

Budget 2019/20 Equality Impact Assessments (EIAs) for impacts on Service-Users and Staff: Legal Duties, Process, Assessment and Planned Actions

Summary

The council is legally required under s149 of the Equality Act 2010 to evidence how it has considered its equality duty in its budget-setting process. Evidence can be provided in different forms but it is commonly held across local authorities that the most effective method is the completion of Equality Impact Assessments (EIAs). These have been undertaken on all budget proposals where there may be a potential impact on service-users and on staff, related to their legally protected characteristics.

Members are referred to the full text of s149 of the Equality Act 2010 – included at Appendix A the end of this document – which must be considered when making a decision on the matters set out in this report.

All budget EIAs are available in Appendix 7 and should be considered alongside the relevant budget proposal. Within the EIAs, impacts are identified and mitigating actions proposed, where possible.

This document explains the EIA process, identifies the cumulative impacts across all the proposals, and lists overall planned mitigating actions. The budget reductions will inevitably impact on specific individuals and groups, but the proposed mitigating actions are intended to reduce these as far as possible, with monitoring of actual impact to enable appropriate interventions as proposals are implemented.

Service-User EIAs

In terms of overall assessment of impact, the impacts of 12 EIA impacts are rated as 1 (the lowest impact out of 5) and 13 at 2 out of 5. No EIAs identified impacts at 3, 4 or 5. At this stage, the impacts identified across the budget proposals are on the following groups of service-users:

- Age: younger people
- Disability (including Learning Disabilities)
- Ethnicity
- Sexual orientation
- Carers

The mitigating actions identified (in bold) are summarised below (full details in section 4). These will be followed up with the relevant directorates and services:

- **Taking an asset-based approach** - requires an understanding of the different levels of resource and resilience for different groups and individuals.
- **Targeted interventions** - must be based on up-to-date knowledge, data and feedback from local groups.
- **Engagement** - to enable people to influence changes; communicate changes; and enable effective support during transitions.
- **Earlier interventions and preventative work** – proven experience of positive impact, however, vital to ensure there are no unintended negative impacts.
- **Integration of Health & Adult Social Care** - provides opportunities for streamlining of services and more effective and linked-up provision for service-users.

- **Use of Direct Payments** - offers greater flexibility and independence in support arrangements, and requires work to ensure that uptake is fair across communities.
- **Reviewing, renegotiating or combining services** - creates opportunities for better links between services and a more consistent experience for diverse people.
- **Increasing collaboration between services in the council and with other city agencies** – can maximise the impact of services and funding decisions for the benefit of residents, however, financial pressures can restrict capacity and resource.
- **Continuing with the agreed Direction of Travel for Adult Social Care** - focusing upon reducing demand through access to advice and information, integrating social work with health, increased personalisation, learning from effective models, and increased use of supported accommodation.
- **'Channel Shift' and digital inclusion** - can increase convenience and provide tailored support, however, accessibility and other forms of contact are vital.

Staff

Potential impacts have been identified for individuals with the following protected characteristics, based on the fact that there is a higher representation in staff groups affected, or that proposals could further erode the representation of an already under-represented group. Further detail is below and specific decisions on how to implement budget decisions with impacts on staff will be made after further exploring the equality issues through staff consultation processes:

- Disability (staff under-represented in the impacted area)
- Age (specifically in the 20-24 ranges)
- Sex (higher proportion of men affected by the proposals)
- Ethnicity (higher proportion of BME people affected)
- Sexual Orientation (higher proportion of LGBT people affected)

The most important impacts and/or mitigating actions at this stage are:

- Involve staff in service redesign discussions using the [service redesign toolkit](#).
- Use staffing equalities data to inform decision making.
- Apply the council's policies and procedures equitably and appropriately.
- Review vacant posts, use of agency employees etc. to minimise the impact.
- Manage redeployment on a corporate level.
- Where there may be a reduction of posts consider offer of voluntary severance.
- Where there will be compulsory redundancy ensure that selection processes are clear and unbiased, and that processes take into account any individual needs.
- Ensure processes and criteria related to selection for voluntary redundancy are clear and transparent and use the compensation panel appropriately.
- Ensure managers involved in selection have completed relevant training.
- HR to support and advise managers delivering service changes.
- Offer all employees one to one meetings and relevant transition support.
- Attach the summary EIA to each consultation document, and continue to assess equality impacts through the consultation process.

