

Guide to Equality Analysis

Introduction

This guidance is to help you understand and carry out an equality analysis (EA) at Leeds Teaching Hospitals Trust (LTHT), and to direct you to further sources of information and support. It has been written in an effort to make the process simple and accessible.



Throughout this document we use the word 'policy' in its broadest sense to include the different things that we do, including strategies, functions, procedures, practices, decisions, projects and services.

What the law says

The public sector equality duty (PSED) set out in the Equality Act 2010 requires public authorities, in the exercise of their functions, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation
- Advance equality of opportunity between people who share a protected characteristic and those who do not, and
- Foster good relations between people who share a protected characteristic and those who do not

The general equality duty does not specify how public authorities should analyse the effect of their business activities on different groups of people. However, case law has established that equality analysis is an important way for public authorities to demonstrate that they are meeting their legal obligations under the Equality Act 2010.

Equality Analysis will help the Trust to comply with the public sector equality duty by showing that we have paid 'due regard' to how the decisions we make and the services we deliver affect people from the protected groups.

This Equality Analysis toolkit is designed to help you think carefully about the impact of your work on different communities or groups protected by the Equality Act 2010.

The nine groups protected by the Equality Act 2010 are age, disability, religion and belief, gender, race, sexual orientation, gender reassignment, maternity and pregnancy and marriage and civil partnership.

The Human Rights Act 1998, which came into force in October 2000, requires public bodies like the Trust to ensure that human rights are considered in our policies, services and functions. Section 6 of the Human Rights Act makes it unlawful for a public authority to act in a way that is incompatible with a Convention Right.

What is an Equality Analysis?

The Trust is responsible for making a wide range of decisions. This spans decisions about Trust policies and strategies, budget setting and service redesign right through to everyday decisions that affect individuals. Equality Analysis is a way of considering the effect of these decisions on our staff and service users who belong to different protected groups.

An Equality Analysis is a risk assessment tool that helps us to examine whether different groups of people are, or could be, disadvantaged by the decisions we make.

It involves using equality information, and the results of engagement with people from protected groups and others, to understand the actual effect or the potential effect of our functions, policies or decisions. It can help us to identify practical steps to tackle any negative effects or discrimination, to advance equality and to foster good relations.

The purpose of the EA process is to:

- Identify unintended consequences and mitigate them as far as possible, and
- Actively consider ways to advance equality and foster good relations.

Why carry out an Equality Analysis?

Equality analysis can help you to:

- Improve understanding of patients, staff, carers, different communities and their needs
- Identify the likely impact of proposed changes on different parts of the community and different groups of service users or employees of the Trust
- Deliver better services
- Improve access to services
- Integrate equality and diversity considerations into the everyday business of the Trust and enhance service planning
- Improve satisfaction with our services
- Improve the reputation of the Trust as an organisation that listens to all of its communities
- Encourage greater openness and public involvement

Who is the focus of the Equality Analysis?

We are required to ensure that people do not experience unfavourable treatment, social exclusion or discrimination simply because they possess a particular protected characteristic.

The groups of people you will need to think about when carrying out the analysis are – women, men; people undergoing gender reassignment including transgender people; people from ethnic minorities including refugees and Gypsies/Travellers; people who are lesbian, gay or bisexual (LGB); people from different religions or with different beliefs or no belief; younger and older people; pregnant women and people who are married or in a civil partnership.

In addition to the nine protected groups, you should also consider the impact of your work on other disadvantaged groups that do not readily fall within the protected characteristics, such as people who are affected by socio-economic disadvantage or who experience significant exclusion or isolation because of poverty or income, education, locality, social class or poor health, e.g. ex-offenders, asylum seekers, people who are unemployed, homeless or on a low income.

It is also important to remember that people are individuals, not groups. Even though we need to define what kinds of people we are talking about when we discuss 'protected groups', remember that people are all different. No one fits neatly into a group, and people will often fall within lots of different equalities groups.

It is important to note that any person, whether they are a member of a protected group or not, is protected by the Human Rights Act 1998.

What is meant by impact?

LTHT looks at two possible impacts when carrying out an equality analysis:

A **negative or adverse impact** – where the impact could disadvantage one or more of the protected groups. This disadvantage may be differential, where the negative or adverse impact on a protected group is likely to be greater than on another.

