

## Equality Impact Assessment Guidance

SQA's Equality Impact Assessment Policy is located [here](#). The policy outlines our approach to Equality Impact Assessments and our commitment to equality.

To arrange an initial conversation about completing an Equality Impact Assessment, or to request advice please contact [cetequality@sqa.org.uk](mailto:cetequality@sqa.org.uk). Brynley Pearlstone is the Equality Impact Assessment Manager and can be contacted directly for support.

## Background Information

Assessing the impact of our policies and practices is a specific duty placed on SQA by the Equality Act 2010 and the [Specific Duties \(Scotland\) Regulations 2012](#).

The Specific Duties require SQA to:

- assess the impact that proposed new or revised policies and practices may have on our ability to fulfil the three needs of the [general equality duty](#) in relation to all relevant protected characteristics
- consider evidence relating to people with protected characteristics when making the assessment (including any evidence received from people with relevant protected characteristics)
- take account of the results of any assessment when developing and applying the policy or practice
- record the assessment so that, if the policy or practice is applied, the results may be published in a reasonable manner and within a reasonable period
- make arrangements as appropriate to review and where necessary change or revise existing policies and practices to ensure compliance with the general duty.

An Equality Impact Assessment ('EqIA') involves assessing the perceived and then the actual effects of policies and practices on people who share a 'protected characteristic'. A group of people who share a protected characteristic is called an 'equality group'. The [protected characteristics](#) covered by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

SQA is required to assess the impact of any new or revised policies and practices on their ability to advance the three needs of the **General Equality Duty** - to have due regard to the need to:

- ◆ ***eliminate unlawful discrimination***, harassment and victimisation and other conduct prohibited under the Equality Act 2010
- ◆ ***advance equality of opportunity*** between persons who share a relevant protected characteristic and persons who do not share it
  - *remove or minimise disadvantages suffered by people who share a relevant protected characteristic that are connected to that characteristic*
  - *take steps to meet the needs of people who share a relevant protected characteristic that are different from the needs of people who do not share it*
  - *encourage people who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such people is disproportionately low*
- ◆ ***foster good relations*** between persons who share a relevant protected characteristic and persons who do not share it

[Equality Act 2010 technical guidance](#)

## Completing an Equality Impact Assessment

“Policy should be broadly understood to embrace the full range of policies, provisions, criteria, functions, practices and activities including the delivery of services – essentially everything you do.” [EHRC Scotland Non-Statutory Guidance on assessing impact](#).

Throughout this guidance we refer to the term policy to capture all our policies, practices, decisions and as EHRC explain, essentially everything we do which has an impact either directly or indirectly on individuals.

## Screening Review

In certain exceptions a policy or practice may not require an EqlA to be completed; however, where a policy owner is unclear the Corporate Equality Team should be contacted in the first instance. Where it is agreed that an EqlA is not required a screening review should be undertaken as this captures the rationale as to the relevancy and proportionality of undertaking an EqlA and why on this exception it is not required.

A screening review form is available on [SQA's EqlA intranet page](#). In completing a screening review, it will be necessary to consider the impact of the policy or practice, for example whether it is a major policy or practice or whether it has a significant impact on a specific equality group, irrespective of its size.

## Policy Owner Responsibility

The responsibility for completing an EqlA lies with the **policy owner**. Actions arising from an EqlA may require to be delegated to other teams or Directorates and a review cycle has been built into the EqlA process to ensure that all identified EqlAs are completed and that all actions that arise through the EqlA are monitored until successful completion.

## Evidence and Consultation

Evidence and consultation are fundamental to an EqlA. A policy owner will be required to obtain evidence to support the consideration of how a policy may impact on a particular equality group and revisit the evidence when considering the actual impact, after the policy is implemented.

Where evidence is not available a policy owner should consider how, as part of the actions, evidence could be obtained in the future to enable the impact of a policy to be assessed. Where it is relevant to do so.

The EqlA template requires the policy owner to collect evidence relating to the policy and consider how this policy will impact on a particular equality group. Assessing the impact of proposed or revised policies can help to identify not only unlawful discrimination but also the **positive impact of policies** and how we can better meet the three needs of the general duty.

### **Benefits for Policy Development**

An EqlA is an important tool in supporting the development of robust and evidence-based policies, as the assessment process prompts the policy owner to consider what the rationale for the policy is, what its aims are, what level of engagement or consultation is required, what evidence would be useful in considering who engages with the policy and how, what can be done to improve this and what can be done to improve the overall implementation of the policy. All these considerations are then reflected in the policy and any subsequent actions to support the implementation of the policy and to monitor its subsequent impact.

An EqlA and the valuable conversations that are held as part of the assessment process, will enable us to include and consider how people are affected by what we do. The recommendation to consult with others leads to policies which meet the needs of different people and ensures equality is central to what we do. There is evidence that adopting this approach leads to efficient use of resources, as by considering how a policy could have a negative impact, action can be taken to remove or mitigate against this, or considering whether there is a lack of engagement or opportunities provided to a particular equality group action can be taken to support this.