In addition, for services within the Orbis Partnership:

- Ensure that meetings involving staff from multiple sites allow sufficient travel time.
- Rotate meetings across the three locations.

- Make use of technology, while being aware of accessibility barriers.
- Ensure reasonable adjustments are put in place for individual members of staff.
- Ensure the flexible working policies are known, understood and followed.

Full details of all impacts and actions are below.

1. Introduction

1.1 This report describes the process of Equality Impact Assessment (EIA) made on the budget proposals for 2019/20 and analyses the findings. The council has legal duties under s149 of the Equality Act 2010 to consider the needs of diverse people in our budget-setting processes and address negative impacts where possible.

1.2 Budget EIAs are an effective way, but not the only form, to evidence how the council is meeting this duty and should be considered by members in decision-making. Budget EIAs are available in Appendix 7.

1.3 This report describes:

- the council's legal duties in the budget-setting process (section 2)
- council-wide cumulative impacts on service-users identified at this stage (section 3)
- the over-arching actions which will be needed to mitigate negative impacts and maximise positive impacts (section 4)
- impacts identified from known data on staff across all proposals, across the council and in specific directorates (section 5)
- council-wide mitigating actions, to reduce/remove negative impacts on staff (section 6)
- the national and local context (sections 7 and 8)
- the council's approach to and aims in EIA as part of decision-making (section 9).

2. Our legal duties

2.2 Under the equality duty set out in s149 of the Equality Act 2010 (attached below at Appendix A), public authorities must have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations between people who share a protected characteristic and those who do not.

2.3 The protected groups covered by the equality duty are: age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnerships (only in respect of eliminating unlawful discrimination). Assessment has also been included of impacts and actions in relation to child poverty.

2.4 The law requires that public authorities demonstrate that they have paid **conscious and rigorous attention** to the equality duty aims in their decision-making.

2.5 By law, our assessments of impact on equality must:

Budget EIA Cumulative Impacts 2019/20

- Contain enough information to enable a public authority to demonstrate it has had 'due regard' to the aims of the equality duty in its decision-making
- Consider ways of mitigating or avoiding any adverse impacts.

2.6 The Public Sector Equality Duty (PSED) does not prevent councils from making difficult decisions such as reorganisations and relocations, redundancies, and service reductions, nor does it prevent decisions which may affect one group more than another group.

2.7 The duty does enable public bodies to demonstrate that they are making financial decisions in a fair, transparent and accountable way. This involves considering the needs and the rights of different members of the community, how impacts will affect them and mitigating negative impacts as fully as possible.

2.8 Nationally, there have been a number of successful legal challenges to funding decisions because public authorities have failed to meet the requirements of S149. In such cases, the public authority may have to start the decision-making process again, with improved consultation and evidence-gathering to identify the impact on particular groups.

“Even when the context of decision-making is financial resources in a tight budget, that does not excuse compliance with the PSEDs [Public Sector Equality Duties], and there is much to be said for the proposition that even in straitened times the need for clear, well informed decision-making when assessing the impacts on less advantaged members of society is as great, if not greater.”

Blake J in R (Rahman) v Birmingham City Council
[2011] EWHC 944 (Admin)

2.9 Members are referred to the full text of s149 of the Equality Act 2010 (attached below at Appendix A) which must be considered when making a decision on the matters set out in this report.

3. Service-Users: Impacts identified across all proposals

3.1 The EIA process and consultation have identified whether or not impacts are likely to be different for a person because of their protected characteristic (with a focus on where impacts may be worse) and if so, list the proposed mitigating actions.

3.2 There has also been an overall assessment in each EIA of:

- the impact of funding changes from one service on another across the council (cumulative impacts);
- consideration of what mitigating actions can be taken, and how we can monitor, evaluate and take action on impacts which may occur.

3.3 The overall assessment is that the proposals put forward have all been considered within the framework of the council's legal duties under the Equality Act 2010 and due regard has been given to the potential impacts on people linked to or arising from their legally protected characteristics. Given budget reductions there will inevitably be impacts on specific individuals and groups. However, proposed mitigating actions will reduce these as far as possible, and monitoring of actual impact will enable appropriate interventions as proposals are implemented.

