

Equality Impact Assessment

An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in decision-making.

When to assess

An EIA should be carried out when you are changing, removing or introducing a new service, policy or function. The assessment should be proportionate; a major financial decision will need to be assessed more closely than a minor policy change.

Public sector equality duty

The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:

- 1) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
- 2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- 3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

These are known as the three aims of the general equality duty.

Protected characteristics

The Equality Act 2010 sets out nine protected characteristics that apply to the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership*
- Pregnancy and maternity
- Ethnicity
- Religion or belief
- Sex
- Sexual orientation

*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

We also ask you to consider other socially excluded groups, which could include people who are geographically isolated from services, with low literacy skills or living in poverty or low incomes; this may impact on aspirations, health or other areas of their life which are not protected by the Equality Act, but should be considered when delivering services.

Due regard

To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations.

How much regard is 'due' will depend on the circumstances and in particular on the relevance of the aims in the general equality duty to the decision or function in question. The greater the relevance and potential impact, the higher the regard required by the duty. The three aims of the duty may be more relevant to some functions than others; or they may be more relevant to some protected characteristics than others.

Collecting and using equality information

[The Equalities and Human Rights Commission](#) (EHRC) states that 'Having due regard to the aims of the general equality duty requires public authorities to have an adequate evidence base for their decision making'. We need to make sure that we understand the potential impact of decisions on people with different protected characteristics. This will help us to reduce or remove unhelpful impacts. We need to consider this information before and as decisions are being made.

There are a number of publications and websites that may be useful in understanding the profile of users of a service, or those who may be affected.

- The Office for National Statistics Neighbourhoods website <https://www.ons.gov.uk/>
- Kent County Council Facts and Figures about Kent <http://www.kent.gov.uk/about-the-council/information-and-data/Facts-and-figures-about-Kent>
- Public health and social care data http://www.kpho.org.uk/search?mode=results&queries_exclude_query=no&queries_excludefromsearch_query=yes&queries_keyword_query=Swale

At this stage you may find that you need further information and will need to undertake engagement or consultation. Identify the gaps in your knowledge and take steps to fill these.

Case law principles

A number of principles have been established by the courts in relation to the equality duty and due regard:

- Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty
- Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The person completing the EIA should have knowledge and understanding of the service, policy, strategy, practice, plan.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- A public authority is responsible for ensuring that any contracted organisations which provide services on their behalf can comply with the duty, are required in contracts to comply with it, and do comply in practice.
- The duty is a continuing one. It applies when a service, policy, strategy, practice or plan is developed or agreed, and when it is implemented or reviewed.
- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- The general equality duty is not a duty to achieve a result, it is a duty to have due regard to the need achieve the aims of the duty.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

Lead officer:	Alister Andrews, Environmental Services Manager
Decision maker:	Environment and Climate Change Committee
People involved:	Martyn Cassell, Head of Environment and Leisure (for service provision) Andre Bowen, Service Improvement and Project Manager

Decision: • Policy, project, service, contract • Review, change, new, stop	• New service - Introduction of a Community Toilet Scheme
Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	08 th July 2026
Summary of the decision: • Aims and objectives • Key actions • Expected outcomes • Who will be affected and how? • How many people will be affected?	Local authorities that operate community toilet schemes are able to reduce the costs of public toilets provision. The maintenance and upkeep costs are shared between the local business and the local authority. The key actions are; (1) To endorse the Community Toilet Scheme selection criteria based on location, operating hours, facilities and longevity of interested businesses. (2) To agree the reimbursements for approved scheme members. (3) To identify how the scheme can be funded sustainably. The expected outcomes include; • Support the Corporate Plan objective of 'Running the Council' by working within our resources and delivering in a transparent and efficient way. • Support the Corporate Plan objective of 'Economy' objective is supported through working with businesses to increase customer footfall and free facilities for local people. • Support the Corporate Equality Scheme priority 'Supporting vulnerable residents - by supporting Swale's more vulnerable residents, particularly those with a disability'. • Support more local businesses to take part in a community toilet scheme, leading to more public toilet options available for residents and visitors. This can make areas more attractive to tourists, enhancing the overall visitor experience. Any member of the public, including residents, visitors and tourists will be affected. The proposals affect all the wards' local residents as well as visitors, tourists and residents from neighbouring wards.
Information and research: • Outline the information and research that has informed the decision. • Include sources and key findings. • Include information on how the decision will affect people with different protected characteristics.	Local government councils establish Community Toilet Schemes in collaboration with businesses to ensure that clean and accessible toilet facilities are available to the public at no cost, enhancing convenience and public health. These schemes have been largely successful across the UK, since they were first introduced nearly 20 years ago. That is; • The more local businesses that take part in a community toilet scheme, mean there are more public toilet options available for residents and visitors including the elderly, people with a disability, pregnant women and children. More availability means that the distance to travel should reduce based upon the likelihood that there will be more facilities available. • Residents and visitors who use the nearest public toilets available leads to increased foot traffic to well-placed

