

Conducting Equality Impact Assessments in Higher Education



Equality Challenge Unit

HIGHER EDUCATION
FUNDING COUNCIL *hefce* FOR ENGLAND

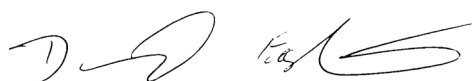
Foreword

HEFCE is fully committed to promoting equality in higher education. This is important for its own sake, but we recognise also that there is a parallel between achieving excellence in equalities and other institutional priorities, not least academic excellence.

In order to enhance equality, institutions need to understand the needs of staff, students, stakeholders and the wider community, and to address those needs in their policies and practices. Impact assessment is not only a legal requirement, but a powerful instrument of positive change.

In embedding equalities through impact assessment, institutions face two key challenges: promoting understanding of impact assessment across the institution, and valuing its use as an instrument of positive change. This guidance will help to meet those challenges by explaining the process of impact assessment, and providing practical examples of implementation. In its promotion of mainstreaming, the guidance will ensure the important equalities function of impact assessment works within the institutional review structure.

We are grateful to those institutions that provided examples and case studies for this document, and to those institutions that took the time to complete the Equality Challenge Unit's survey of experiences of and attitudes to impact assessment in the sector early in 2007. We also appreciate the contribution of critical readers, including practitioners and trade unions, whose input has helped to hone this document into a practical resource for institutions. ECU will be building on this guidance with ongoing work around impact assessment, including through regional practitioner networks and the provision of an online resource with further examples from the sector.



Professor David Eastwood
Chief Executive, HEFCE

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Context

Overview

1. This document provides practical guidance to higher education institutions in assessing the equality impact of their institutional policies. It is split into two main sections: the first offers context and background to equality impact assessment, and the second offers more practical guidance, including what to assess, who should carry out assessment, when assessment should take place, and a step-by-step guide to carrying out equality impact assessments.

Who is this guidance for?

2. This document is aimed at senior managers, heads of department, equality practitioners, and all those with a responsibility for policy formation and policy delivery in higher education. These are the people responsible for carrying out or contributing to impact assessment in higher education institutions. It is also recommended reading for anyone working in higher education, as the concept of impact assessment has to be incorporated into everyday working practices.

Meaning of equality impact assessment

3. Equality impact assessment (EIA) is the term given to a review of an institution's policies to ensure that the institution is not discriminating unlawfully – and that it is making a positive contribution to equality. It is the process of assessing the impact of existing or proposed policies and practices in relation to their consequences for equality.



Table 1 The three equality duties

Race Equality Duty	Disability Equality Duty	Gender Equality Duty
Universities and colleges have a 'general duty' to have due regard to: <ul style="list-style-type: none">= the need to eliminate unlawful racial discrimination= the need to promote equality of opportunity between persons of different racial groups= the need to promote good relations between persons of different racial groups.	Universities and colleges have a 'general duty' to: <ul style="list-style-type: none">= promote equality of opportunity between disabled persons and other persons= eliminate discrimination that is unlawful under the Disability Discrimination Act (2005)= eliminate harassment of disabled persons that is related to their disabilities= promote positive attitudes towards disabled persons= take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons.	Universities and colleges have a 'general duty' to: <ul style="list-style-type: none">= eliminate sex discrimination= promote gender equality.



Legal context

4. Equality impact assessments are best understood in the wider context of the positive equality duties that exist in the areas of race (since May 2002), disability (since December 2006) and gender (since April 2007). Stemming from the concept of institutional racism – and the broader acknowledgement that institutions, by virtue of the way in which they are structured and carry out their functions, can themselves be discriminatory (‘Institutional discrimination’ box, page 7) – these duties put the onus on public institutions, including higher education institutions, actively to ensure that they are eliminating discrimination and positively to promote equality. The exact requirements of each of the three duties are slightly different, and this guidance will outline both the legal requirements in each instance and good practice guidelines – which might include extending the principles of impact assessment to other equality areas: age, religion and belief, and sexual orientation.

5. The three duties are known as ‘general duties’, and impact assessment is one of the core ‘specific duties’ underpinning them – alongside the requirements:

- = for a policy or scheme
- = to monitor staff and student numbers and progression according to equality strand
- = to publish each policy or scheme and the results of impact assessment and monitoring.

The specific duties are essentially the means by which the general duty is to be discharged and evidence provided of engagement with it. The specific duties underpin the general duties, but are also legal requisites in themselves – a reflection of the fact that they are integral elements of the general duties, and vital tools towards meeting them (see also Figure 1).

6. The logic and importance of impact assessment as a tool in this context lie in the particular nature of the general duties. The first of these, the Race Equality Duty, originating in the Race Relations

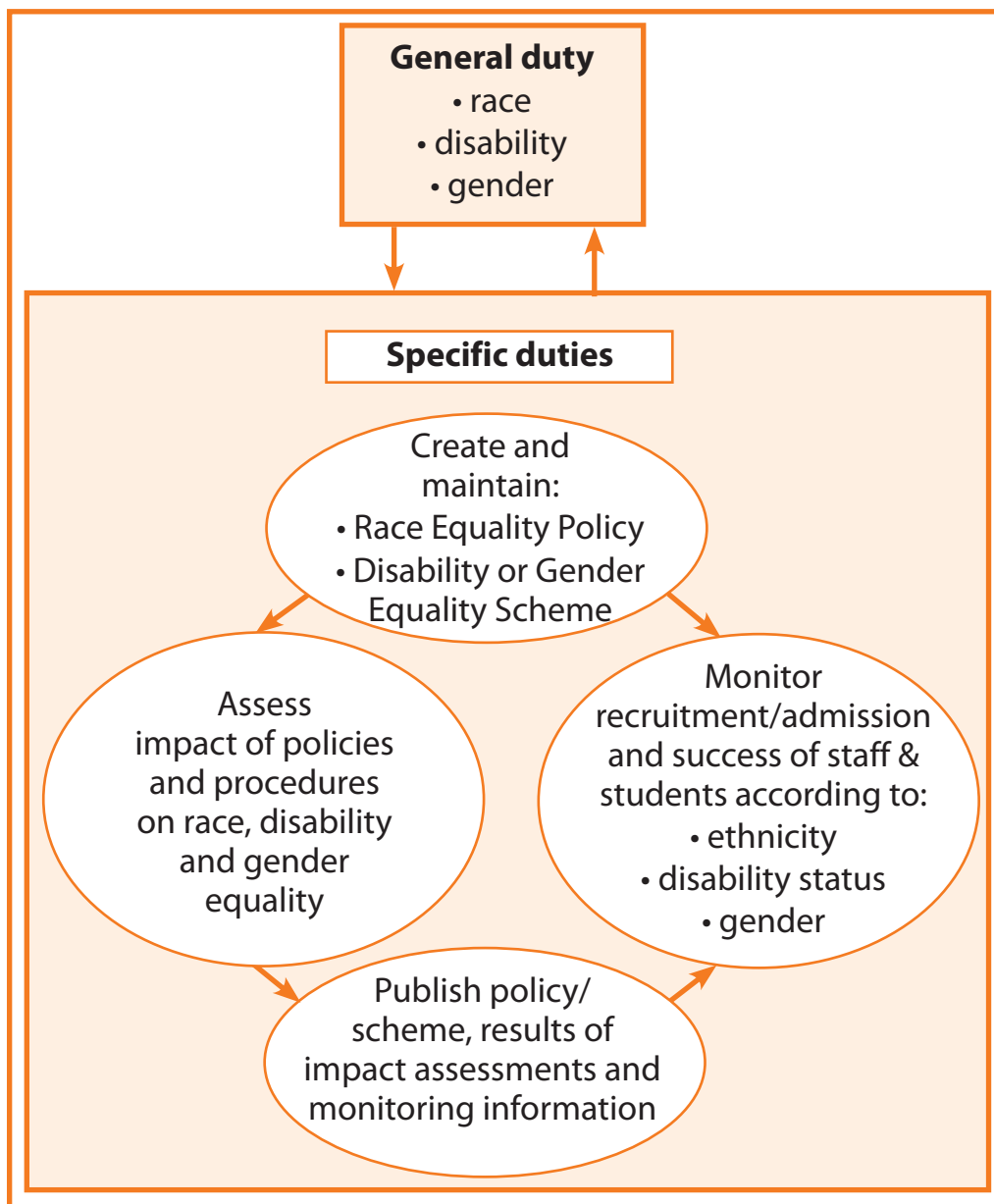



Figure 1 How the core specific duties fit into the general duty

Act (Statutory Duties) Order 2001, represented a step-change in equalities legislation. For the first time, the Duty required institutions not only to avoid doing something (such as avoiding discriminating unlawfully on racial grounds), but to be proactive in



promoting race equality. As a result, institutions have had to take steps to ensure their policies and practices are fair and lawful from the outset. In essence, the Duty stipulates that impact assessment is the means by which this is to be achieved. The requirement that every new policy – and ultimately also a back-catalogue of existing policies – should undergo race EIA means that any negative impact on race equality will be identified and can be rectified. In the case of new policies, this could take place before the policy has been instigated.

7. The Disability Discrimination Act (2005) extended the duty to carry out impact assessment to another equality strand. Most recently, the Equality Act 2006, which came into force in April 2007, extended it to gender. The Disability Equality Duty also takes impact assessment a stage further, requiring institutions to look not only for potential or actual negative impact for disabled people, but also for opportunities for positive impact that might have been missed. Although the need to look for positive opportunities is made explicit only in the case of disability, it would be good practice to take the same approach to race, as looking for opportunities for positive impact is more in keeping with the broader nature of all the general duties. Indeed, it will not always be clear where the distinction between missing a potential positive impact and having a negative impact lies. The Disability Equality Duty also introduced a stronger duty to involve those it aims to protect, explicitly requiring involvement of disabled people to be an ongoing process throughout the course of meeting the duty. Again, this principle of continuous involvement is something that fits well with the logic of all the positive equality duties.

