mainstream services need to be accessible and appropriate to people's specific needs. Developing capacity and skills in the mainstream to manage more complex needs effectively and sensitively also places a demand on resources. The budget proposals have been prepared with an emphasis on protecting

investment in preventative services and on ensuring that resources are targeted where most needed.

**7.4.3** Significant changes in services or the management of the city environment are likely to have a larger impact on some groups more than others (eg: impact of changed routines in transport or day care for people with Learning Disabilities, street repairs being done more slowly may impact disabled people). These areas will need ongoing equality assessment and careful implementation to ensure that impacts are mitigated in the process.

**7.4.4** Some actions in service EIAs to mitigate impact are related to links to Community and Voluntary Sector (CVS) services (eg: for communicating information, identifying impacts of cuts on specific groups, advocacy), at a time when there is pressure on the CVS in relation to funding, which raises an issue of these groups' capacity. The council has therefore been supporting the sector's Transforming Local Infrastructure (TLI) project to help build and sustain that capacity and developing a council-wide Third Sector Policy and Prospectus. This includes specific targeted work with protected characteristic groups.

## **8. Service-users: Council-wide Mitigating Actions**

**8.1** It is important to note that existing council equalities approaches such as Equality Impact Assessment and actions from the council's Equality and Inclusion Policy will be a critical part of minimising or avoiding negative impacts on specific groups protected in law. Also, needs assessments and actions from them (such as the Joint Strategic Needs Assessment, current work focused on Black and Minority Ethnic communities and the Trans community) will enable better understanding of communities and their access to and outcomes from services, helping us to identify and respond to needs more effectively.

**8.2** Regular equalities monitoring and analysis to evaluate trends and identify actions, and robust equality impact assessment which actively engages stakeholders are fundamental to meeting our legal duties and corporate commitments. Senior managers will continue to have responsibility for overseeing this as decisions are made and service changes take place.

**8.3** In addition the following actions are necessary to mitigate negative impacts:

**8.3.1 Monitoring of impact:** Services are required to ensure ongoing equalities monitoring of the impact of service changes, to identify trends in disproportionate or unanticipated impact at an early stage to address them. Where impacts are escalating or affecting other services beyond expectation and capacity to manage then services must take appropriate steps to address this in partnership with the relevant Executive Director(s). The findings of this monitoring will help inform the budget-setting process next year.

**8.3.2 Further assessment of equality impacts:** Since the equality duty is an ongoing duty, services are required to make further assessment of equality impacts where appropriate in the implementation and review phases. This will be with

relevant Community and Voluntary Sector groups, service-users, advocacy services, partner organisations and other relevant groups to inform specific actions.

**8.3.3 Targeting based on need:** Resources and services must clearly identify specific needs of different groups at an early stage in order to be most effective and meet needs at first contact wherever possible. Targeting resource more efficiently, accessibly and appropriately benefits service-users and also provides better value for money. The council works using an evidence-based model, including needs assessments, and this will continue to underpin our approach.

**8.3.4 Gaps in monitoring:** Where gaps in monitoring have been identified during this screening EIA process, services need to ensure they have plans to address this reflected in their Business Plans. This will enable better modelling of potential impacts and assessments in future.

**8.3.5 Linking council services:** There are ongoing opportunities for working together across council services more effectively (for example the Commissioners Network and Value for Money Board), developing the links between related services and teams to avoid duplication and gaps. This reduces costs and enables service-users to access services seamlessly.

**8.3.6 Partnership working:** There are opportunities for working differently with partners, both statutory and Community and Voluntary Sector groups (for example more closely aligning related services, or commissioning specific services to mitigate negative impacts). This includes the council-wide Third Sector Policy and Prospectus which enables us to pool and better target resources and to meet identified needs of groups linked to their protected characteristic. In addition there is increasing integration with services both internal and external to the council, including health.

**8.3.7 Engagement:** We will continue engagement with service-users and potential service-users using the best practice principles in the Community Engagement Framework to identify ways in which services can be improved to better meet diverse needs. This will enable services to be more accessible, appropriate and efficient.

**8.3.8 Learning and Development:** We will continue to increase staff skills and knowledge in identifying and addressing diverse needs across all services.

**8.3.9 Communication:** Services must ensure they clearly communicate service changes and support vulnerable groups, well in advance of the changes to reduce anxiety and disruption. Where CVS groups are more effective in communicating with specific groups consideration should be given to providing them with the resources to enable this to happen.

## **9. Staff: Identified Cumulative Impacts**

**9.1** The EIA template highlights where officers identify a cumulative impact linked to the make-up of the workforce across the Council in terms of protected groups as compared to the make-up of groups affected. HR has considered all the EIAs both individually and cumulatively.

**9.2** The detailed impact of a number of proposals in Adult Services is unknown at this stage before consultation processes are complete and therefore the EIAs are based on an analysis of the make-up of the workforce affected, and potential impacts of changes. This is particularly relevant for Able and Willing where final decisions won't be taken until efforts to generate more business have been made.

**9.3** Potential impacts have been identified for individuals with the following protected characteristics, based on the fact that there is a higher representation in staff groups affected. These are the impacts identified from known data at this stage. Specific decisions on how to implement budget decisions with impacts on staff will be made after further exploring the equality issues through staff consultation processes:

- Disability
- Age
- Gender
- Ethnicity
- Sexual orientation

**9.4** Cumulative impacts from proposals:

**9.4.1** Key impacts have been identified in relation to changes proposed at Able and Willing. There is potential for these proposals to have a disproportionate impact on disabled staff, and on BME representation in Adults Services. As a Supported Business for disabled employees the service will always employ a high proportion of disabled employees in comparison to the Adult Directorate and Council. Final decisions won't be taken until efforts to generate more business have been made.