	participating businesses. This increase in foot traffic can lead to higher sales and economic benefits for the local economy. • Across Kent there several Community Toilet Schemes across various authorities. • Consulted potential businesses suitable for the proposed Community Toilet Scheme. • Some homeless residents use current public convenience facilities. Homeless persons should still be able to use any new CTS premises and a range of SBC facilities will remain in key locations. • The paper discusses the financial risks of over-supply of public conveniences. A proposal suggests an agreed distance between facilities of 1 mile or more when reviewing suitability. One mile may seem excessive to some individuals with certain protected characteristics. The intention is to have facilities in busy areas such as town centres but not in every square mile of the borough. Members may discuss and suggest alternative acceptance criteria.
Consultation: • Has there been specific consultation on this decision? • What were the results of the consultation? • Did the consultation analysis reveal any difference in views across the protected characteristics? • Can any conclusions be drawn from the analysis on how the decision will affect people with different protected characteristics?	A public consultation lasting 12 weeks was opened to Swale residents, visitors, community groups and businesses to ensure as many people could take part. There were also posters in all the public toilet facilities, posters in all Council offices along with paper forms, advertised on the Swale website and social media, shared with the local press, Area Committee presentations and directly contacting representative organisations (such as, Swale CVS, Age UK, Swale Seniors Forum, Freedom Centre and others). Six businesses have expressed an interest in allowing members of the public to use their toilets without purchasing any goods or paying a fee. The recommended fees for joining the CTS were proposed after reviewing the costs in other areas where schemes already operate successfully.

Is the decision relevant to the aims of the equality duty?

Guidance on the aims can be found in the EHRC's PSED Technical Guidance -

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

Aim	Yes/No
1) Eliminate discrimination, harassment and victimisation	No
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	Yes
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	No

Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.

When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.

Characteristic	Relevance to decision High/Medium/Low/None	Impact of decision Positive/Negative/Neutral
Age	Medium	Positive
Disability	Medium	Positive
Gender reassignment	None	Neutral
Marriage and civil partnership	None	Neutral
Pregnancy and maternity	Medium	Positive
Ethnicity	None	Neutral
Religion or belief	None	Neutral
Sex	None	Neutral
Sexual orientation	None	Neutral
Other socially excluded groups ¹ - Homeless persons	None	Neutral

Conclusion: - Consider how due regard has been had to the equality duty, from start to finish. - There should be no unlawful discrimination arising from the decision. Advise on the overall equality implications that should be taken into account in the final decision, considering relevance and impact.	Summarise this conclusion in the body of your report The introduction of Community Toilet Scheme facilities positively impacts particular groups, including older people, families with small children, disabled people and pregnant women. Age - as people age, the prevalence of health problems and disabilities rises. Conditions that require older persons to use toilet facilities more frequently. Younger people - families with young children may be impacted by a reduction in facilities, particular if facilities with baby changing are reduced. The new Community Toilet Scheme will favour premises with baby changing facilities, but premises will not be rejected from consideration if they do not have these facilities. Currently, there is no legal requirement to provide baby changing facilities as there is no duty to provide public conveniences. Disability - access to public toilets can affect how disabled people participate in daily activities, especially those with diseases that necessitate regular use of facilities (e.g., Crohn's disease, prostate cancer, IBD, and colitis). People who require accessible toilets could also be disproportionately impacted, both in terms of the location for those with mobility issues and the availability of disabled public toilets. Pregnancy - pregnant women are also more likely have frequent use of toilet facilities. The Council does not have a statutory responsibility to provide public conveniences, but in order to continue to be able to provide a service it is recommended to work with local businesses. Swale residents and visitors will be informed about the locations of publicly accessible toilets. This will enable them to plan their journeys more effectively, whether shopping, socialising, or visiting local attractions. Clear signage will direct people to the nearest available facilities, ensuring greater awareness and ease of access. Socially excluded groups - A CTS scheme should be open to all persons including homeless individuals.
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¹ Other socially excluded groups could include those with literacy issues, people living in poverty or on low incomes or people who are geographically isolated from services

	Further promotion of the incentivised Community Toilet Scheme will attract local businesses to make suitable facilities available to the public.
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Timing

- Having 'due regard' is a state of mind. It should be considered at the inception of any decision.
- Due regard should be considered throughout the development of the decision. Notes should be taken on how due regard to the equality duty has been considered through research, meetings, project teams, committees and consultations.
- The completion of the EIA is a way of effectively summarising the due regard shown to the equality duty throughout the development of the decision. The completed EIA must inform the final decision-making process. The decision-maker must be aware of the duty and the completed EIA.

Full technical guidance on the public sector equality duty can be found at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

Please send the EIA in draft to Janet Dart in the Comms and Policy Team (janetdart@swale.gov.uk) who will review it with colleagues and let you have any comments or suggested changes.

This Equality Impact Assessment should form an appendix to any EMT/SMT or committee report relating to the decision, and a summary should be included in the 'Equality and Diversity' section of the standard committee report template under 'Section 6 – Implications'.