Other equality strands

8. Unlike with race, disability and gender, there is no legal requirement to conduct impact assessment in the areas of sexual orientation, religion and belief, or age. Nonetheless, a number of institutions have chosen to undertake impact assessment in these areas. Impact assessment in the areas where it is not a legal



Institutional discrimination

The positive equality duty in race followed the Macpherson report of the Stephen Lawrence inquiry, and was an approach designed to counter institutional racism where a reactive anti-discrimination model had failed to eradicate it. Institutional racism has equivalents in other areas, such as in institutional sexism, or in the exclusion by institutions of disabled people. As a result, it has been recognised that an institutional approach is required to eliminating barriers to disadvantaged groups – hence the positive duties come in.

The report of the inquiry, which found the Metropolitan Police to be institutionally racist, defined the term as containing the following elements:

- (i) The collective failure of an organisation to provide an appropriate and professional service to people
- (ii) because of their colour, culture, or ethnic origin
- (iii) which can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.

With this definition in mind, institutions need to have mechanisms in place to ensure that what they offer, as an employer or provider of services, meets the needs of staff – and, in higher education, students. Equality impact assessment is an important means of ensuring that this is being achieved.

requirement nonetheless offers institutions a range of benefits (see box: 'Other ways of thinking of equality impact assessment'). In addition, institutions have legal obligations not to discriminate in the areas of sexual orientation, religion and belief, and age, and conducting impact assessment in these areas is a useful tool in ensuring they comply with these obligations.



Other ways of thinking of equality impact assessment

Equality MOT


Equality impact assessment can be thought of as an 'equality MOT', with the examination of each individual process adding up to a collective assessment of the performance of the whole. Without looking at individual policies and practices, it would be impossible to assess institutional performance with regard to equality. And by identifying areas where the institution could do better, EIA can act as an instrument of change.

As with an MOT, there is a legal imperative to assess, but the process should also be a beneficial one for all concerned. Ultimately, impact assessment is about ensuring that an institution is maximising the potential of its staff and students. This should not be seen as a burden, but as an opportunity for institutions to enhance existing mechanisms, an important part of which requires consideration of the impact of policies and practices on those groups who have been historically disadvantaged in society as a whole, and in higher education in particular.

Equality impact assessment is not about finding fault in order to assign blame, but about looking for ways to improve the situation for equality target groups. Indeed, EIA can only be successful through finding areas for improvement: if nothing changes as a result of impact assessments across the institution as a whole, then they are not being done properly.

Health and safety analogy

Equality impact assessment can be seen as the equivalent, for equality, of health and safety risk assessments. The steps recommended by the Health and Safety Executive for carrying



out a risk assessment are not dissimilar to the steps required for an EIA. They recommend moving from identifying hazards, through deciding who might be harmed and how, to evaluating risks and deciding on precautions, then reviewing findings and implementing them. Equality impact assessments, meanwhile, should begin with identifying the aims of a policy and who might be affected by them, through assessing impact and considering alternatives, to consulting formally, and then deciding whether to adopt the policy.

Business case

There are also good business reasons for embracing EIA. Institutions compete on the quality of education they provide, and impact assessment can provide a mechanism for raising standards. The way the institution serves students from all backgrounds, and the reputation it builds, may have important future business implications regarding recruitment from particular backgrounds, such as international students.

In addition to the effect of reputation on the recruitment of staff and students, their retention will be affected by the institution's ability to cater for the needs of diverse groups of people. Staff and student retention are potentially high cost areas, and ensuring that retention in both areas is maximised makes business sense.

Long-term cultural change

It is important to note that EIA will not necessarily mean 'quick wins', but will benefit the institution over the longer term, as it improves both its reputation and the way in which it serves all groups. While there may in many cases be gains from impact assessment in the short term, and in specific areas, arguably the greatest benefit of impact assessment will be to promote a more inclusive culture in the institution in the long term.




How does impact assessment fit in with other institutional activities?

9. It is important to see EIA in the context of the institution and its activities as a whole. As discussed above (see box: 'Other ways of thinking of equality impact assessment'), improving how the institution works for groups who have historically not performed to their potential in higher education can contribute to improving institutional performance overall. It is, therefore, advisable that EIAs are conducted systematically across the equality strands as a whole, rather than only on the strands (race, disability and gender) for which impact assessment is a specific requirement.

10. Just as the outcomes of EIA should not be set apart from overall institutional outcomes, so conducting them should not be seen as separate from all other institutional activity. Institutions should therefore look towards incorporating EIAs into existing mechanisms of review. This could potentially have additional benefits with regard to the efficient use of scarce institutional resources. Examples of such review mechanisms include the quality audit process, course validation and review, programme management,

University of Brighton's approach to incorporating impact assessment

The University of Brighton's impact assessment pilot highlighted a need to ensure that work is not duplicated where other systematic processes are already in place. An alternative approach to impact assessment is being piloted, for use where there are already demonstrable systematic review processes covering equalities issues. This involves the policy-holder skipping the first part of the impact assessment, but still completing the summary page for publication. Policy-holders still need to go through the same clearance processes as with the standard approach to impact assessment, and need to be able to provide evidence of how they came to their findings, before sign-off is achieved.



risk assessment, board-level agendas and course-coordinator agendas. As far as timing is concerned, institutions could consider integrating EIAs into the organisational planning cycle. This is both logical from a future planning point of view, and can help to embed impact assessment as an organisational process.

Mainstreaming impact assessment

11. Mainstreaming in impact assessment matters most for the smaller, day-to-day decisions that may take place without consideration of their impact on minority groups, and where it is easiest to miss differential impact. In the longer term, mainstreaming of equality will mean that such decisions will become less and less likely to have a negative impact on minority groups. As a cautionary note, it is important to understand that mainstreaming should be about embedding equality, and not the dilution of it. Care needs to be taken when incorporating impact assessment into the mainstream to ensure EIA is carried out

cont. page 15

Mainstreaming

Mainstreaming equality is essentially concerned with integrating equal opportunities principles, strategies and practices into the everyday work of institutions from the outset, involving everyday decision-makers in addition to equality specialists. In the context of higher education institutions, a decision-maker is anyone who in the course of their work has an impact on the policies and procedures of the institution. By ensuring that all staff – academic and non-academic, manual and non-manual – incorporate equal opportunities principles into their work and their thinking, institutions can ensure their policies take account of equal opportunities principles as a matter of course. In the longer term, mainstreaming seeks to ensure that, by consciously making the effort to consider equal opportunities principles as part of everyday policies and procedures, these principles will in time come to be seen as part and parcel of institutional activity.



Mainstreaming tools and techniques

Analytical tools and techniques are involved in the production and provision of information necessary to become aware of equality issues and to make informed policy decisions. Tools and techniques are also required to monitor and evaluate policy implementation.

Educational tools and techniques contain two aspects: awareness-raising and the transfer of knowledge. Awareness-raising aims to challenge existing values and norms which perpetuate inequality and demonstrate how they influence and limit decision-making; and training that teaches people, especially the actors normally involved in policy processes, how to detect equality issues and how to develop policies in order to take equality issues into account. In addition, public awareness-raising about mainstreaming is needed to give impetus to debate, to raise broad interest, and to encourage mobilisation in general as well as means of training to transmit the information and knowledge necessary for action.


To facilitate consultation and participation – mainstreaming involves a greater number of people, including external actors, and this requires consultative and participatory techniques and tools. The direct input of people who will be affected by policies not only improves the quality of policy making but also deepens democracy. It is important that people of all groups participate in all decisions taken in an institution, given their various experiences and perspectives. Mainstreaming is a central plank of initiatives to promote democratic renewal.

Table 2 Mainstreaming tools and techniques

Analytical	Educational	To facilitate consultation and participation
<p><i>Statistics disaggregated according to equality group</i></p> <p>The routine identification, collection, use and dissemination of statistics broken down by equality group is a prerequisite to effective policy-making and the mainstreaming of equality</p>	<p><i>Awareness-raising and training courses</i></p> <p>Involving high-ranking managers to promote political commitment</p> <p>Courses at middle and lower management focus on awareness-raising, but equally highlight how these persons can put equality mainstreaming into practice and integrate it into their work</p> <p>Specialist training for persons who need to apply specific tools and techniques such as EIA</p>	<p><i>Working or steering groups and think tanks</i></p> <p>Mainstreaming requires exchange of information, experiences and knowledge, as well as tight cooperation and coordination of activities between various actors</p>
<p><i>Surveys and forecasts</i></p> <p>To map the current state of relations between different groups and make predictions of the impact of policies on future developments</p>	<p><i>Follow-up action</i></p> <p>Post-training support or refresher/booster courses</p>	<p><i>Directories, databases and organisational charts</i></p> <p>Help policy-makers consult with individuals, groups or organisations</p>
<p><i>Cost-benefit analyses</i></p> <p>Operate as an 'eye-opener' and help detect unintended consequences of proposed policies</p>	<p><i>Use of external specialists in equality issues</i></p> <p>Can provide education at the level of a unit or department by temporarily joining it in order to provide intensive help to those who have already had an awareness-raising course and training; specialists intervene to put people on the right track</p>	<p><i>Participation of all groups in decision-making</i></p>

Table 2 Continued

Analytical	Educational	To facilitate consultation and participation
<i>Research</i> One of the most important bases for mainstreaming – identifies current issues, problems and potential solutions, and can provide new insights and ideas; may involve any of the tools listed above	<i>Manuals and handbooks</i> Contain practical information and can help individuals to integrate a gender or equality perspective into their work	<i>Conferences, seminars and press conferences</i> Create opportunities to inform the public in general and those concerned by policies
<i>Checklists, guidelines and terms of reference</i> Checklists explain what equality mainstreaming is about, set out the objectives and describe the action to be taken; guidelines and terms of reference are more general tools	<i>Booklets and leaflets</i> Publication of promotional booklets or leaflets about equality mainstreaming, for wide distribution, provides information and raises awareness	<i>Information events</i> Provide an opportunity to transmit information and enable people to participate in the policy-making process Allow for direct participation of people in developing and deciding on policies that concern them
<i>Equality impact assessment</i> A type of mainstreaming that helps to embed equality into institutional policies and practices		
<i>Monitoring of policies</i> Continuous scrutiny, follow-up and evaluation of policies		
Source: abridged and adapted from Council of Europe (1998) <i>Gender Mainstreaming: Conceptual Framework, Methodology and Presentation of Good Practices. Final Report of the Group of Specialists on Mainstreaming</i> . Council of Europe, GR-EG (98)1.		




completely and to the standards required, even though it may not be conducted as a stand-alone activity, but as part of an existing mechanism of review.