Example: A policy that the Trust will only accept complaints in writing would have a negative or adverse impact on some people. This may include people with learning disabilities, people who do not use English as their first language and people for whom written communication is not a strong cultural norm such as British Sign Language users.

A **positive impact** – where the impact could have a positive impact on one or more of the protected groups or improve equality and/or relationships between different sections of the community. This positive impact may be differential, where the positive impact on a protected group is likely to be greater than on another.

Example: A targeted health improvement campaign for young men between the ages of 15-21 would have a positive differential impact on this age group, compared with its impact on other age groups and women. It would not, however, necessarily have an adverse impact on the other age groups or on women.

When should an Equality Analysis be carried out?

Equality Analysis is best used at the options appraisal stage of business planning or investment decision-making, or at the early stages of project or service planning development so that any mitigating actions can be introduced before a decision is made or the policy or service change is implemented. EA can also be used retrospectively for policies and projects already approved and services already in operation, but should never be considered a 'bolt-on' to complete the project development process.

The EA process consists of two main parts:

1. A relevance screening tool, which will help you to determine if the policy, project or service is relevant to equality
2. A full equality analysis, which must be completed if the policy, project or service is relevant to equality or has any human rights implications

You will need to complete an EA for:

- changes to existing policies, services, procedures or guidance
- creating new policies, services, procedures or guidance
- redesigning services
- new projects
- new or revised strategies

For any major service changes including Managing for Success (MfS) projects, an EA should be started at the project initiation stage before decisions (PIDs) are finalised and agreed. It is important to build in enough time to carry out the analysis with the project team and feed the recommendations into the decision-making process via your directorate management team or the programme board.

Guidance from the Equality and Human Rights Commission indicates that the requirement for equality analysis needs to be interpreted broadly to embrace the full range of practices and decisions taken by the Trust. However, the

amount of analysis required for each change is determined by the relevance of the change to equality, which means that equality analysis should be proportionate.

Importantly, equality analysis should be carried out **before** decisions are made. The example below shows what can happen when public authorities do not consider their equality duties when making decisions.

Case study: Southall Black Sisters

Southall Black Sisters (SBS) provides specialist services to Asian and African Caribbean women, particularly in relation to domestic violence issues.

In June 2007, Ealing Council announced proposals to move away from funding particular organisations (such as SBS), towards commissioning services (including domestic violence services) following a competitive bidding exercise.

Despite concerns raised during consultation that plans had not been equality impact assessed, and that commissioning could disadvantage grassroots community initiatives, Ealing decided to press ahead with its proposals.

During discussions about criteria for commissioning domestic violence services, SBS had highlighted the adverse impact the criteria could have on pre-existing domestic violence services provided to women from ethnic minority communities, and so an equality impact assessment should be carried out.

Ealing carried out belated impact assessments on proposals before deciding to proceed with the existing domestic violence services commissioning criteria, resulting in two SBS service users launching a judicial review of the decision.

Ultimately, Ealing conceded these submissions and withdrew from the case. However, in an oral judgment, Lord Justice Moses reiterated the importance of undertaking an equality impact assessment, and also the importance of carrying out an impact assessment before policy formulation.

The ruling stresses the need to carry out an equality analysis before formulating policies or processes.

Who should conduct equality analysis?

Equality analysis is an integral part of policy development and service improvement. It needs to be integrated into day-to-day policy-making, business planning and decision-making processes. This means that the policy writer or manager responsible for the service under consideration is the person responsible for ensuring that an EA is carried out

EAs are best done by a small team rather than by one person on their own. Try to get a balance of skills and experience by involving external partners as well as mix of staff at different levels. For some (smaller) assessments, it may be easier to have a “virtual team” with one or two people taking responsibility for the analysis but drawing on the knowledge and expertise of others as and when necessary.

The aim is to get a small number of people involved in the assessment who can give a balanced view on the possible impacts for people with protected characteristics.

Guidance for completing the Relevance Screening 2

Stage 1 of the equality analysis process is a short exercise that involves looking at the overall policy or service and deciding if it is relevant to equality. People reading the EA may not be familiar with the areas of activity that it relates to so it is important to start the assessment process by providing a brief description about what you are screening.

