

Equality Impact Assessment

1. 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 its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:
 - (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
 - (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
 - (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
 - (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:
 - (a) Eliminate discrimination, harassment and victimisation;
 - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).
3. These are known as the three aims of the general equality duty.

Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:
 - Age
 - Disability
 - Gender reassignment
 - Marriage and civil partnership*
 - Pregnancy and maternity
 - Race
 - Religion or belief
 - Sex
 - Sexual orientation

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

Due regard

5. Having 'due regard' is about using good equality information and analysis at the right time as part of decision-making procedures.
6. 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. This can involve:
 - removing or minimising disadvantages suffered by people due to their protected characteristics.
 - taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.
 - encouraging people with certain protected characteristics to participate in public life or in other activities where it is disproportionately low.
7. How much regard is 'due' will depend on the circumstances The greater the potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.
8. In terms of timing:
 - Having 'due regard' should be considered at the inception of any decision or proposed policy or service development or change.
 - Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
 - The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.

Armed Forces Community

9. As part of the council's commitment to the Armed Forces Community made through the signing of the Armed Forces Covenant the council's Cabinet agreed in November 2017 that potential impacts on the Armed Forces Community should be considered as part of the Equality Impact Assessment process.
10. Accordingly, due regard should also be had throughout the decision making process to potential impacts on the groups covered by the Armed Forces Covenant:
 - Current serving members of the Armed Forces (both Regular and Reserve)
 - Former serving members of the Armed Forces (both Regular and Reserve)
 - The families of current and former Armed Forces personnel.

Case law principles

11. 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 and so EIA's must be attached to any relevant committee reports.
 - 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 duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one so that it needs to be considered not only when a policy, for example, is being developed and agreed but also when it is implemented.
- 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.
- 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.

The Equality and Human Rights Commission has produced helpful guidance on “Meeting the Equality Duty in Policy and Decision-Making” (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or service development or change and other decisions likely to engage the equality duty. [Equality Duty in decision-making](#)

Lead officer:	Environmental Protection and Licensing Team Leader
Decision maker:	Full Council
Decision: <ul style="list-style-type: none"> • Policy, project, service, contract • Review, change, new, stop 	Policy review
Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	29 February 2023
Summary of the proposed decision: <ul style="list-style-type: none"> • Aims and objectives • Key actions • Expected outcomes 	The report seeks to republish the existing policy for the licensing of Sex Shops, Sex Cinemas, and Sexual Entertainment Venues.

<ul style="list-style-type: none"> Who will be affected and how? How many people will be affected? 	<p>There are no changes to policy content, and only minor administrative updates to the existing policy to update matters such as Committee names, and referenced documents.</p> <p>Those affected will primarily be those associated with the licensed trade (businesses, employees, customers). Secondly other parties such as local residents, and agencies such as Kent Police may be affected by the operation of such a licensed premises.</p>	
<p>Information and research:</p> <ul style="list-style-type: none"> Outline the information and research that has informed the decision. Include sources and key findings. 	<p>Research conducted as part of the revision of the policy includes;</p> <ul style="list-style-type: none"> Legislative changes Best practice guidance General licensing research 	
<p>Consultation:</p> <ul style="list-style-type: none"> What specific consultation has occurred on this decision? What were the results of the consultation? Did the consultation analysis reveal any difference in views across the protected characteristics? What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics? 	<p>A open consultation was conducted between April and July 2023, with the consultation being advertised on the councils consultation portal, the relevant licensing webpage, and with the following organisations directly invited to submit any comments;</p> <ul style="list-style-type: none"> Kent Police Kent Fire & Rescue Service Kent County Council Trading Standards Kent County Council Social Services Members Ashford Borough Council Planning Authority Ashford Borough Council Legal Services Ashford Borough Council Economic Development Tenterden Town Council <p>In the absence of any trade organisations, or local licensed premises of this nature, no parties representing the trade could be invited to submit comments directly.</p> <p>No responses were received with reference to the consultation made.</p>	
<p>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.</p> <p>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.</p>		
<p>Protected characteristic</p>	<p>Relevance to Decision High/Medium/Low/None</p>	<p>Impact of Decision Positive (Major/Minor)</p>

		Negative (Major/Minor) Neutral
<u>AGE</u>		
Elderly	Low	Neutral
Middle age	Low	Neutral
Young adult	Low	Neutral
Children	High	Positive (Major)
<u>DISABILITY</u>	Low	
Physical		Neutral
Mental	Low	Neutral
Sensory	Low	Neutral
<u>GENDER RE- ASSIGNMENT</u>	High	Positive (Major)
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	Low	Neutral
<u>PREGNANCY/MATERNITY</u>	Low	Neutral
<u>RACE</u>	Low	Neutral
<u>RELIGION OR BELIEF</u>	Low	Neutral
<u>SEX</u>		
Men	High	Positive (Major)
Women	High	Positive (Major)
<u>SEXUAL ORIENTATION</u>	High	Positive (Major)
<u>ARMED FORCES COMMUNITY</u>		
Regular/Reserve personnel	None	Neutral
Former service personnel	None	Neutral
Service families	None	Neutral

Mitigating negative impact: Where any negative impact has been identified, outline	N/A
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the measures taken to mitigate against it.	
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Is the decision relevant to the aims of the equality duty?	
Guidance on the aims can be found in the EHRC's Essential Guide , alongside fuller PSED Technical Guidance .	
Aim	Yes / No / N/A
1) Eliminate discrimination, harassment and victimisation	Yes
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	Yes

<p>Conclusion:</p> <ul style="list-style-type: none"> 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 (see guidance above). Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified. How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported? 	<p>The republishing of the policy is not considered to have any negative impacts on equality.</p> <p>The adoption of a policy in respects of this licensing area is considered good practice, and goes to aim to promote the protection of children from harm associated with adult entertainments, and also the safety of performers etc. (regardless of sex, or sexual orientation etc.).</p> <p>The policy will be reviewed after a period of five years, or sooner if guidance or legislative changes deem it necessary.</p>
EIA completion date:	2 January 2023