12. This area may raise the potential for conflict between having a committee or a dedicated group of people who promote equality, and a mainstreamed approach so that everyone deals with it. In reality, mainstreaming should involve an element of both approaches. While EIA should certainly incorporate a wide range of decision-makers from across the institution (see 'Who should conduct impact assessments?', page 19), a central system of quality assurance is also important. This might take the form of a strategic group whose role includes establishing templates for impact assessment – important for ensuring consistency – making sure that timetabling of impact assessments goes to plan, and overseeing the process as a whole. The key distinction between a mainstreamed and a non-mainstreamed approach is that, with mainstreaming, the strategic group (or whatever body is overseeing impact assessment) will have the role of enabling impact assessments, but not conducting them (see page 11).

Multi-strand impact assessments

13. Some institutions may choose to conduct impact assessment in more than one equality strand at a time. This could be those strands for which there is a duty to carry out impact assessment – race, disability and gender – or it could incorporate one or more of the other equality strands. The rationale might be that it cuts down on administrative work, or allows some resources (such as the time taken to train policy-makers in impact assessment) to be used most efficiently. Multi-strand impact assessments also enable institutions to go beyond what are often artificial equality strands to look at the experiences of those with multiple identities, for example disabled transgender people, or black and minority ethnic women.

14. Although the process may be streamlined, it is important not to see multi-strand assessments as a means of cutting down on the scope of the EIA that is carried out. A multi-strand impact



assessment that incorporates race, disability and gender, for example, may ultimately be published in a single document, but the processes of considering the impact of race, disability and gender must each have been considered separately, and explicitly so. In a sense, it must be a race impact assessment, a disability impact assessment, and a gender impact assessment. As with mainstreaming, it is important that a multi-strand approach to impact assessment does not lead to dilution. Wherever appropriate, black and minority ethnic staff and students, disabled staff and students, and men, women and transgender people should each be consulted or involved. Expertise in each equality area must be brought to bear on the impact assessment for that equality area. From a legal compliance perspective, the duties to carry out impact assessment in the areas of race, disability and gender are all separate, so it is imperative that institutions can demonstrate that each duty has been met.

Conducting impact assessment

What to assess?

15. All formal and informal policies and functions of an institution must have an impact assessment. Before beginning the impact assessment process, it is necessary to carry out a mapping exercise – or scoping – within the institution to identify what these policies and functions are.

16. This scoping process prior to impact assessment needs to capture all policies and procedures – written and unwritten; large and small. The mapping exercise could use the institution's corporate and operational plans as a starting point. It would be a mistake to think of 'policy' and 'function' as necessarily meaning that things are formally set out. Although they are grand words, lying behind them is a collection of often far more mundane realities. A policy or function could simply be 'the way we do things round here', just as much as it could be something more formal such as the admissions process. While small policies and functions are in many ways harder to assess, they are still vital, and without



Northern Ireland Higher Education Equality Consortium mapping exercise

This exercise divided institutional policy areas into the following 10 main strands and subsections. The exercise was outlined in the Consortium's Consultation Document on the Screening of Policies (2003).

Academic planning and strategy: Teaching and Learning; Academic Services; Student Skills; Course Approval; Management and Regulatory Framework; E-learning; Short Courses; Professional Development; Language for Teaching; Student Recruitment and Admissions; Examinations and Assessments; Appointment of Examiners; Annual Academic Planning; Widening Access and Participation; International Students; Student Complaints and Appeals; Scholarships and Awards; Student Prizes; Standard Prizes; Standard Assurance and Quality Management

Research Strategy: Research and Development; Selection and Monitoring of Staff as Researchers; Allocation of Support for Research; Prioritisation of Research Areas for Support and Development; Selection and Admission of Research Students; Administration of Research Funding

Regional Strategy and Development: Regional Development and Regional Activities; Conflict of Interest; Intellectual Property; Consultancy

Information and ICT Services: Library Services and Collection Development; Information Access; Acceptable ICT Use; Information Security; Data Protection

Communications and Public Affairs: Publications and Printed Materials; Event Management; Community Outreach/Access; Advertising; Press Relations/Communications; Website Development




Estates Services: Estates Services; Car Parking; Consultant Contractor Procurement; Key Staff/Students with Dependents Housing Allocation; Room/Venue Bookings/Allocation; Physical Access for People with a Disability

Student Services: Student Services; Accommodation Provision; Childcare Provision; Student Discipline; Misuse of Alcohol, Substances and Drugs; Students with a Disability; Clubs and Societies; Catering Services; Health Services; Student Support; Careers Advice; Counselling; Sports and Recreation; Union/ Association Representation

Human Resources: Equal Opportunities; Harassment and Bullying; Facilities and Time-off Arrangements; Sabbatical Leave; Family-Friendly Suite; Staff Recruitment and Selection; Visiting Professorships; Job Evaluation; Staff Pay and Reward; Annual Review; Occupational Sick Pay; Academic Promotions; Payment of Salaries and Wages; Discretionary Pay/Accelerated Increments; Health and Safety; Alcohol, Drugs or Substance Abuse; Staff Training and Development; Staff Appraisal; Employee Relations; Staff Grievances; Staff Discipline; Redeployment

Finance and Procurement: Purchasing/Procurement; Best Value; Purchasing Accountability; Financial Regulations; Risk Management; Fraud; Finance; Student Funding; Payment of Student Fees; Research Fees; Pensions

Other: Appointments to Council/Senate; Appointment to Honorary Academic Title



capturing these, the impact assessment process can only be so effective.

17. The mapping exercise should identify existing policies and functions – the ‘back catalogue’ that needs to be timetabled for impact assessment. It will also help to understand the range of new policies that must undergo impact assessment as they are proposed. Introducing a systematic process for new policies should help to ensure that nothing is missed out from EIA in future.

For more detail on scoping policies and functions and taking them forward towards impact assessment, see ‘How should impact assessment be conducted?’ (page 22).

Who should conduct impact assessments?

18. Those carrying out EIA need to have three main qualities:

- = knowledge and understanding of the policy
- = knowledge and understanding of equality
- = an ability to be objective about the policy.

19. The range of skills required to carry out successful impact assessment should help elucidate why EIA is best not carried out by the equality department in isolation, but should engage all decision-makers. Ideally, impact assessment should be carried out by teams that collectively embody all the qualities listed above:

- = knowledge and understanding of the policy should come from involving in EIA those involved in drawing up the policy (or, for existing policies and functions, those who carry it out)
- = knowledge and understanding of equality is likely to involve the equality and diversity department in some sense, for example in organising training in equality and diversity for the team
- = an ability to be objective about the policy will, in the longer term, come from encouraging a culture that does not make negative associations with areas for improvement being identified during EIA, recognising instead that the point of EIA is to find things to improve on.



Benefits of institutional commitment

The leader of impact assessment at a university reported that 'the VC has thrown his weight behind the principle and I know that if I asked him to get behind any reluctant or inactive areas, he would.'

In the short term, someone not directly involved in the policy, but playing a 'critical friend' role, could be involved in its impact assessment.

20. As well as those carrying out impact assessments, there needs to be an individual or group with whom overall responsibility for EIAs lies. This may be an impact assessment working group including representation from senior management, and reporting to the Board. Such a working group might also include dedicated equality officers, student representation and trade union representatives. It is also important to note that disabled people should be involved in all key areas of Disability Equality Duty planning and implementation, which could extend to disabled people being involved in conducting some key impact assessments.

When should impact assessment be carried out?

21. The legal duty to carry out impact assessment is tied up with the General Duties in race, disability and gender, and each Duty requires that impact assessment be planned, timetabled and carried out for all existing and new policies. Aside from the strict legal duty, carrying out impact assessment as soon as possible will help to ensure that its benefits are achieved as quickly as possible. Getting things right as early as possible can help save costs of correcting policies in the future.

22. In practical terms, this means that, for the back catalogue, this should be timetabled to take place as soon as practical (the order to be determined by prioritisation – see stage 1, page 22). In the case of new policies, EIA should take place during policy development

– early enough to stop bad policy being made, but late enough for a considered judgement to be reached. Equality impact assessment – that is, full consideration of how the proposed policy is likely to affect people from diverse backgrounds and circumstances – should be an essential ingredient of all stages of policy development, from conception to implementation. This links in with the idea of impact assessment being a means of mainstreaming equality into an institution (see page 11).

