

EQUALITY ANALYSIS GUIDANCE

A Guide for Undertaking Equality Analysis of New and Existing Policies, Functions,
Service Redesign, Internal Reorganisations or Restructuring Processes

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Equality Analysis is Important

In delivering high quality mental health and community health services East London NHS Foundation Trust is responsible for taking all kinds of decisions from the routine to major strategic re-organisations. At the heart of getting these decisions right has to be an understanding of the people who use our services, the staff who deliver them and the wider community in which we are based. Equality Analysis is one of the tools for getting this right. It supports the Trust to give consideration to equality in relation to proposals for policy development or review, service redesign and internal re-organisations or restructuring processes.

For the purpose of consistency, the term 'proposal' will be used throughout this guidance to refer to the activities such as policy development, policy review, service redesign, changes to functions and internal reorganisation or restructuring processes.

Equality Analysis should form an integral part of decision making and policy development. It is a way of considering the effect of decisions taken on different groups of people protected from discrimination by the Equality Act 2010. The Equality Act introduced the Public Sector Equality Duty (PSED) and in our work the Trust is expected to have 'due regard' to this by:

- Eliminating unlawful discrimination, harassment and victimisation
- Advancing equality of opportunity
- Fostering good relations between people from different backgrounds.

We are expected to do this based on an understanding of our service users, our staff and our communities defined by the nine 'protected characteristics' which refers to groups of people who have historically experienced particular kinds of discrimination.

This relates to:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race (includes ethnicity, colour, nationality)
- Religion or belief (including no belief)
- Sex (gender)
- Sexual orientation

One or more of these characteristics can describe any of us, either as individuals or as members of a community. At the same time we should recognise that the relationship between characteristics can sometimes be sensitive and complex. Furthermore, that people may identify with multiple characteristics.

The term Equality Analysis replaces 'equality impact assessment' and shifts the emphasis from the completion of a checklist, which may have been seen as an end in itself, to an integrated aspect of a comprehensive management process for improving the quality and outcomes of decision making. Equality Analysis involves using equality information, and the results of engagement with protected groups and others, to understand the actual effect or the potential effect of the Trust's decisions. It can assist in identifying steps to address any negative effects or discrimination, to advance equality and to foster good relations. In addition, it helps the Trust to target resources more efficiently.

Conducting Equality Analysis enables the Trust to address any unintended consequences of our decisions on different groups of people protected under equality legislation and to make them more effective by:

- Treating people fairly and with respect
- Delivering value for money
- Protecting the reputation of the Trust
- Ensuring we fulfil our legal obligations

When should Equality Analysis be undertaken?

Equality Analysis should be undertaken at the outset of developing or significantly amending an existing policy, procedure, function, strategy or for proposals for re-organisation and restructuring, to enable consideration of the implications of the proposed changes on different groups of people protected from discrimination in law. Results from consultation, service user/patient involvement/engagement feedback, in-house equality monitoring data, demographic data and research can be used to inform the process of Equality Analysis. Equality Analysis should not be a one-off process. It should be reviewed periodically throughout implementation and any action plans amended accordingly.

A note of caution: National cases have been highlighted that where public bodies have left the analysis of equality impact until the end of proposal development, they have been subject to legal challenge. Potential consequences of leaving analysis to this stage could be that:

- The Trust may be open to compliance penalties or legal action as a result of not being able to demonstrate paying 'due regard' to the aims of the PSED (public sector equality duty) at the decision making stage
- Unintended and potentially discriminatory or adverse impacts may be retained within the proposal
- Lost opportunities to advance equality resulting in some groups of people sharing protected characteristics not benefitting to the same extent as others

The Trust would also be required to analyse the effect of a policy implemented by the Trust, that was originally developed by another body. For instance, in the local implementation of a government department strategy, or cuts to funding decided by a commissioning body, the Trust would still need to consider mitigating actions or alternative options to minimise the impact on protected groups.

Relevance to Equality

It is important to note that some proposals will be more relevant to equality than others. In order to determine relevance to equality, it is useful to consider whether the three arms of the PSED could be applied to the proposal. A proposal with little relevance to equality would not require an equality analysis to be undertaken.

For example:

- A policy review of fridge temperatures across the Trust would not generally have implications on equality

Where it has been decided that a proposal is not relevant to equality, it is important that this is documented, together with the supporting reasons for arriving at this decision. The explanation of 'no information available' is not sufficient, as issues relevant to equality may have been overlooked, potentially leaving the Trust open to legal challenge.