Budget EIA Cumulative Impacts 2019/20

3.4 Impacts are identified across a number of budget proposals for the following protected characteristics:

- Age: younger people
- Disability (including Learning Disabilities)
- Ethnicity
- Sexual orientation
- Carers

3.5 The EIAs do highlight concerns about the council's ability to achieve our Corporate Plan objective of 'tackling inequality' in service delivery. Therefore we have identified key activities to ensure continued progress against this aim. More details are below.

4. Service-Users: Proposed Mitigating Actions

4.1 The EIA template highlights where officers identify a cumulative impact linked to other services or the wider local/national context. The Communities, Equality & Third Sector team has also considered all the EIAs to assess where groups may be impacted by more than one change across the council.

4.2 Impacts identified in section 3 (above) are the result of proposed changes to a number of services including some specifically focused on provision for these groups. Specific actions to mitigate as far as possible impacts arising from each proposal are defined within the relevant EIAs. In addition council-wide mitigating actions are detailed below.

4.3 Overall mitigating actions identified from EIAs:

- **Taking an asset-based approach** - requires an understanding of the different levels of resource and resilience for different groups and individuals.
- **Targeted interventions** - must be based on up-to-date knowledge, data and feedback from local groups to identify the greatest need and the best forms of intervention, communications and engagement.
- **Engagement** - with service-users, carers, families, CVS groups and other stakeholders to enable people to give views on and influence changes; communicate changes to minimise negative impacts and anxiety; enable effective support during transitions; and understand alternative forms of support for themselves and the service-user.
- **Earlier interventions and preventative work** – proven experience that preventative provision has a positive impact on individuals while saving money. However, when designing preventative services an EIA is critical to ensure there are no unintended impacts for individuals as a result of their shared protected characteristic.
- **Integration of Health & Adult Social Care** - provides opportunities for streamlining of services and more effective and linked-up provision for service-users, avoiding duplication and gaps. Ongoing assessment of the equality impacts (by council, CCG and other providers) remains a core need to ensure that streamlined services (that may be based in just one venue or area or where activities specifically targeted have now been mainstreamed) remain accessible, appropriate and effective for everyone.
- **Use of Direct Payments** - offers greater flexibility and independence in support arrangements, but ongoing work must assess whether uptake by people sharing legally

protected characteristics remains representative of their numbers in the eligible population. Focused work to address any gaps or differences may be needed.

- **Reviewing, renegotiating or combining services** - creates opportunities for better links between services and a more consistent experience for service-users. It remains vital to be clear that the needs of service-users are as diverse as the service-users themselves and provision must be flexible and responsive and maintain focused interventions where required. Requirements throughout the commissioning process from bidding to monitoring/evaluation must embed these principles.
- **Increasing collaboration between services in the council and with other agencies in the city** – can maximise the impact of services and funding decisions for the benefit of residents. However, financial pressures can restrict capacity and resource to develop and/or participate in collaborations.
- **Continuing with the agreed Direction of Travel for Adult Social Care** - focusing upon reducing demand through a number of approaches including increasing access to advice and information, integrating asset based social work with health colleagues, increased personalisation, learning the lessons of effective models, and increased use of supported accommodation will reduce the reliance on residential and nursing care.
- **'Channel Shift' and digital inclusion** - can increase convenience and provide tailored support. However, accessibility and availability of other forms of contact must be considered and embedded.

4.4 Other mitigating actions

4.4.1 Ongoing council approaches, such as Equality Impact Assessment and the aims in the council's new Equality and Inclusion Strategy are a critical part of minimising or avoiding negative impacts on specific groups protected in law.

4.4.2 Equality monitoring and analysis to evaluate trends and identify actions, and robust equality impact assessments which actively engage stakeholders are fundamental to meeting our legal duties and corporate commitments. Senior managers will continue to have responsibility for overseeing these processes as decisions are made and service changes take place.

5. Staff: Impacts identified across all proposals

5.1 The Human Resources team has assessed the equalities impacts on staff that are known at this stage and EIA templates have been completed for all proposals affecting staff. This process will continue through staff consultation processes to enable staff to raise specific and additional issues.