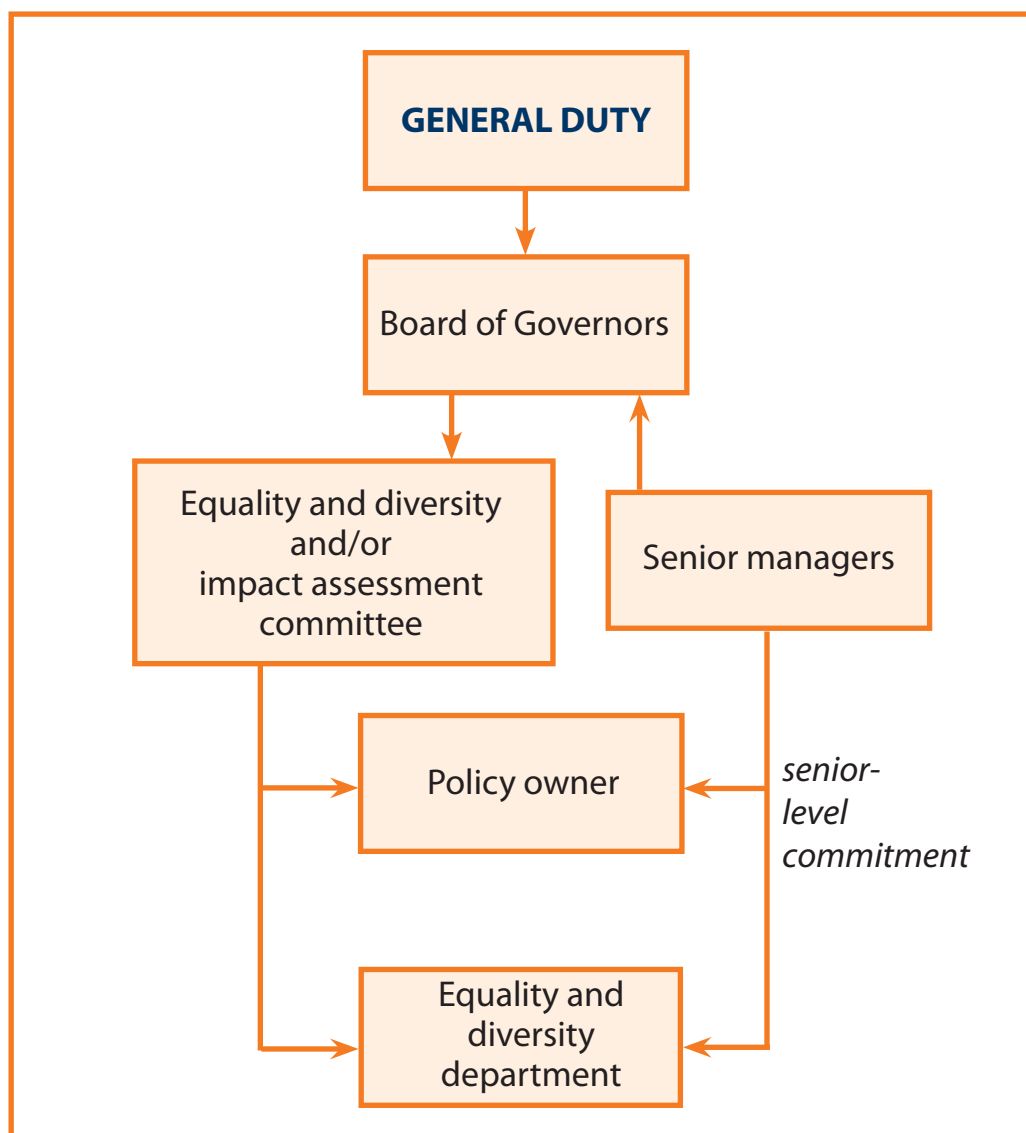



Figure 2 How responsibility might be apportioned within the institution



23. Because impact assessment will inevitably be carried out over a period of time, training in equality and diversity across the institution should be a priority. Impact assessment can in any case run parallel to the process of training. Training in equality and diversity should help ensure that negative impacts on minority groups are minimised across the institution before impact assessment is completed. Just as importantly, training is essential for all those involved in conducting the impact assessment process – likely to incorporate all policy- and decision-makers – and will help to build capacity for this process. For the latter group, training specifically in carrying out EIA will be necessary, in addition to broader equality and diversity training. The success of training should be monitored and adjusted accordingly (see ‘Monitoring and review’, page 51).

How should impact assessment be conducted?

24. It is important to emphasise that EIA is an outcome- and not a process-driven tool. It is of course necessary to have a robust impact assessment process in order to achieve the best possible outcomes; but there is no single best way of carrying out impact assessment, and institutions (or departments within institutions) will tend to find that certain methods work better for them than others. That said, the steps outlined below should at least form part of the thinking when drawing up an impact assessment process for an institution.

Screening and prioritisation (stage 1)

25. Screening is a preliminary stage in impact assessment – a kind of ‘impact assessment lite’ – that seeks to identify a policy or practice’s aims to ascertain whether they are relevant to equality. Those policies and practices that are relevant can then be subjected to more detailed scrutiny, without further resources being diverted to those that are not. Within these two broad categories – ‘relevant’ and ‘not relevant’ – screening can also help to establish levels of priority, so that finite institutional resources are used most

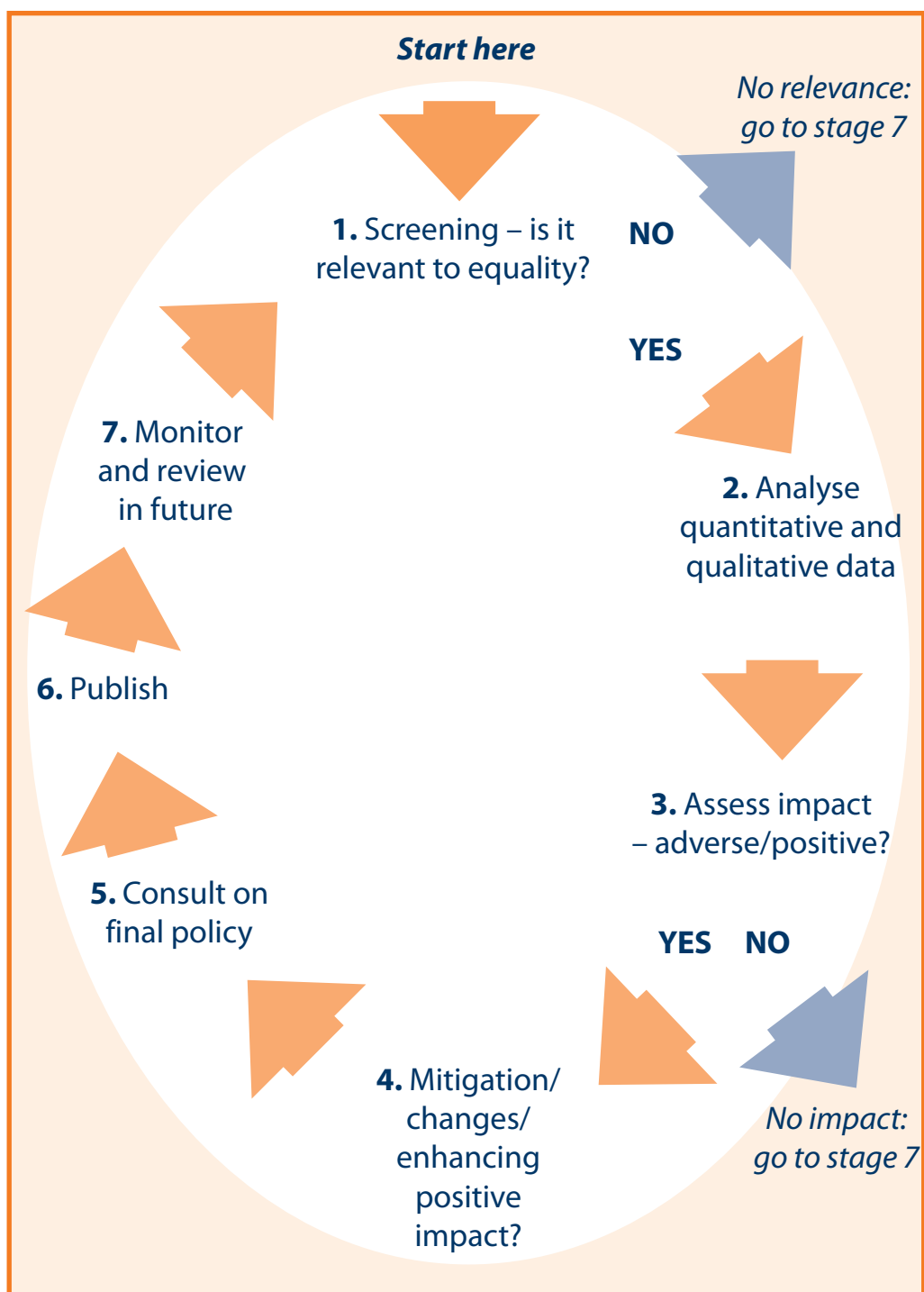



Figure 3 Seven stages of impact assessment



efficiently. As most policies and practices will prove to be relevant to equality to some degree, the process of prioritising for impact assessment is a particularly important role for screening to play.

26. The first part of the screening process is scoping – which can also be thought of as a mapping exercise. This should comprise a systematic method of collecting information on all the areas of work, responsibilities and other relevant functions of the institution. As well as playing a vital role in conducting EIA, a scoping (or mapping) exercise can prove useful for institutional reviews and other institution-wide review activities.

27. In the language of the specific duties to carry out impact assessment, scoping entails mapping out comprehensively all the policies and practices of the institution (see page 16). This part of the process is crucial, as it ensures that all areas of the institution's work are taken into account, maximising the potential for improvement. Scoping helps to break down impact assessment of the institution's activities into its constituent parts – an assessment of each policy and practice in turn. This in turn allows responsibility to be shared throughout the institution, while carrying out the mapping exercise at both institutional and departmental levels helps to ensure that the impact assessment process enters into the mainstream of institutional activity.