However, a proposal is more likely to require an Equality Analysis where:

- there are implications for service users, staff or the wider community and consequently, the potential for a significant effect in relation to equality
- It is a major change proposal affecting functions within the Trust
- the proposal relates to functions that previous stakeholder engagement/involvement has identified as having important implications to people who share particular protected characteristics
- the proposal relates to an area with known inequalities (e.g. relatively poorer access to psychological therapies by particular ethnic groups)

Who should undertake Equality an Analysis?

Equality Analysis should be undertaken by the project lead or other delegated person within the service, who has the appropriate level of understanding of the policy proposal. This maintains proper ownership from outset through to implementation and service review. Consideration should however, be given to who else could contribute to the Equality Analysis of the policy, service redesign or restructure. This may include other colleagues and external partners e.g. LINKs (local involvement networks). For smaller Equality Analysis, a virtual team could be formed, to support the Equality Analysis Lead, drawing on expertise or key knowledge as and when required.

When Equality Analysis is done well, it should:

- assess the impact of a project on different groups of people
- identify differential impacts between the protected groups
- identify alternative options to mitigate adverse impact and advance equality
- Take into account the potential to advance equality of opportunity and to foster good relations in addition to the above

Advice and guidance can be provided by the Trust's Equality and Diversity Lead, in addition to any ad hoc Equality Analysis training available. A repository of equality data in relation to the protected characteristics will be built up overtime on the Trust's intranet.

Equality Analysis Process and Considerations Flowchart

What is Equality Analysis (EA)?

Undertaking equality analysis enables the Trust to assess the equality implications of decisions taken in relation to service users and Trust employees. EA enables a more proactive approach to integrating equality at the centre of policy review and organisational and service change.

What is the Purpose of the EA?

The main function of an EA is to identify any adverse or discriminatory impacts on groups sharing protected characteristics and to advance equality. The EA process should not be seen as an end in itself. It is the outcomes that emerge from the process that's important.

What to Assess, Why, When and by Whom

What? New and existing proposals for restructuring, service change and policy development in relation to the public sector equality duty.

Why? To improve decision making and overall outcomes in relation to service users and staff, to ensure legislative compliance and to improve transparency.

When? At the outset when the proposal has been developed to allow for any subsequent mitigating actions. **Whom?** Manager Leading the review or change proposal

What are the Stages of Equality Analysis?

1. Clarify the aims of the reorganisation/ service change
2. Consider available data, research, service user/ staff feedback relevant to change
3. Assess the impact on the protected groups
4. Formal consultation
5. Confirm decision
6. Outline future monitoring arrangements
7. Publication of results

Clearly define the aims and objectives of the Proposal

- What is the main aim of the proposal?
- Who is the proposal intended to benefit?
- What are the intended outcomes?
- What factors could contribute /detract from these outcomes?
- How will the proposal be put in place?

Consideration of equality related data and information

What data is currently available relating to the proposal?

Data sources could include service user and staff profile data, complaints data, patient and staff surveys, academic research
Any data gaps identified could be filled through further research and/or consultation / service user or staff involvement exercise




Assess the Impact on the Protected Characteristics e.g. Proposal for Service redesign


Service users

- Who does/does not use the service? Which groups do we have data for? What are the key findings from any engagement?
- Is service take-up broadly representative of the communities we serve? Does it meet their varied needs?
- Could the proposal disproportionately affect people with different characteristics? Could the proposal outcomes differ between protected characteristics? Should the proposal be implemented?


Employees

- What is going to be the impact on staff from the protected groups? What are the key findings from any engagement?
 - Are some employees likely to be disproportionately affected than others?
 - What mitigating actions are required? What other policies need to change to improve the effectiveness of the proposal?
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Mitigating adverse Impacts

- Explain the reasons and justifications
 - Assess any differential impact between the 9 protected groups
 - Determine if the differential impact is an adverse one
 - Is the proposal directly or indirectly discriminatory
 - How can adverse impacts be mitigated
 - What other options could be considered to reduce this impact
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Formal Consultation and Stakeholder Involvement

- When and how should the consultation be undertaken and what consultation methods are appropriate for the proposal
 - Ensure those affected by or with legitimate interest in the proposal are consulted
 - Consult proportionately using a variety of community based practical approaches
 - Ensure format is accessible and inclusive
 - Scrutinise previous methods of consultation to determine appropriateness
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Decision - based on Equality Data, Alternative Options, Consultation and Stakeholder Involvement

- Clarify how decision about proposal was made and the benefits
- Decided how decision making is recorded
- Establish systematic monitoring
- Revise proposals in the light of developments
- Publish the results