5.2 Information which might identify individuals has been withheld from this document to protect confidentiality, but all information has been provided to managers and will be used to inform the implementation of agreed proposals.

5.3 For groups of over 20 staff equalities data has been used to assist the identification of potential impacts. Where there are fewer than 20 staff affected data has not been produced to protect the confidential sensitive equalities information provided by staff. EIAs have been completed in these instances with regard to known information about the staff group and proposals made

5.4 The EIA template highlights where officers identify a cumulative impact linked to the make-up of the workforce across the Council in terms of protected groups as compared to the make-up of groups affected by the budget proposals. HR has

Budget EIA Cumulative Impacts 2019/20

considered all the EIAs both individually and cumulatively, although consideration of potential impacts will need to be kept under review as the detail of some proposals become clearer.

- 5.5** Potential impacts have been identified for individuals with the following protected characteristics, based on the fact that there is a higher representation in staff groups affected. These are the impacts identified from known data at this stage. Specific decisions on how to implement budget decisions with impacts on staff will be made after further exploring the equality issues through staff consultation processes.
- 5.6** It is not currently proposed to change or withdraw any proposal based on potential impact. Because the proposals are broad at this stage many of the actions are currently generic. The outcome of EIAs will guide the consultation process and inform the implementation of changes. Broadly across all groups affected the following observations can be made:
- 5.6.1** Overall the groups affected by budget proposals are broadly in line with the make-up of the Council's workforce in terms of age, with over 55% of those at risk between the ages of 40 and 59. There is a higher proportion of staff between 20 and 24 at risk when compared to their representation in the workforce (2.9% of those affected compared to 2.34% representation in the workforce). Whilst this is a small difference it further erodes the representation of younger staff who are already under represented.
- 5.6.2** There is a higher proportion of males who are subject to formal consultation when compared to their profile in the workforce.
- 5.6.3** Because of the profiles of the specific services affected, the proportion of BME staff is slightly higher than representation across the council (8.99% affected compared to 6.89% across the council). The proportion of White Other staff at risk is marginally lower than representation across the council (5.94% affected compared to 6.73% across the council). Services will need to consider the potential that there will be further reductions of groups that are already under-represented. Longer term strategies to encourage recruitment of under-represented groups will need to continue across the council and within directorates. Each affected service has its own EIA – see below.
- 5.6.3** The proportion of disabled staff affected by proposals is slightly lower than representation across the council (7.18% affected compared with 7.65% across the council). Services will need to consider the potential that there will be further reductions of groups that are already under-represented. Longer term strategies to encourage recruitment of under-represented groups will need to continue across the council and within directorates.
- 5.6.4** Because of the profiles of the specific services affected, there are slightly more LGB staff affected when compared to the make-up of the workforce (14.64% of those affected by proposals compared to 12.15% representation in the workforce). Each affected service has its own EIA – see below.

Whilst this describes groups affected in total, the individual EIAs consider impacts on those affected in the individual proposals.

5.8 Within Finance and Resources, the majority of proposals are linked to Orbis, and integration with East Sussex and Surrey County Councils. The proposals are likely to lead to an increased need to travel which may disproportionately impact disabled staff and staff with caring responsibilities. A number of mitigations have been put in place as follows:

- Ensure that meetings involving staff from multiple sites are held in the middle of the day, to ensure sufficient travel time.
- Rotate meetings across the three locations.
- Make use of technology, for example use telephone / Skype conferences where possible – although be aware that this technology might bring its own limitations depending on the nature of a person’s impairment.
- Ensure that meetings involving staff from multiple sites are held in the middle of the day, to ensure sufficient travel time.
- Ensure reasonable adjustments are put in place for individual members of staff, in line with the policies of the three sovereign organisations.
- Ensure the flexible working policies for all three organisations are known, understood and followed across the partnership.

6 Staff: Council-wide Mitigating Actions:

In addition to the specific mitigations identified in each service area the Council has guidance, procedures and approaches for managing change that are designed to ensure change is managed fairly and groups sharing protected characteristics are not negatively impacted:

- 6.1** Ensure the council’s relevant policies and procedures are equitably and appropriately applied (e.g. redeployment, development of new post details etc) to ensure that no adverse impact is created for employees in minority groups.
- 6.2** Review vacant posts, use of agency employees etc to minimise the impact on current substantive post holders.
- 6.3** Where proposals may result in a reduction of posts consider the offer of voluntary redundancy to mitigate the impact of potential compulsory redundancy processes.
- 6.4** Ensure managers involved in selection have completed corporate recruitment and selection training and signposted to the Equality & Diversity e-learning module.
- 6.5** Ensure that managers delivering service changes are appropriately supported and advised in relation to all employee equalities.
- 6.6** Ensure all employees are offered one to one meetings to discuss their circumstances and any concerns they may have.