The next step is to decide if the proposed policy, project or service is equality relevant. There are a series of questions in the screening template to help you arrive at a decision. It is important to note that most of our policies, projects and services are equality relevant because they affect patients, staff or the public in some way.

For example, relocating hospital services will impact on patients, carers and the public and will be equality relevant, whereas a policy for monitoring the temperature of fridges for vaccines will not.

In the event that there is little or no relevance to equality or you believe that a full equality analysis is not required, you will need to provide evidence to support your decision. A written record must be kept to demonstrate that you have paid due regard to the equality duties as part of your decision-making process. A copy of the screening template must be sent to the Equality Analysis Sub-group for approval.

Do not spend too long on the initial screening. At the initial screening stage, the point is to try to assess obvious negative or positive impact.

Guidance for completing a full Equality Analysis 3

Fact finding – what we already know

Gathering information is essential to the EA process. The equality analysis must be evidence based and underpinned by a range of baseline data that clearly demonstrates where your conclusions have come from. A great deal of the information that you require to carry out your equality analysis is readily available and could be either quantitative or qualitative data.

Examples of the types of information you might want to consider are:

- Local and national population data, including census findings
- Our public sector equality duty compliance report
<http://www.leedsth.nhs.uk/about-us/equality-diversity/public-sector-equality-duty-compliance-report/>
- Joint Strategic Needs Assessment (JSNA)
<http://www.westyorkshireobservatory.org/explorer/resources/>
- National, regional and local research findings
- Results from national and local staff and patient surveys
- Feedback from recent consultations or engagement exercises
- Patient and staff data broken down by protected group
- Information from staff, patient or community groups
- Comments, complaints and PALS data
- Recommendations from inspections and audits

The screening process should have already identified which protected groups are most likely to be affected by your business activity. For these groups, you will need to take into account equality monitoring information for patients and/or staff for the service or business area being considered. This statistical information can be obtained from:

Patient data: Information team on 0113 206 6095 or
Aled.Thomas@leedsth.nhs.uk

Workforce data: Workforce Intelligence on 0113 206 6657 or
tracey.taylor@leedsth.nhs.uk

Key trust wide statistical data for patients and the workforce can be found in our public sector equality duty compliance report:
<http://www.leedsth.nhs.uk/about-us/equality-diversity/public-sector-equality-duty-compliance-report/>

For some protected characteristics, there will be limited data and you might need to rely on national data, or information from equality organisations such as Stonewall who campaign on behalf of the lesbian, gay and bisexual

population. If you are finding it difficult to obtain evidence for one or more of the protected groups, contact the Equality and Diversity Manager for advice on service related data or your HR team for employment related data

If you do not have equality information about a particular policy or about some protected groups, consider whether you need to take steps to fill in your information gaps. Consideration should be given to filling the information gaps, perhaps by undertaking research or engaging with the group in question. Capacity to do this may be limited by time and resources and, while it is important that the equality analysis exercise considers sufficient information to make an effective assessment of the impact of a policy or service on protected groups, it may be that further research becomes an action on the Equality Analysis action plan.

Wider Involvement

Involving stakeholders is an essential part of the EA process and will help you to understand the actual or potential effects of your policy, project or service on equality. This could include engaging with staff, service users and/or voluntary and community groups who will have particular knowledge, skills and experience in relation to the project being assessed. Staff side organisations are also a useful source of information and engagement in relation to employment

It may not be necessary to undertake stakeholder engagement for each equality analysis exercise if recent and relevant consultation data already exists. You can use recent engagement and research activities on a related policy or strategy or you can use information from other equality analysis carried out by LTHT or other organisations. Please note, though, that staff consultation arrangements, as laid out in the Change Management Policy, must be adhered to in every instance. These arrangements provide staff with the opportunity to discuss the likely collective and individual impact of proposed changes and therefore play an important role in minimising or eliminating negative impacts and maximising positive impacts on protected groups.

Engagement activities should focus on those protected groups most likely to be adversely affected by the policy, project or service. For example, when the Trust moved some of the eye clinics from St. James's to Seacroft hospital, we recognised that the proposed move could have an adverse impact on patients with a visual impairment. As part of the equality analysis, our Blind and Partially Sighted Advisory Group were involved in the service changes and advised the Trust on access issues at the new site.

