



## TEST OF RELEVANCE: EQUALITY ANALYSIS (EA)

### Introduction

The Public Sector Equality Duty (PSED) is set out in the Equality Act 2010 (s.149). This requires public authorities, in the exercise of their functions, to have 'due regard' to the need to:

- Eliminate discrimination, harassment and victimisation.
- Advance equality of opportunity between people who share a protected characteristic and those who do not, and
- Foster good relations between people who share a protected characteristic and those who do not.

The characteristics protected by the Equality Act 2010 are:

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

### What is due compliance

- It involves considering the aims of the duty in a way that is proportionate to the issue at hand.
- Ensuring that real consideration is given to the aims and the impact of policies with rigour and with an open mind in such a way that it influences the final decision.
- Due regard should be given before and during policy formation and when a decision is taken including cross cutting ones as the impact can be cumulative.

The general equality duty does not specify how public authorities should analyse the effect of their business activities on different groups of people. However, case law has established that equality analysis is an important way that public authorities can demonstrate that they are meeting the requirements.

Even in cases where it is considered that there are no implications of proposed policy and decision making on the PSED it is good practice to record the reasons why and to include these in reports to committees where decisions are being taken.

It is also good practice to consider the duty in relation to current policies, services and procedures, even if there is no plan to change them.

## **How to demonstrate compliance**

Case law has established the following principles apply to the PSED:

**Knowledge** the need to be aware of the requirements of the equality duty with a conscious approach and state of mind.

**Sufficient information** must be made available to the decision maker.

**Timeliness** the duty must be complied with before and at the time that a particular policy is under consideration or decision is taken not after it has been taken.

**Real consideration** must form an integral part of the decision-making process. It 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** the duty is continuing applying when a policy is developed and decided upon, but also when it is implemented and reviewed.

## **There is no requirement to**

- Produce equality analysis or an equality impact assessment.
- Indiscriminately collect diversity data where equalities issues are not significant.
- Publish lengthy documents to show compliance.
- Treat everyone the same. It requires public bodies to think about people's different needs and how these can be met.

## How to demonstrate compliance

- Make services homogeneous or to try to remove or ignore differences between people.

## The key points about demonstrating compliance with the duty are to

- Collate sufficient evidence to determine whether changes being considered will have a potential impact on different groups
- Ensure decision makers are aware of the analysis that has been undertaken and what conclusions have been reached on the possible implications
- Keep adequate records of the full decision-making process.

## Test of relevance screening

The Test of Relevance screening is a short exercise that involves looking at the overall proposal and deciding if it is relevant to the PSED.

**Note: If the proposal is of a significant nature and it is apparent from the outset that a full equality analysis will be required, then it is not necessary to complete the Test of Relevance screening template and the full equality analysis and be completed.**

The questions in the Test of Relevance Screening Template help to decide if the proposal is equality relevant and whether a detailed equality analysis is required. The key question is whether the proposal is likely to be relevant to any of the protected characteristics.

Quite often, the answer may not be so obvious, and service-user or provider information will need to be considered to make a preliminary judgment. For example, in considering licensing arrangements, the location of the premises in question and the demographics of the area could affect whether section 149 considerations come into play. There is no one size fits all approach, but the screening process is designed to help fully consider the circumstances.

## What to do

In general, the following questions all feed into whether an equality analysis is required:

- How many people is the proposal likely to affect?
- How significant is its impact?
- Does it relate to an area where there are known inequalities?

At this initial screening stage, the point is to try to assess obvious negative or positive impact.

If a negative/adverse impact has been identified (actual or potential) during completion of the screening tool, a full equality analysis must be undertaken.

If no negative / adverse impacts arising from the proposal it is not necessary to undertake a full equality analysis.

On completion of the Test of Relevance screening, officers should:

- Ensure they have fully completed, and the Director has signed off the Test of Relevance Screening Template.
- Store the screening template safely so that it can be retrieved if for example, Members request to see it, or there is a freedom of information request or there is a legal challenge.
- If the outcome of the Test of Relevance Screening identifies no or minimal impact refer to it in the implications section of the report and include reference to it in Background Papers when reporting to Committee or other decision-making process.

