

Equality Impact Assessment – Cumulative Impact 2013/14 Revenue Budget

1. Background

- 1.1 This document summarises the Equality Impact Assessment (EIA) process for the Budget proposals for 2013/14. It highlights:
- the key differential impacts of potential budget decisions for legally protected groups and people experiencing poverty;
 - where a single decision or series of decisions might have a greater negative impact on a specific group, and;
 - ways in which negative effects across the council may be minimised or avoided, and where positive impacts can be maximised or created.
- 1.2 Budget decisions can have different impacts on different groups of people, either in changes to individual services or in the ways those changes have an impact cumulatively.
- 1.3 The council has a legal duty (under the Equality Act 2010 – see Appendix A) to evidence that we have paid ‘due regard’ to the need to: eliminate unlawful discrimination, advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic (see below) and those that don’t. Budget EIAs demonstrate how we are considering impacts and action we will take where needed.

2. Budget Equality Impact Assessment (EIA) Process

- 2.1 In Brighton & Hove City Council a Budget EIA process has been used to identify the main potential impacts on groups covered by legislation (the ‘protected characteristics’ in the Equality Act 2010¹) and on child poverty.
- 2.2 EIA screening documents² have been completed by service leads on budget proposals where the potential change impacts on service provision. Each one lists:

1 ‘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 Screening documents have been used due to the size of the budget report and the amount of information that has been assessed. Many of them draw on existing EIAs which already indicate impacts.

- A page summarising the proposed change, key impacts and mitigating actions;
- Details of the potential differential impact on groups protected in the Equality Act 2010 and on other relevant groups covered by the council's Equality and Inclusion Policy 2012-15, including poverty;
- Details (by group) of the actions proposed.

3. Aims of Equality Impact Assessments (EIAs)

- 3.1 The Equality Duty (within the Equality Act 2010) supports good decision-making: it encourages public bodies to understand how different people will be affected by their activities so that policies and services are appropriate and accessible to all and meet different people's needs.
- 3.2 By understanding the effect of their activities on different people and how inclusive public services can support and open up people's opportunities, public bodies are better placed to deliver policies and services that are efficient and effective.
- 3.3 Assessing the potential positive and negative impact of decisions on different equality groups is a key part of meeting the council's duty under the Act, and demonstrating that we are doing so.
- 3.4 This approach, called Equality Impact Assessment (EIA), enables us to use the findings to inform decision-making, increasing opportunities for positive benefits and reducing or removing negative impacts, specifically where they affect one or more groups disproportionately, and especially where they may be unlawful.
- 3.5 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 may be most vulnerable;
 - fund services which respond to people's diverse needs and save money by getting it right first time.
- 3.6 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 will almost always be required 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)

4. National context

- 4.1 The budget proposals are being developed within the context of ongoing reduced public funding to local government.
- 4.2 Key national issues that may have an equalities impact include:
- New council responsibilities including the public health agenda;
 - Impact of welfare reforms on vulnerable communities and individuals;
 - Education reforms;
 - Localism;
 - Changes to the local authority funding basis and other grants the council receives could affect Children’s and Adults’ services.

5. Local context

- 5.1 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 *
- (draft new combined internal priority subject to confirmation by Full Council in March)
- 5.2 The first priority is clearly very relevant to the budget setting and EIA process.

6. Budget Equality Impact Assessment Findings

- 6.1 The EIA process and consultation have been based on identifying whether or not service delivery impacts are likely to be different for a person because of their protected characteristic (with a focus on where impacts may be worse).

- 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'. Therefore we have identified key activities to ensure continued progress against this aim. More details are given below.

7. Feedback from Community and Voluntary Sector Organisations

7.1 After the budget proposals were made public, the EIAs were circulated widely to Community and Voluntary Sector groups, including the Community and Voluntary Sector Forum (specifically their Equality Network of elected rep's from 'protected characteristic' groups), communities of interest groups³, via the City Inclusion Partnership, BHCC staff in the Equality Steering Group and their networks, and to representatives in geographical areas.

7.2 Responses from the above and other information have informed the development of this paper and, where appropriate, have been used to revise EIAs to address questions and concerns.

7.3 Where responses were about service provision more widely, these comments have been passed to the relevant service manager.