We have several advisory groups at the Trust who can help you to assess the likely impact of your proposals on equality. For further information about our advisory groups and how you can engage with stakeholders to support your equality analysis, contact our Patient and Public Involvement team on 0113 206 5591.

Analysis of Impact

Using the evidence you have gathered, you should be in a position to test the likely impact of the changes being proposed. Equality analysis is about considering whether the evidence and engagement highlights any potential for differential impact (positive or negative) – see page 3 for examples.

Equality analysis helps you to think about what would happen in relation to equality and good relations if you were to adopt the policy or implement the service changes. It is important to look at it not only in terms of identifying and removing negative effects and discrimination, but also as an opportunity to identify ways to advance equality of opportunity and to foster good relations.

Where you identify actual or likely adverse impacts, you should use this section to document the actions that can be taken to mitigate or reduce the negative impact of the decision or policy.

Be wary of general conclusions – it is not acceptable to simply conclude that a policy will universally benefit all service users, and therefore the protected groups will automatically benefit, without having evidence to support that conclusion.

You may find it useful to ask yourself the following questions:-

- Could the outcomes differ between protected groups?
- What are the key findings of your engagement?
- Is there different take-up of services by different groups?
- Could your proposals affect different groups disproportionately?
- If there is a greater effect on one group, is that consistent with your aims?
- Would you deliver practical benefits for protected groups?
- Have you missed any opportunities to advance equality and foster good relations?
- Could the outcomes disadvantage people from a particular group?
- Could any part of the policy/service plan discriminate unlawfully?
- Are there any other policies/plans that need to change to support the effectiveness of the proposals under consideration?

Having carried out your analysis you should then be in a position to make an informed judgement as to whether or not you can proceed with your policy or service change as originally planned.

Possible outcomes of assessments

There are four possible outcomes of an EA:

1: No major change - the EA shows that the policy is robust, there is no potential for discrimination or adverse impact and all opportunities to promote equality have been taken.

2: Continue the policy - the EA identifies the potential for adverse impact or missed opportunities to promote equality. Justifications for continuing must be clearly set out, these should be compelling and in line with the duty to have due regard.

3: Adjust the policy or proposal - the EA identifies potential problems or missed opportunities requiring adjustment to the policy or service change to remove barriers or promote equality.

4: Stop and remove the policy or proposal - there is actual or potential unlawful discrimination. The policy or project must be stopped and removed or changed.

In most cases amendments will be highlighted during the EA process and only in extreme cases would the policy or project have to be stopped completely.

Promoting strong and positive relationships between different groups

This question is about whether your policy will help to tackle prejudice and promote understanding between people with different backgrounds. For example, an engagement event that includes people from protected groups and other stakeholders can be useful for fostering good relations, as it gives you the opportunity to explain what you are doing in relation to equality and why you are doing it. This will reduce the risks of myths developing about favouritism and positive discrimination towards certain groups.

Action Plan

Use the Action Plan to outline what you are going to do as a result of the analysis. If there are gaps in evidence, state what you will do to fill them. Also include any general actions to be taken to address specific equality issues and data gaps that need to be addressed through consultation or further research.

Please note any adverse impact should be addressed as soon as possible and no later than 6 months from completion date of the Equality Analysis.

Actions must be linked to service planning so that equality issues become embedded within our mainstream business activities.

Monitoring and review

Whilst equality analysis can help you anticipate the effects of your policy, project or service change, you will only know the actual impacts of the proposal once it has been put into practice. Appropriate ongoing monitoring and review can allow you to pick up on any negative consequences or areas where it is not creating the intended results, and make alterations as appropriate.

Equality analysis is an ongoing process that does not end once proposals are agreed and implemented. Monitoring and review is essential, although it will not be necessary to repeat a full equality analysis unless significant changes are made.

Sign off and publishing

The final stage of the EA is to formally sign off the document as being a complete, rigorous and robust assessment.

The EA must be signed off by the person responsible for conducting the analysis.

The completed analysis form together with the policy or proposal must be sent to the Equality Analysis sub-group for quality assurance. The EA sub-group will check that the analysis is robust and meets our equality duties. The sign off process is different for MfS and non MfS activity and is explained at the end of each template.

Once approved by the EA sub-group, the EA will be published on the Trust's equality and diversity internet pages. Publication of the analysis template helps to ensure that we are being open and transparent in our decision-making process