**9.4.2** Disabled staff in the service may experience particular barriers in accessing information and getting their views heard. There may also be significant barriers in finding alternative employment if there is a reduction in posts. Positive action is planned to include training on interview skills, coaching and signposting to relevant forums. The communications approach will ensure the use of plain English so that information is accessible.

**9.4.3** Across other areas of Adult Services affected there is a higher proportion of older workers (over 55) who may experience more difficulty securing alternative employment and re-training opportunities. Targeted job application and interview support will be available, and the need for appropriate support and training to re-skill in new working methods considered within the processes.

**9.4.4** In Learning Disability Accommodation the service employs an above average proportion of BME and White Other staff, and reductions in staff in this area could further impact representation across adults. Attention will be given to the decision on which posts will be affected and the impact this has.

**9.4.5** Across other areas of change a limited number of staff are affected, but these include part-time female workers who may be restricted in hours that can be worked in relation to other opportunities. The design of posts and structure will need to take into account impacts for groups of staff. Caring and parenting responsibilities will be considered by managers.



## **10. Staff: Council-wide Mitigating Actions**

**10.1** In addition to the specific mitigations identified in each service area the Council has guidance, procedures and approaches for managing change that are designed to ensure change is managed fairly and groups with protected characteristics are not negatively impacted:

- When developing any further detailed proposals take account of the staffing equalities data to inform decision making and/or continue assessing staff equality impacts.
- Ensure the council's relevant policies and procedures are equitably and appropriately applied (management of change protocol, redeployment, development of new post details, job evaluation processes etc) to ensure that no adverse impact is created for employees related to their protected characteristics.
- Review vacant posts, use of agency employees etc to minimise the impact on current substantive post holders.
- Where proposals may result in a reduction of posts consider the offer of voluntary redundancy to mitigate the impact of potential compulsory redundancy processes.
- Where a reduction in posts will mean compulsory redundancy ensure that selection processes are clear and free from bias, and that processes take into account any individual needs.
- Ensure processes and criteria related to selection for voluntary redundancy are clear and transparent and use the compensation panel appropriately.
- Ensure managers involved in selection have completed corporate recruitment and selection training and are signposted to the Equality & Diversity e-learning module.
- Ensure that managers delivering service changes are appropriately supported and advised by HR in relation to all employee equalities issues.
- Ensure all employees are offered one to one meetings to discuss their circumstances and any concerns they may have.
- Attach the summary EIA to each consultation document, and continue to assess equality impacts through the consultation process.
- Consider the need for appropriate support and training to re-skill in new working methods.

## Appendix A

### Legal context – Equality Act 2010

Within the Act the Public Sector Equality Duty has three aims. It requires public bodies, when exercising their functions, to have ‘due regard’<sup>2</sup> to the need to:

1. **eliminate unlawful discrimination**, harassment, victimisation and any other conduct prohibited by the Act;
2. **advance equality of opportunity** between people who share a protected characteristic and people who do not share it; which includes the need to:
  - remove or minimise disadvantages suffered by people due to their protected characteristics;
  - meet the needs of people with protected characteristics; and
  - encourage people with protected characteristics to participate in public life or in other activities where their participation is low.
3. **foster good relations** between people who share a protected characteristic and people who do not share it; which involves
  - tackling prejudice and promoting understanding between people who share a protected characteristic and others

Public sector bodies need to be able to evidence that they have given due regard to the impact and potential impact on all people with ‘protected characteristics’ in shaping policy, in delivering services, and in relation to their own employees.

The following principles, drawn from case law, explain what is essential in order for the Equality Duty to be fulfilled. Public bodies should ensure:

- **Knowledge** – those who exercise the public body’s functions need to be aware of the requirements of the Equality Duty. Compliance with the Equality Duty involves a conscious approach and state of mind.
- **Timeliness** – the Equality Duty must be complied with before and at the time that a particular policy is under consideration or decision is taken – that is, in the development of policy options, and in making a final decision. A public body cannot satisfy the Equality Duty by justifying a decision after it has been taken.
- **Real consideration** – consideration of the three aims of the Equality Duty must form an integral part of the decision-making process. The Equality Duty is not a matter of box-ticking; it must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.

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<sup>2</sup> Having ‘due regard’ means consciously thinking about the three aims of the Equality Duty as part of the process of decision-making. This means that consideration of equality issues must influence the decisions reached by public bodies – such as in how they act as employers; how they develop, evaluate and review policy; how they design, deliver and evaluate services, and how they commission and procure from others.

- **Sufficient information** – the decision maker must consider what information he or she has and what further information may be needed in order to give proper consideration to the Equality Duty.
- **No delegation** – public bodies are responsible for ensuring that any third parties which exercise functions on their behalf are capable of complying with the Equality Duty, are required to comply with it, and that they do so in practice. It is a duty that cannot be delegated.
- **Review** – public bodies must have regard to the aims of the Equality Duty not only when a policy is developed and decided upon, but also when it is implemented and reviewed. The Equality Duty is a continuing duty.
- **Proper Record Keeping** - this encourages transparency and will discipline those carrying out the relevant function to undertake their equality duties conscientiously. If records are not kept it may make it more difficult, evidentially, for a public authority to persuade a court that it has fulfilled its equality duties.

The 2014/15 budget EIA process has been designed to meet these requirements and to enable the council to evidence how it has paid 'due regard' to the needs of diverse groups in the process of making budget decisions.