7.4 A full report of the CVSF consultations is available as part of the Budget papers.

7.5 Subject to implementation of budget proposals being agreed, full Equality Impact Assessments will be carried out in a number of areas which will analyse specific impacts and develop the required mitigating actions. These will involve more engagement with the community and voluntary sector, staff, statutory partners and relevant groups.

Key concerns identified in consultation:

³ These included groups facilitated by the CVSF focused on disability, single parents, carers, learning disability, older people, poverty, young people, and autistic spectrum conditions.

- Worsening cumulative impacts of reducing funding on vulnerable individuals and groups, including rising service charges and fees, reductions in benefits, and changes in how strictly eligibility criteria are interpreted and applied. These are increasing pressure on council services and on the CVS.
- Impact of changes to contracts with Community and Voluntary Sector groups, with reductions in funding coming at a time of increased demand from service-users.
- CVS groups are sometimes expected to 'fill the gaps' created by reductions in statutory services, but are not given the additional resources to meet these needs. Volunteering is not a cost-free way of providing services.
- Reductions in provision of early intervention (often low level) services negatively impact vulnerable groups, exacerbating needs. In turn this may mean people eventually need higher level/crisis interventions, which are more costly for the council and the individual.
- The movement towards 'digital by default' risks excluding many people who do not have access to the internet, or cannot use it effectively (or at all) to contact services. Cost savings here have the potential to exclude vulnerable people, unless reasonable alternatives are anticipated and provided.

8. Identified cumulative impacts

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

8.2 Impacts across a number of budget proposals are identified for the following protected groups:

- older people
- younger people
- disabled people

8.3 There are also impacts highlighted in relation to women (gender), and for Black and Minority Ethnic groups (ethnicity).

Key impacts include:

- 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. However significant one off and recurrent resources to provide additional advice and ensure financial inclusion have been included within the budget proposals.

- Changes to specialist services and contracts (eg: Learning Disability, Mental Health) raise potential issues for mainstream services. In addition, mainstream services need to be accessible and appropriate to people's specialist needs. Developing capacity and skills in the mainstream to manage 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.
- Significant changes in services or the physical appearance of the city 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 careful implementation to ensure that impacts are mitigated in the process.
- 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 is therefore supporting the sector's Transforming Local Infrastructure Project to help sustain that capacity,

9. Council-wide Mitigating Actions

- 9.1 It is important to note that existing council equalities approaches will be a critical part of minimising or avoiding negative impacts on specific groups protected in law.
- 9.2 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 have responsibility for overseeing this as decisions are made and service changes take place.
- **Monitoring of impact:** Services must 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. This reporting should be monitored council-wide at senior levels within the council in order to identify cumulative impacts and

mitigating actions. Consideration should be given to working with other partners in this monitoring and evaluation where appropriate.

- **Informing decision-making:** The findings of this monitoring should be used to inform the budget-setting process next year.
- **Full EIAs:** The planned full Equality Impact Assessments should be undertaken where appropriate with relevant Community and Voluntary Sector groups, service-users, advocacy services, partner organisations and other relevant groups. If issues highlighted in the consultation process have not yet been addressed, then they must be considered within full EIAs, as well as additional focus on more 'hidden' populations (eg: people with moderate learning disabilities, or people with mental health issues).
- **Targeting based on need:** Resources and services should 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's approach to commissioning with its focus on needs assessment will continue to be an important part of this process.
- **Gaps in monitoring:** Where gaps in monitoring have been identified during this screening EIA process, steps should be taken to fill these in the forthcoming year. This will enable better modelling of potential impacts and assessments in future.
- **Linking council services:** There are ongoing opportunities for working together across council services more effectively, developing the links between related services and teams to avoid duplication and gaps. This reduces costs and enables service-users to access services seamlessly.
- **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 advocacy services as is planned from the CVS to mitigate negative impacts).
- **Engagement:** Continue engagement with service-users and potential service-users 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.
- **Learning and Development:** consider how to increase staff capacity, skills and knowledge in identifying and addressing diverse needs in mainstream services.
- **Communication:** Clear communication of changes, especially to vulnerable groups, well in advance of the changes taking place will

help to reduce anxiety and disruption. Council communications must target specific audiences in appropriate ways, ensuring that messages about the changes and reasons for them are explained simply, along with any information about alternatives or sources of advice or support. 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.

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’⁴ 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

⁴ 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.

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.
- **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 2013/14 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.