7. National context

- 7.1** The budget proposals are being developed within ongoing national changes which may have an equalities impact, including (not exclusively):
 - Deficit reduction measures which are resulting in reductions in public expenditure across most of public services;

- the national welfare reforms; and
- reforms to adult social care and health.

8. Local context

8.1 The council's priorities for 2015 to 2019 as contained in the Corporate Plan agreed by Policy & Resources Committee in December 2014 are:

- Economy, jobs & homes
- Children & young people
- Health & wellbeing
- Community safety & resilience
- Environmental sustainability

These match with the Brighton & Hove Connected priorities for the whole city, as contained in the Sustainable Community Strategy: 'Brighton & Hove: the Connected City'.

8.2 Relevant local priorities and context includes:

- Close partnership working across social care and health both for children's services and adults, particularly through the 'Caring Together' integration initiative;
- Using Modernisation Boards across the council to drive service redesign that will lead to greater collaboration with partners and communities to provide better, more joined-up outcomes for everyone;
- A joint approach to public services as a whole for the city through the City Management Board;
- Greater alignment between the development of the medium term financial strategy and Corporate Plan 2015-2019;
- A collaborative approach across the council to help mitigate the impacts of welfare reform where possible;
- Proactive work to support financial inclusion;
- A strong focus on improving educational attainment and opportunities for access to employment for our young people.

9. Brighton & Hove City Council Approach and Process

9.1 The council most commonly uses a Budget EIA process to screen and identify the main potential disproportionate impacts arising because of people's legally protected characteristics and, for service-users, on child poverty. Where relevant they draw on existing service EIAs.

9.2 The aims of an Equality Impact Assessment become especially important at times of straitened budgets, enabling us to:

- think about what the council is trying to achieve;
- consider what potential impact the decision will have on different groups;
- target resources to those who are most vulnerable;
- fund services which respond to people's diverse needs and
- save money by getting it right first time.

9.3 Service leads or HR completed EIAs on budget proposals where the proposed changes potentially impact on service provision and/or on staff. The document presented to Members lists all the disproportionate impacts on groups because of

Budget EIA Cumulative Impacts 2019/20

their protected characteristic. It also identifies the planned actions to mitigate negative impacts.

- 9.4** All the EIAs have been reviewed by the Communities, Equality and Third Sector Team and/or Human Resources. The Executive Leadership Team has agreed and supported the process, as well as considering the impacts of specific funding decisions.
- 9.5** The Human Resources team has assessed equalities impacts on staff arising from the proposals. Information from staff consultation processes was incorporated into these EIAs, where available.
- 9.6** Since the equality duty is a continuing duty which must be complied with when implementing and reviewing a decision, assessment of equality impacts and responses to them will continue after budget decisions are agreed. Data from these EIAs will also be shared with relevant managers, to enable them to identify the best ways to implement the decisions to minimise negative or disproportionate impacts on legally protected and socially excluded groups.
- 9.7** All political groups are able to present alternative budget proposals and/or budget amendments. Where substantial alternative proposals or amendments are submitted these will have been screened by officers and advice given as to whether there is any new or additional cumulative equality impact requiring either a revised Budget EIA or a new EIA. Where proposals are not substantial (most amendments), officers will screen the amendment and will normally advise that either an EIA is not required or that an existing Budget EIA remains valid.

Appendix A

149 Public sector equality duty

(1) A public authority must, in the exercise of its functions, have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

- (a) tackle prejudice, and
- (b) promote understanding.

(6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

(7) The relevant protected characteristics are—

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

- (8) A reference to conduct that is prohibited by or under this Act includes a reference to—
- (a) a breach of an equality clause or rule;
 - (b) a breach of a non-discrimination rule.
 - (9) Schedule 18 (exceptions) has effect.