While consulting with equality groups is not a specific requirement under the Specific Duty, you may choose to involve people and groups to help understand the impact of a proposed or revised policy or practice. This can help fulfil the requirement for considering evidence as part of an assessment. This type of consultation may also provide you with specific evidence directly related to your policy.

### **When to Start**

It is the decision for colleagues and individual teams as to when it is appropriate for the EqlA to be commenced and this may be embedded into specific processes. Some policies may require an extended timescale to allow for robust consultation or data gathering. The EqlA should ideally be started at the policy development stage as the information obtained and reviewed as part of the EqlA informs the overall policy. Therefore, completing the EqlA when

the policy is already drafted could result in either having to redraft policy content to take into account the EqlA or potentially that the findings from the EqlA are not incorporated into the policy meaning that the policy does not consider equality.

It is recognised that some SQA policies may already be in place and, as such, the EqlA will need to be completed retrospectively. In these circumstances where it is identified that the policy could unlawfully discriminate against an equality group the policy will require to be removed from use and amended. Equality Impact Assessments completed retrospectively should not prevent the policy owner from considering how the policy could be adjusted at scheduled review time or before. Further actions can still be taken, if a policy is already published, to ensure that actions to advance equality of opportunity and foster good relations are identified and undertaken.

### **Equality Management Review Group**

SQA's Equality Management Review Group will review all SQA Equality Impact Assessments. While EqlAs completed in different Directorates may have their own approval-for-submission processes (i.e., review at Directorate management team), SQA's overall review will be undertaken by the Equality Management Review Group. The purpose of the group is essentially to ensure a consistent, robust and transparent approach across SQA.

The group's roles and responsibilities are outlined in its [Terms of Reference](#). Policy owners will be invited to attend a meeting of the Group when an EqlA has been completed and is scheduled for review. The Review Group will have the authority to recommend further actions to complete the EqlA and to propose further actions in the successful implementation of the policy.

### **Equality Impact Assessment Template**

SQA has created an [Equality Impact Assessment template](#) based on guidance from the Equality and Human Rights Commission Guidance. This template does not need to be used; however, where a policy owner has decided to create their own EqlA it must pay due regard to the needs laid out in the General Equality Duty.

### **Action Plan**

Fundamental to understanding the importance of an Equality Impact Assessment is that the actions are not complete when the EqlA is finalised and published. The initial action may be to ensure that the evidence that has been collected and considered, and the discussions held, inform policy development.

As part of the implementation of the policy, the policy owner is asked to monitor how the policy impacts on equality groups. To do so, further review of evidence or engagement with individuals or groups is required. A date should be scheduled whether it is for example three, six or twelve months in the future to review the impact of a policy. A policy owner may find through this review the perceived impact was an accurate assessment, or an unintended impact has occurred which may result in the policy owner requiring to take further actions to

address, if there is a negative impact. Or where there is a positive impact, this should also be recorded so it can be shared as good practice.

The monitoring of the impact of a policy on equality groups is a mandatory action. A meeting will be scheduled between the policy owner and the Equality Impact Assessment Manager to review the EqlA and record, with supporting evidence, the impact of a policy.

Alongside the mandatory actions, other actions will always arise from a robust and transparent EqlA where we have identified gaps in evidence that we wish to obtain or where we have considered in the initial assessment, actions that should be undertaken to fully support:

- advancing equality of opportunity
- fostering good relations

These two bullet points are part of the General Equality Duty, and it is fundamental to the EqlA that these points are duly considered and that we explore through discussion and review of evidence that we have considered how a policy might impact on an equality group and what actions we can take to ensure that these needs are met.

## **Policy Aims**

Take a moment to consider what this policy is trying to achieve and how it might impact on people. Consider the rationale for this policy and what evidence you are in receipt of which supports the creation or development of this policy. In considering how this policy might impact on people make the connection of how this policy could impact on people belonging to equality groups. This can be approached as 'all equality groups' for now think about the different needs, perspectives, experiences that someone or a group might have.

## **Evidence, Consultation and Engagement**

The steps that are taken at this stage to obtain evidence and engage with individuals and groups will inform the rest of the EqlA. It may not be relevant or appropriate to obtain evidence for each equality group in turn but where you have considered that there could be a perceived impact on certain equality groups this should be explored. In summary, you are not required to complete a response for each equality group where it is not relevant to do so.

Evidence can include

Internal evidence sources:

- responses from SQA's recent staff survey
- employment monitoring data
- lessons learned from existing processes
- feedback from employees
- previous complaints
- feedback and from SQA's Union representatives
- information gathered from exit interviews
- statistical information from EAP (Employee Assistance Programme)

External evidence sources:

- Statical information
- Reports
- Scottish Government [Equality Evidence Finder](#)

The evidence obtained must be proportionate to the overall policy. Support at any time can be obtained from the Corporate Equality Team and you may wish to co-opt in colleagues to support this process. As EqlAs are fundamentally about assessing the impact of a policy, evidence is collected in order for this to occur with any real meaning and value.