28. Once all policies and practices have been mapped out, their aims should be defined, including who they affect, so that they can be screened for equality relevance. When deciding how to carry out screening, the requirement to involve disabled people throughout activities undertaken to meet the Disability Equality Duty suggests that disabled people need to be involved in identifying an appropriate screening methodology. This should also be considered for other EIAs (see 'Involvement and engagement', page 33). A procedure and standard set of questions should be used to determine relevance to the equality strand in question. Questions that can be used to this end include the following.



Example of timetabling impact assessment at a university

Organisation of impact assessment process

As a means of conducting impact assessments in a holistic way, the university divided the process into three distinct stages:

Stage 1 – a thematic impact assessment exercise looking at:

- = employment
- = education
- = marketing
- = student living
- = purchasing
- = research and enterprise
- = physical environment.

Stage 2 – dissemination of the thematic output to schools/ services, which then considered the information in terms of how it affected their practices. At the same time, impact assessments would be embedded into processes. This phase also provided for consultation on policies deemed to be high priority during stage 1.

Stage 3 – final report and completion.

Activities organised at the corporate level included the initial screening, some consultation, corporate-level detailed assessment and theme days, along with advice and support. Schools and services were involved with and responsible for local-level consultation, looking at local practices and school/ service policies.

This process was overseen by a sub-group of the University Council, which produced the following timeline.



Stage 1 – Thematic impact assessment exercise

Year 1

October–December	School/service meeting
January–February	Consultation
March	School/service meeting
April	Consultation

Stage 2 – Dissemination of thematic output to schools/services for their consideration

Year 1

May	School/service meeting
June–July	Consultation
August–September	Review of progress

Year 2

October–December	School/service meeting
January–April	School/service cluster meetings

Stage 3 – Final report and completion

Year 2

May–August	Consultation on outcomes
September	Report for council finalised



Informal policies and functions

Informal policies and functions – ‘the way things are done round here’ – are by their nature not written down, and consequently even the best and most thorough mapping exercise might not capture them all. The logic of impact assessment suggests that this should be acknowledged, and remedies sought. It might be recommended, for example, that steps are taken to ensure that all staff have an understanding of their duties under equalities legislation, and of the institution’s commitment to equality and diversity. Training all staff who play a policy-making role in equality and diversity is an important safeguard in case all informal policies and functions are not captured by impact assessment. Subjecting informal policies and functions to EIA emphasises the importance, from an equality perspective, of transparency in all an institution’s activities.

What is the purpose of the policy?

- = Are there concurrent objectives of the policy? If so, what are they?
- = Who created the policy?
- = Who is responsible for implementing the policy?
- = Who are the main stakeholders of the policy?
- = Is there any evidence that different groups have different needs in relation to this policy?
- = How are different groups affected by the policy?
- = Can this policy meet or hinder the equality and diversity policies, values or objectives of the institution?

29. New policies or changes to existing policies should also undergo an impact assessment screening. For example, changes to pay, terms and conditions should be screened for equality relevance. This might be a change to working hours or patterns of work, and these could have particular impact on one or more equality groups.



Example of screening a new policy

A policy was proposed at a university whereby catering staff were asked to undertake work on evening functions that they had not anticipated when they signed up. An initial impact assessment screening identified that some groups, including those with caring responsibilities, might be adversely affected by this policy, and so a full impact assessment was scheduled.

30. This process leads naturally to prioritisation, based on the level of risk of that policy having an adverse impact on equality. Once policies and practices have been prioritised in order of importance and relevance to equality, the order in which they should be assessed can be determined, and resources allocated accordingly.

31. One key means of determining initial prioritisation might be to consider the number of complaints that a given policy has drawn. In order for this to happen, there must be a robust complaints and grievances procedure in place, affording an opportunity for the monitoring of policies and practices that may discriminate. This means that EIA of the complaints and grievances procedure is likely to be a very high priority for impact assessment.

When will screening be enough?

Screening a policy is unlikely to be sufficient: its purpose is to prioritise policies for full impact assessment, not to replace impact assessment. Only when a policy is judged to have no relevance to equality whatsoever should a full impact assessment not be carried out at all. Policies with low relevance to equality should be classed as low priority, but nonetheless an impact assessment should be carried out at a future date. When screening, as when carrying out impact assessment, lack of evidence of discrimination is not evidence of a lack of discrimination.



Screening Example 1: Bath Spa University

Student Support Services undertook the first screening process. The screening process for disability began by paying a group of disabled students to come in and talk about areas of concern, both from initial suggestions and from their own initiative. This got the ball rolling, and areas of concern were then fed into the larger plan.

Student Support Services' first steps were then used to encourage other departments to follow suit, which they are beginning to do. It was decided early on to have maximum staff involvement in impact assessment, emphasising that everything anyone does has the potential to be fully inclusive and accessible. This has helped to give people a sense of having a role, and helped to kick off the impact assessment process.

At the institutional level, the University held a forum with representative disabled people's groups about what areas of its work could be improved for them, which helped determine priorities for impact assessment from users' perspectives.

Data gathering and analysis (stage 2)

32. Impact assessment is not possible without adequate data. Indeed, it is likely that the mechanisms higher education institutions already have in place to gather internal and external data that can be used in impact assessment will themselves be one of the higher priorities for EIA.

33. Data will assist in reaching a judgement as to the impact each policy has, or might have, on a particular group of people. To this end, it is necessary to consider what data are available that are relevant to the policy in question; to consider what parts of these data are appropriate for the impact assessment; and where there are insufficient data for an accurate judgement on impact to be reached, to make arrangements to collect further information.



Screening Example 2

A university carried out an initial screening of all its policies to ascertain which ones would be subject to a full impact assessment.

In order to inform the screening process, the institution carried out a range of consultation methods, including written and verbal responses, internal and external groups, and raising awareness of the consultation activities using a range of communication methods.

Key questions were put to those consulted, which were broad enough to encompass diverse views along with particular issues facing the consultees individually.

Existing data

34. There are many sources of data, which will differ from institution to institution, but in each case it is important to consider both internal and external data.

35. Internal data might include:

- = monitoring data according to ethnic group, disability status or gender
- = surveys and consultations
- = complaints and grievances.

36. External data or research could help in identifying barriers, issues and areas in which equality is likely to be a priority. Sources of such information could include:

- = data collected by the Universities and Colleges Admissions Service and the Higher Education Statistics Agency
- = research undertaken by the equality commissions
- = research undertaken by trade unions
- = census data
- = labour force surveys
- = other commissioned research and reports relevant to the sector.



Appropriate data

37. Data will be appropriate where they provide the information the institution needs to know about the effects of the policy being assessed. It is important to ensure all perspectives are taken into account. The person conducting the impact assessment should ascertain what existing qualitative and quantitative data are available, what additional data might be required and, above all, what kinds of data will most meaningfully inform future practice in the area concerned.

Collecting additional data

38. Where there are insufficient data for an accurate judgement on impact to be made, the feasibility of collecting further information should be considered. This may not be as onerous as it first appears, since it may well be possible to mainstream such mechanisms into systems already present within the institution, such as exit questionnaires. Additional mechanisms that might be used could include:

- = consultations with staff or students who are affected by a particular policy
- = surveys (face-to-face, telephone, web, postal)
- = interviews (group, individual)
- = external reviews, such as consultants' reports
- = pilot projects
- = reviews of formal and informal complaints.

39. When considering whether additional data may be needed, it is important to keep in mind that an informed judgement on differential impact can be made only through the examination of a wide range of relevant data and research. In particular, quantitative data alone cannot always identify issues of perception, and of how particular groups feel they are being treated. In addition, statistics alone may not be helpful in seeking to ascertain potential positive impacts on equality areas that may not have been considered previously. Finally, qualitative data may be of particular importance



Example: Impact assessment of a university's catering policy


The university's service area responsible for catering will need information on:

- = how many people eat the institution's food
- = which people eat university food
- = whether these people have any particular needs
- = whether their needs are being met
- = whether members of equality target groups in the institution are satisfied with the catering arrangements
- = why people from equality target groups choose not to eat the institution's food.

The university had up-to-date qualitative data from those who use the canteen, but no information from the people who did not, or from equality target groups within the institution.

Looking at external qualitative data from national religious and faith organisations regarding necessary catering adjustments, the catering service department of the university decided to convene focus groups with certain target groups, black and minority ethnic staff and students, and religious and faith groups, to gain understanding of their needs. It also compiled a questionnaire, which was sent out to a random sample of staff and student members of the institution to discover their opinions of the catering facilities. Respondents were also given opportunities to make additional suggestions and comments.

The responses indicated that dyslexic staff and students found the menus were difficult to read due to their design and layout, and that this was an issue of concern for those who regularly visited the cafeteria. Feedback also highlighted the lack of kosher options available, which many Jewish staff and students cited as the reason why they did not use the facilities.



– and utility – in areas such as disability where there are known issues around levels of disclosure.

The institution acted on these findings by redesigning its menu, and including more kosher options in the canteen. It publicised this in the students' union, student paper, university staff newsletter, on the intranet, and in posters around the canteen.

Appropriate analysis

40. Having the correct data in place is merely a prelude to its analysis. One of the most important factors in coming to a sound decision about differential impact is to ensure data are interpreted correctly. To this end, it is important to take into consideration the reliability and the validity of data.

41. Reliability refers to consistency of information – obtaining the same results on repeated occasions from a variety of data sources. For example, if local anonymous student surveys, higher education institution focus groups and external national data all show that lesbian, gay and bisexual students can feel intimidated at student union social events, the consistency of the message indicates that it is reliable.

42. Validity is about ensuring that the data are analysed in the correct way and used to draw conclusions that are robust. The importance of this is perhaps best demonstrated through an example (see box overleaf).

Involvement and engagement

43. Involvement is a key part of the impact assessment process, as it enables institutions to ascertain how their policies and practices are affecting individuals and groups, providing an important source of qualitative information. It also has the benefit of engaging people in the decision-making process, and helps to raise awareness of the work the institution is doing to meet its equality duties. This can raise staff confidence in the institution's commitment to tackling inequality.