### **Proposal or project title**

Committee report seeking approval of a Non-Immediate Article 4 Direction to remove permitted development rights for the change of use of offices (Class E(g)(i)) to residential (Class C3).

### **Brief summary including main aims, proposed outcomes, recommendations and/or decisions sought**

In May 2013, the Government introduced a temporary permitted development right to allow the change of use from offices (Class B1(a)) to residential (Class C3) without the need for planning permission. The City Corporation applied for and was granted by the Secretary of State a local exemption from this permitted development right. This exemption ceased on 30 May 2019. To ensure that the City Corporation could retain planning control over the change of use of buildings from offices to residential, an Article 4 Direction came into effect on 31 May 2019, which removes the national permitted development right within the City and requires proposals for the change of use from office to residential development to be subject to local planning control.

In September 2020, the Government brought into effect an amendment to the Use Classes Order, creating a new Class E Commercial, Business and Service use class, which includes offices. In April 2021, a new permitted development right was introduced allowing for the change of use from buildings in Class E to residential. The introduction of these new permitted development rights in the City would threaten harm to the City's position as a global commercial centre, potentially resulting in a significant loss of City offices and allowing residential uses within the City's core office locations. In order to retain planning control over the change of use from offices to residential,

the City Corporation would need to remove any permitted development rights through a new Article 4 Direction to replace the existing Direction.

**Consider the equality aims** (eliminate unlawful discrimination, advance equality opportunities, foster good relations. Indicate for each protected group whether there may be a positive impact, negative (adverse) impact or no impact arising from the proposal.

<b>Protected Characteristic (Equality Group)</b>	<b>Positive Impact</b>	<b>Negative Impact</b>	<b>No Impact</b>	<b>Briefly explain your choice. Consider evidence, data and any consultation</b>
Age	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The City of London contains the largest concentration of jobs in a central location with high public transport accessibility in the U.K. The City's workforce has traditionally had a high proportion of young employees, many of whom start and develop their careers in the City. If a significant amount of the City's office stock was lost due to PD rights, job opportunities for young people would be greatly diminished.
Disability	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The City's high level of public transport accessibility, a significant amount of which is accessible to people with disabilities, allows people with disabilities to access job opportunities.
Gender reassignment	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Marriage & Civil Partnership	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Pregnancy and maternity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The City has a large number of businesses that offer opportunities for their often highly skilled female workforce. If a significant amount of the City's office stock was lost due to permitted development rights, job opportunities for female employees who have children would be greatly diminished.
Race	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Religion or belief	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Gender	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Sexual orientation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

**If there are no negative/adverse impacts give a brief explanation and provide evidence in support**

There are no negative/adverse impacts on any group with protected characteristics as the aim of the proposal is to ensure that planning permission is required for the change of use of offices to residential and the continued buoyancy of the City's office sector, which would be beneficial to people.

**If there are positive impacts of the proposal on any equality groups give a brief explanation as to how these are in line with the equality aims**

The proposal will result in a positive impact from increased employment opportunities in a central location with high public transport accessibility for young people, people with disabilities and women with children. These positive impacts are significant as the ability to gain employment impacts all areas of people's lives.

**Is a full EA necessary as a result of the screening? Yes/No (Please delete)**

**Briefly explain your answer**

It has been concluded that no protective characteristic will be negatively impacted by the Committee report seeking approval of a Non-Immediate Article 4 Direction to remove permitted development rights for the change of use of offices (Class E(g)(i)) to residential (Class C3).

**Name of lead officer:** Lisa Russell

**Job title:** Senior Planning Officer

**Date completed:** 23<sup>rd</sup> April 2021

**Signed off by Department Director:**

**Name:** Paul Beckett, Policy and Performance Director, DBE



**Date:** 23<sup>rd</sup> April 2021