Equality stakeholders tend to offer an insight into the strength of the policy from the perspective of people and groups who share protected characteristics. Policy owners, while also being mindful of this, tend to offer an insight on the operation of the policies and the practices associated with them. Both dimensions are useful in understanding which aspects of the policy can be adjusted, what actions can be put in place to remove barriers, advance equality and foster good relations and what difference the actions would make.

Policy owners that would like to enhance the review process by gathering the views of people with protected characteristics must set out arrangements for involving and consulting with people who are affected or likely to be affected by the policy. SQA has several staff networks that can help provide the point of view of some of the protected characteristics.

SQA has a [Knowledge Hub](#) of evidence available which includes the summarised evidence and useful links, but also good examples of evidence and approaches taken by other colleagues in SQA.

The evidence collected will inform the next step of considering how this policy could impact on equality groups by deepening an understanding of the perspective of people who belong to equality groups.

After taking the opportunity to collect evidence using the sources listed above and summarising the evidence you may find that there are still gaps in evidence you would have wished to have obtained. Make a note of any subsequent actions which may be useful to undertake to obtain this evidence.

### **Differential Impact**

You may consider that as your policy applies to all that the impact will be the same. People have different needs and experiences and therefore just because a policy applies to all it might not affect them in the same way. This differential impact requires to be considered.

Where the impact on an equality group could be negative action is taken to mitigate against this. Where the impact is considered to be positive this should be noted. Where either decision is made it is support by evidence and consultation.

This section of the EqIA will also explore how we can have 'due regard' to the General Equality Duty.

When we describe impact at this time it is perceived impact as it is only through monitoring of the implementation of the policy you will measure the actual impact. For this reason, we have built this monitoring of the actual impact of the policy as a required action in the EqIA process.

In this section take the opportunity to consider how you will promote equality. We have a duty to eliminate unlawful discrimination, harassment and victimisation. We also have a duty to advance equality of opportunity and to foster good relations. Consider these duties and if there is an opportunity for you to contribute to achieving them through your policy.

The main difference between the duties for disability and those for other protected characteristics is that there is a duty to take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons **more favourably** than other persons.

You are also encouraged to consider the impact on care experienced young people. SQA is committed to [treating care experience similar to a protected characteristic](#). This is an important step in meeting our [Corporate Parenting responsibilities](#). To discuss further, or request advice contact the Corporate Equality Team.

You do not have to write something for every single equality group – take some time to consider every equality group but only complete the section for those which are appropriate to your policy. For some areas, you may not be aware of a particular group experiencing a differential impact but you may wish to put monitoring processes in place to allow you to check.

It is important to stress that the specific duty requires you to 'assess the impact' of applying a policy. We are not required to follow a specific methodology or complete a particular template in order to meet the specific duty. The specific duty requires SQA to actively consider how your policy will meet the requirements of the General Equality Duty, and it is important that we record this as evidence of having paid due regard.

## **Rationale**

Whenever any adverse impact amounts to unlawful discrimination, the policy **must** be amended to avert this.

It is recognised that where we have been unable to take steps to reduce any potential risk of discrimination, we will need to think about other ways of achieving the objectives or whether we can justify the adverse impact in law. At this point, the Corporate Equality Team can help SQA obtain legal advice if required. We may wish to pilot the policy or function or some of the mitigations to assess whether we can achieve our policy objectives without adverse effect.

If you are proceeding with any policy that may result in a negative impact on an equality group and are not taking actions to adjust this or put mitigating measures in place, please explain your rationale. Your rationale may include reference to legislative requirements or a Scottish Government initiative, for example.

## **Actions**

Review the information you have provided and return to the first page to complete the action plan.

## **Next Steps**

On completion, the EqIA should be emailed to [cetequality@sqa.org.uk](mailto:cetequality@sqa.org.uk)

## **Further Information on Equality groups**

EqIAs can be used to focus on specific equality groups. This can help promote equality of opportunity for a particular group. For example, certain sections of the community may be known to experience more disadvantage than others. They may be adversely affected by a policy or service or omitted from the benefits of a policy or service. This needs to be carefully considered in the context of the EqIA process.

There are a range of different equality groups. The EqIA focuses on these groups to try to find out whether or not they are benefiting from a strategy, policy, service, project or function. Equality groups are called “protected characteristics” under the UK Equality Act 2010. These are as follows:

### **Age**

Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).

### **Disability**

A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.



**Gender reassignment**

The process of transitioning from one gender to another.

**Marriage and civil partnership**

A person is legally married if the union is recognised as a marriage under UK law. Same-sex couples can also have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters.

**Pregnancy and maternity**

Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavorably because she is breastfeeding.

**Race**

Refers to the protected characteristic of Race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

**Religion and belief**

Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

**Sex**

A man or a woman.

**Sexual orientation**

Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.