Example – the need for careful analysis

An English higher education institution has institutional data on the number of students achieving 2:1 in their final degree assessment. This reveals that 7 per cent of students achieving 2:1 are from black and minority ethnic backgrounds.

Using this statistic in isolation would suggest that this is in line with national statistics, as the black and minority ethnic population in the UK is approximately 7 per cent of the total. However, 25 per cent of this particular institution is made up of black and minority ethnic students. Thus 7 per cent achieving 2:1 is, in fact, a significant underachievement, and warrants further investigation.

44. While it is vital to set aside a specific period for consultation on a revised policy (see stage 5, page 49), it is recommended also to involve and consult with the relevant people throughout the impact assessment process – from deciding whether a policy is relevant to equality, through collecting data, to determining where best to publish the results. The Disability Equality Duty is explicit that involvement should be a thread running through all activity undertaken towards meeting that duty, including impact assessment. Involving those individuals and groups appropriate to the type of EIA being carried out will ensure a more responsive, and consequently more successful, impact assessment process.

45. When considering to what extent involvement and consultation should be carried out, the key concepts are proportionality and relevance. The amount of involvement undertaken should be in proportion to the policy's relevance to equality. Referring back to the initial prioritisation during screening (see page 22) should help to determine the level and depth of involvement. To ensure that they carry out effective involvement and consultation exercises, it is important that institutions allocate appropriate resources to the task.



Involvement example: Association of Northern Ireland Colleges

Consultation has taken place at each stage of the impact assessment process. Consultations were improved by telling consultees about the policies that would be looked at in that year, and by asking whether people wished to be consulted, and by what method. This provided a comprehensive list of consultees for each policy area. This information is still made widely available.

Who to involve


46. It is most important to involve those most likely to be affected by a policy or practice, which will depend on its aims and who it affects. In any case, it will be useful to include involvement with:

- = internal stakeholders (staff and students)
- = relevant external stakeholders, where policies have a clear external impact, such as local businesses, community and voluntary sector organisations, and religion and faith groups
- = equality target groups
- = trade unions, all of which have equality sections nationally that can offer advice.

How to consult

47. Involvement should be well organised, run to a set time scale, and have clear objectives. It is advisable to employ a variety of methods to ensure the different needs of those involved is are met, to enable tailor-made approaches to gathering specific information, and to reduce the likelihood of 'consultation fatigue'.¹

1. Consultation fatigue is shorthand for the inability or reluctance of people to take part in more than a certain number of consultation exercises in a period of time, which is exacerbated when they feel they are giving the same information repeatedly, or that the information they do give has little or no effect.




Such methods might include focus groups, surveys, pilot projects, interviews and requests for feedback. Also, to avoid overburdening particular groups, it would be useful to coordinate involvement or consultation when various impact assessments are taking place around the same time across the institution.

48. The main principle when selecting mechanisms of involvement is to use the method that elicits the information needed from the groups you want to reach. What is right for obtaining information from one group of people for one policy will not necessarily be right for getting information from another group of people for another policy – or even from the same group of people for a different policy. For example, consultation on an institution-wide policy on bullying and harassment may work better through an anonymous staff survey than by running a pilot project. A pilot project may not enable information to be gathered about staff perceptions; and the frequency of formal bullying and harassment cases may not be high enough for a pilot project to be run effectively.

49. It is important also to ensure consultation and involvement are undertaken at the appropriate depth. The scope for involvement will in part be determined by the level of possible change to a policy undergoing EIA, and areas of the policy that will not be changed should not be consulted upon. Where there is existing information, perhaps from a recent, similar consultation exercise, using this might help to reduce the burden of fresh consultation, which will be useful in combating consultation fatigue. Being clear about the depth of involvement required will help to determine the most appropriate mechanism to use. Based on the ‘ladder of participation’ model, some examples of appropriate mechanisms are listed below.

- the areas in which people’s opinions are being sought, specifying what can and cannot be changed, and reaching a decision taking account of the results of the consultation as well as other factors; likely to be an appropriate level in the case of many impact assessments);

- 
- focus groups
 - workshops
 - face-to-face surveys
 - telephone conferencing
 - web forums
 - web or telephone surveys
 - citizens' panels.
- Involving (a high level of participation: people's ideas and options are encouraged and used to reach decisions on policy changes; likely to be suitable only for largest, highest priority policies for impact assessment):
- large-scale community/staff/student event
 - policy conference
 - in-depth interviews
 - user forums and networks.

50. Consultation and involvement should be two-way processes, and those who have been involved in an impact assessment should receive feedback. They should be told what is going to be done with the results of the involvement exercise, and be informed of the results, with an explanation of how this has affected thinking about the policy. Making those who are consulted feel genuinely involved in the process, and that their views are valued, will help to create a sustainable base for consultation and involvement to take place in the future.

51. Equality Challenge Unit has recently produced guidance on successfully involving disabled people in all aspects of production of a disability equality scheme. **Involving Disabled People in Disability Equality Schemes: Briefing Paper for the Higher Education Sector** includes detailed advice, including on how to encourage participation and offset consultation fatigue, and how to make involvement accessible. Although this is targeted at involvement of disabled people, much of the guidance is transferable to involvement of other equality target groups during impact assessment.



A university's impact assessment method

Once policies have been screened, the full impact assessment for each policy is carried out by the policy-holder(s) with support from their equality and diversity advisers, as required. This involves working through a form that leads the policy-holder through a systematic process of:

- = gathering relevant qualitative and/or quantitative internal and/or external data (including consultation data, informal feedback, etc., as appropriate)
- = analysing data for differential impact, then for adverse impact
- = identifying approaches to addressing any adverse impact (where appropriate), and an impact assessment review date after these have been implemented
- = identifying approaches and missed opportunities to enhance positive impact (particularly in disability, in line with the specific requirement to look for potential positive impact under the Disability Equality Duty).

If further data are required before an effective impact assessment can be carried out, policy-holders are asked to complete the assessment based on the available information, but to provide details about arrangements for gathering further data and a clear commitment (including dates) for conducting an impact assessment review once the data have been gathered.

Once the impact assessment is complete, a summary sheet is completed by the policy-holder, providing brief details of the data used, findings, and approaches for addressing adverse impact. The form is then approved by the head of department/school, then passed to the Impact Assessment Steering Group for final approval. Once approval has been received, the summary page is published. A record of all impact assessments is maintained by the equality and diversity adviser, and the Impact Assessment Steering Group has overall responsibility for ensuring that impact assessments are carried out effectively and to the agreed timetable.



Assessment of impact (stage 3)

52. Once information has been gathered, including filling gaps in information and involving the appropriate people in the process, the next step is to use this information to assess whether the policy has, or is likely to have, a differential impact on the relevant equality target groups. This differential impact might be positive or negative, direct or indirect, and indicates that the policy affects a given group or groups differently from the majority. The Disability Equality Duty takes this a step further, and specifies that impact assessment should look for potential positive impact for target groups that may have been missed. It would also be good practice to take this approach for all equality areas, given the positive nature of the other duties. In carrying out the impact assessment process, the key aspect to look for is any evidence of adverse or negative impact, as this could indicate that equality groups are being disadvantaged.


Signs of differential impact

53. Adverse impact may take various forms, and the form it takes may depend on the data available. The following are examples of where adverse impact may occur:

- = a lower participation rate of equality target groups compared with others
- = certain groups having lower success rates in particular processes
- = whether eligibility criteria appear to disadvantage certain groups
- = whether access to services and benefits is reduced or denied in comparison with other groups
- = whether a group faces increased difficulty or indignity as a result of a policy
- = whether a policy reduces benefits disproportionately for one group.

What to do if differential impact is found

54. If no differential impact is found as a result of impact assessment, then there is no need to change the policy. In the case of disability, however, the impact assessment must also judge



whether a potential positive impact has been missed, and in the case of all EIAs it would be in keeping with the positive nature of the general duties to take this approach even if not strictly legally mandated (see ‘Working to enhance positive impact’, page 46).

55. If differential impact is found, there are five possible courses of action: a change to the policy; a change to its implementation; justification of the policy; replacement of the policy with another to achieve its aims; and abandonment of the policy. These are considered in detail on pages 40–41.


56. It is important that alternatives are considered because, if differential impact is to persist after impact assessment, this must be clearly justified. As discussed below, part of the process of justification must be a demonstration that it proved impossible, after considering alternatives, to find other ways of achieving the policy aims without discriminating against some minority group or groups (see ‘Justifying negative impact’, page 45). The justification process must also demonstrate that the policy is sufficiently important for discrimination to be justified.

Responding to the results of impact assessment (stage 4)

Working to eliminate negative impact

57. Where likely negative impact is discovered as a result of impact assessment, then alternatives to the policy must be considered. Alternatives should be considered in turn, with the aim of avoiding adverse impact if possible (see Figure 4).

- (i) Changes to the policy, or changes to the method of its implementation
Where adverse impact can be avoided altogether within the policy, this is the approach that should be taken. This will consist either of making changes to the policy or of making changes to the way in which the policy is implemented
- (ii) Replacement of the policy with an alternative that meets the same aims



If it proves impossible to eliminate adverse impact by changing either the policy or its method of implementation, the institution should consider other ways in which its aims can be achieved.

(iii) Mitigation of negative impact


If the negative impact cannot be avoided, the institution should take steps to reduce the impact, namely mitigation. It is important to note, however, that there are only limited circumstances under which retaining a policy that causes adverse impact is acceptable, even if it is mitigated (see page 45).

(iv) Abandonment of the policy

If it is impossible to eliminate adverse impact, and this impact cannot be justified, then it will be necessary to abandon the policy and its aims. This is unlikely to occur in practice, and if it does it may be that the impact assessment process has been insufficiently robust, that the assessment hasn't been conducted in full or all its questions answered, or that more research is needed.

58. These alternatives should be considered in turn, so that, where possible, a policy or its method of implementation is changed, and, if that is not possible, the policy is replaced with an alternative (unless the negative impact can be justified, in which case that impact should be mitigated). It may also be that further research or consultation is necessary, for example consultation of negatively affected groups to establish how the policy's aims might be achieved without a negative impact on them. If so, it is important to ask if this research would be proportionate to the importance of the policy or function, and if it is likely to lead to a different outcome. When intervening to remove adverse impact, the institution must ensure that it does this without creating negative impacts on any other groups.

59. In developing alternative policies or searching for mitigating solutions, it may prove useful to refer back to the initial screening



results and to check the initial aims of the policy concerned, to ascertain how it could be amended or replaced and still meet its objectives. Broadly speaking, when seeking to avoid or minimise negative impact, the institution should consider the following questions:

- = What are the causes of the adverse impact?
- = Are there any alternative measures that would achieve the aims of the policy without adverse impact?
- = Are there any interventions that could help achieve the aims of the policy without adverse impact?
- = Are there any additional measures that can be adopted that would further equality of opportunity in the context of this policy or function?
- = Will any changes affect resources and accountability for the policy?

60. Types of intervention to counter negative impact might include positive action (see page 47), training, and mainstreaming equality and diversity approaches within existing management or corporate activities. The use of marketing and public relations to raise the profile of an issue could also work to further this end. Above all, the key is to consider the causes of differential impact and then to examine ways to overcome this. Below is an example of an application of the above principles to the results of an impact assessment.

61. Once a response to adverse impact has been decided on, it will be necessary to consider the likely impact on equality of the proposed mitigating measures or alternative policies. This involves an initial screening, then application of the relevant data as occurred previously, to ensure that, in alleviating adverse impact for one group, an adverse impact is not created for another. In reporting the impact assessment, clear evidence of the assessment process and the reasons for the mitigating actions chosen should be compiled. The assessment report (see 'Publication', page 49) should demonstrate consideration of alternatives, and justification for their rejection.

Example of adverse impact found

A higher education institution makes an impact assessment of its promotion policy, and finds that fewer black and minority ethnic staff gain promotion compared with their white counterparts once qualifications and experience have been taken into account.

This is judged to constitute adverse impact. The institution decides to investigate the reasons for this, and to consider steps that can be taken to rectify it.

Questions the institution asks itself


What are the causes of the adverse impact?

Consultations carried out by the institution suggested that there were a variety of reasons for the adverse impact – and not one single dominant reason – including:

- = direct discrimination in the form of racism
- = a lack of confidence on the part of black and minority ethnic staff in putting themselves forward for promotion
- = there being very few role models for black and ethnic minority staff to relate to; feelings of inadequacy felt by black and minority ethnic staff, leading to a failure to perform well at interviews
- = a lack of transparency in the promotion process.

Are there any alternative measures that would achieve the aims of the policy without adverse impact?

The promotions policy is to judge candidates on experience to date, evidence of work at a high standard, and good



performance at interview – all of which are measures that should find the best candidate without discriminating against or in favour of any groups. Therefore it would not be appropriate to change the policy.

Are there any interventions that could help achieve the aims of the policy without adverse impact?

Training in equality and diversity could be made compulsory for all staff involved in administering the promotion policy.

The institution should ensure that its Race Equality Policy covers the promotion policy, and that this is clearly conveyed. A black and minority ethnic staff mentor scheme could be introduced to support junior black and minority ethnic members of staff.

Are there any additional measures that can be adopted that would further equality of opportunity in the context of this policy or practice?

Regular anti-racism training for all staff, and maximum transparency surrounding the policy.

Will any changes affect resources and accountability for the policy?

Resources for the additional training would be needed. Accountability for the policy would remain as previously determined, within the human resources department.



Justifying negative impact

62. In the event that it proves impossible either to alter the policy, or to achieve its aims with a different policy, without causing a negative impact on one or more groups, there are two possibilities. Either the policy's continued existence must be justified, or the policy and its aims should be abandoned. As discussed above, it is unlikely that a policy both cannot be changed or replaced to eliminate negative impact and cannot be justified, and such a finding might indicate that the impact assessment process is insufficiently robust, or that further research is needed.

63. Justification has two main elements: it must be demonstrated that the policy is important on grounds unconnected with the discrimination that is taking place, and that it proved impossible to find other ways of achieving the policy's aims without causing a negative impact for one or more relevant groups (racial groups in the case of race EIAs; groups of disabled people in the case of disability EIAs, etc.). Because of this second element, it is vital that the institution can demonstrate that it has explored alternatives before deciding that negative impact is justified. Justification of a policy that causes a negative impact should be seen as a last resort, where eliminating that negative impact has proved impossible. In addition, even where a policy that causes a negative impact is justifiable, the institution should still take steps to mitigate that negative impact.

64. The grounds for justification may include where positive action is being undertaken (see page 47). The other grounds for justification are health and safety, and business efficiency.

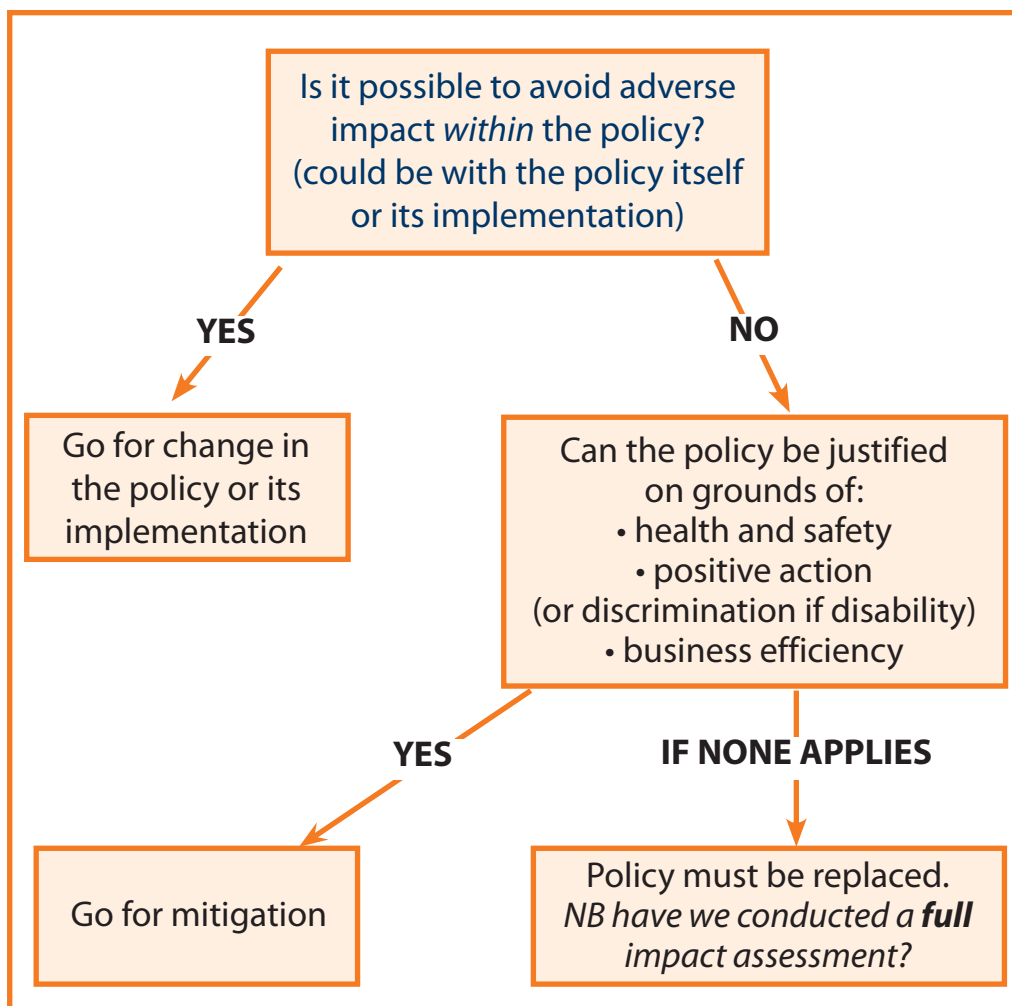



Figure 4 Responses to adverse impact

Working to enhance positive impact

65. The Disability Equality Duty is unique among the three positive duties in specifying that impact assessment should look not only for negative impact, but also for potential positive impact for target groups. In this case, differential impact will not necessarily have been identified during impact assessment, so when seeking to enhance positive impact, there will be an emphasis on encouraging ideas for positive impact during consultation. The knowledge and experience of equality and diversity specialists will also be important in identifying potential positive impact that may have been missed, as will that of disabled people through involvement.



66. Although the need to look for potential positive impact is only explicitly set out under the Disability Equality Duty, the positive nature of the other two public sector duties means that it would support the overriding objective of the general duties to take this approach for these and all other equality areas. In particular, the Race Equality Duty stipulates the need to promote good relations between persons of different racial groups, while the Gender Equality Duty includes a requirement to promote equality of opportunity between men and women.

67. Questions that institutions should ask themselves with regard to enhancing positive impact are similar to those listed above for eliminating negative impact. For legal purposes, in the case of disability equality, it is important that the institution can show it has considered possible amendments to the policy or its method of implementation, or meeting the aims of the policy with another policy that might enhance the positive impact on disabled people.

Positive action and positive discrimination

68. Positive action is one approach that can be taken if differential impact has been found to be occurring. It refers to a variety of measures designed to counteract the effects of discrimination, and to eliminate stereotyping by encouraging members of equality target groups to take full and equal advantage of opportunities in jobs, education and training. Examples of this approach might include targeted advertising and outreach work, and courses to develop the careers of those from under-represented groups who are already employed by an organisation.

69. Positive action should not be confused with positive discrimination, which is unlawful – except in some cases under the Disability Equality Duty (see page 3). Positive discrimination is defined as treating someone from an equality target group more favourably than someone not in the group, regardless of whether they have the relevant skills and qualifications. In the case of the Disability Equality Duty, however, the legislation is explicit in saying that treating disabled people equally does not necessarily mean

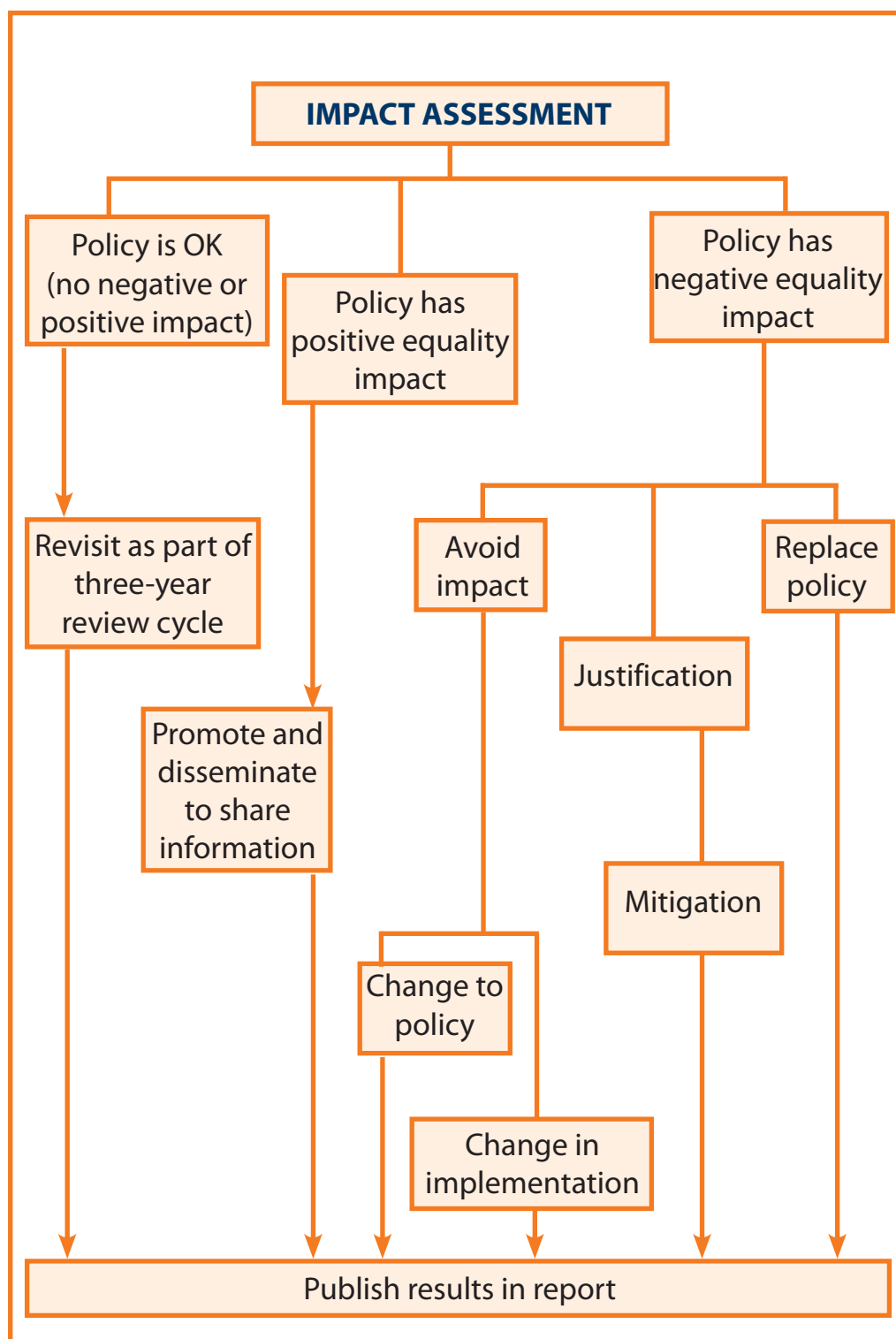



Figure 5 Possible outcomes of impact assessment



treating them the same. This provides scope both for making reasonable adjustments as part of eliminating differential impact, and for positive discrimination initiatives, for example a guaranteed interview scheme, or saying that only disabled people need to apply for a particular post.

70. For more on positive action, see Equality Challenge Unit's forthcoming publication on the topic, *Guidance on Positive Action*, due to be published in autumn 2007.


Consultation on final policy (stage 5)

71. In addition to involving the appropriate equality group(s) earlier in the process (see stage 2, page 29), consultation should also take place on the final policy. This provides an extra mechanism for checking that work undertaken on modifying the policy has been suitable. It is also courteous to those previously involved, and helps them to feel their contributions have been valued, which in turn helps guard against consultation fatigue in future. The ideal is to build as much involvement as possible into the earlier stages of the impact assessment process, to ensure the views of the equality group in question are taken into account as far as possible in drawing up the final policy, and thus that it reflects their needs as accurately as possible.

72. Tying up the involvement process with consultation on the final policy will also have the beneficial effect of making people feel that their involvement has been valued – and in many cases acted upon.

Publication (stage 6)

73. Under the Race Equality Duty, publication of the results of impact assessments, together with monitoring arrangements and data and involvement processes undertaken, is a legal duty. Although the exact medium is not prescribed, publication is not optional. In the case of other equality strands publication is recommended, as it allows institutions to share with all stakeholders the positive work that impact assessment constitutes.



74. Publication provides an opportunity to emphasise institutional commitment to equality and diversity, and to draw attention to the work the institution is doing in the area. This can also help embed the concepts of equality and diversity as important positives, which will help in mainstreaming equality into the institution more broadly.

75. An impact assessment report should publish the detail of all that the assessment has entailed. It should outline the decision-making process and the consideration of alternative and mitigating policies, giving reasons for any changes to the policy – particularly important should there be a future challenge to the policy changes.

76. The process should be described in detail, including:

- = an assessment of the policy and the data used in the assessment
- = detail of the methods and outcomes of involvement processes
- = amendments – both made and planned – alongside reasons for actions taken
- = the proposed timetable for future reviews.

77. Publication should include ensuring that the results of impact assessment are available to all interested parties. This means the results should be advertised to ensure that all those who wish to view them can do so. Simply placing the impact assessment in the public domain – such as on the institution's website – is not sufficient to ensure that all staff and students in the institution will be aware of the process. Promotion of the published results should therefore be a priority in considering the methods of publication to be used.

78. The requirement for publication offers scope to promote the positive duty, and a variety of methods may be used to raise the profile of work being done on equality and diversity. For example, publishing impact assessment reports in various formats, such as summarised reports as well as full versions, should ensure that they are genuinely accessible to all interested parties, which will in itself demonstrate an institutional pride in and commitment to the work being done.



Monitoring and review (stage 7)

79. It is important to emphasise that impact assessments should not be seen as one-off processes, but rather should become part of the cycle of institutional quality control. Institutions and their policies, in equality and diversity as in all areas, should always be striving to evolve to take account of what has been learned from past experience. The timetable of future reviews should be published as part of each impact assessment report.

80. Mechanisms should be in place for regular reassessment of existing policies, incorporating them into a 3-year cycle of institutional review. For new policies, EIA should be seen as an integral part of policy-making, and should therefore begin as soon as a relevant new policy or practice is under consideration. These two approaches will ensure that considerations of equality and diversity are embedded absolutely at the heart of institutional activity.



Appendix: Impact assessment checklist

Establish methodology

- ☐ Establish screening method, and ensure that disabled people are involved in identifying this method
- ☐ Establish impact assessment methodology, and ensure that disabled people are involved in identifying this method

Identifying policies and functions: scoping

- ☐ Identify all formal and informal policies, practices, procedures and criteria within an institution through a mapping exercise

Screening policies

- ☐ Identify aims of policy (practice, procedure or criterion)
- ☐ Establish who is responsible for defining and implementing the policy
- ☐ Determine if there is scope for promoting good relations between groups (e.g. between persons of different racial groups)
- ☐ Assign the policy high, medium or low priority with regard to potential for impact on equality

Consideration of data

- ☐ Determine what you need to know about the policy to gauge if it has a differential impact on any equality groups
- ☐ Examine national and local data sources, and collect additional data if necessary
- ☐ Use a mix of quantitative and qualitative data from a wide range of sources
- ☐ Ensure research is reliable and valid



Consultation and involvement

- ☐ Ensure a representative sample of people are involved with specific measures for equality target groups
- ☐ Use a variety of accessible methods for involvement
- ☐ Take into account issues of proportionality and relevance

Assessing impact

- ☐ Determine if the policy has an adverse impact on equality and diversity, equality of opportunity or good relations, on the basis of the information gathered
- ☐ Determine if the policy is directly or indirectly discriminatory and, if so, whether it is justifiable
- ☐ Determine whether the policy promotes, or has the potential to promote, good relations between different groups and equality of opportunity
- ☐ Determine (in the case of disability) whether any potential positive impact has been missed for disabled people

Eliminating or reducing adverse impacts

- ☐ Investigate why there was adverse impact
- ☐ Find measures that can reduce or eliminate the adverse impact
- ☐ Provide clear reasons for changing policy, and what you hope to achieve by any changes
- ☐ Assess the proposed changes for any adverse impact



Publication of impact assessment

- ☐ Compile impact assessment report, including final decisions
- ☐ Determine how much publicity is needed
- ☐ Decide where and how to publicise

Impact assessment in the future

- ☐ Ensure mechanisms are in place for regular impact assessment
- ☐ Allocate responsibilities and put together a time scale for reassessment



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