



Merseytravel

Equality Impact Assessment Toolkit

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Equality Impact Assessment Toolkit

This toolkit sets out how Merseytravel complies with the statutory responsibilities of the Equality Act 2010.

EIA is an integral part of our decision making process, and as such should be undertaken for ALL Member decisions, and as a systematic way of identifying the potential impact of our policies, services and functions on our customers and staff. Merseytravel staff can find further details and advice on One Place.

1. Introduction

- 1.1 As part of our commitment to the aims of the Equality Act 2010 (“the Act”), Merseytravel has an Equality Policy, and an Equality Scheme. These together explain why equality considerations are important, and how they influence the way we do business. They can be accessed via the equality pages on our website
- 1.2 This toolkit has been written to help officers understand what is required to comply with the Act, specifically Section 149 of the Act. This section is known as the “Public Sector Equality Duty”, which is usually shortened to the PSED. Specifically we will look at how carrying out an Equality Impact Assessment (EIA) helps us fulfil this duty.

2. The Equality Duty

- 2.1 The Equality Act protects against discrimination. To do this, a number of our characteristics, or the attributes that define us, are protected by law. These are known as the “**protected characteristics**”. Our Equality Scheme contains a glossary providing more detailed definitions of these characteristics. Sometimes these are referred to as “protected groups”, but it is important to remember that all of us have “protected characteristics”. They are:

Age: This refers to people of the same age and people of a particular range of ages.

Disability: A disability is a physical or mental impairment that has a substantial and long-term adverse effect.

Gender reassignment: This is a personal process; it involves a person expressing their gender in a way that differs from the one they were assigned at birth.

Pregnancy and maternity: Being pregnant, expecting a baby, and the period after the birth.

Race: A person’s colour, nationality or ethnic origin.

Religion or belief: A religious or philosophical belief, and includes a lack of religion or belief.

Sex: a person's gender.

Sexual orientation: The feelings a person has towards another person, irrespective of gender, which determines who they form intimate relationships with or are attracted to.

2.2 The Act requires public bodies such as Merseytravel to take a proactive approach to equality and diversity. Specifically, the public sector and organisations using public funds and delivering services on behalf of the public sector, must have **due regard** to the need to:

- Eliminate unlawful discrimination, harassment, and victimisation;
- Advance equality of opportunity between different groups of people;
- Foster good relations between different groups of people.

2.3 In terms of equality of opportunity, this particularly applies to the need to:

- Remove or minimise disadvantages suffered by people due to their protected characteristics;
- Meet the needs of people which are specific to their protected characteristics;
- Encourage people who share a protected characteristic to participate in public life and in activities where their participation is low.

2.4 Fostering good relations involves tackling prejudice and promoting understanding between people who share a protected characteristic and others.

2.5 The Act originally included a provision that would have required all public bodies to assess whether they were addressing inequalities caused by socio-economic factors. It would encourage them to improve, for example, health and education outcomes in more deprived areas. This was abandoned before the Public Sector Equality Duty (PSED) came into force in April 2011. Despite this, Merseytravel has made a commitment to continue honour this duty.

2.6 Fundamentally, our actions can affect everyone in different ways, which may result in unfair disadvantage. An EIA helps us to address and avoid the adverse or negative impacts of our strategies, policies, projects and services, specifically by considering how they might affect different people.

2.7 Finally, we also have a duty, known as the "Specific Duties", to publish information demonstrating our compliance with the equality duty. In

other words, we also have a legal obligation to demonstrate **how** we are meeting the duty, and this is why EIAs are so important. Effective impact assessment of activities in relation to the PSED is reported on a quarterly basis, as part of the corporate reporting process.

3. What is meant by “due regard”?

- 3.1 In very simple terms, having “due regard” means consciously thinking about the 3 aims of the Act (see para 2.2) as part of our decision making process; consideration of equality issues must therefore influence our decisions. It is important to recognise that showing due regard is *appropriate in all the particular circumstances in which Merseytravel is carrying out its function as a public body*. This means it applies to how we develop and evaluate policy, how we design deliver and evaluate services, and how we procure from others.
- 3.2 An effective way of showing that we have given “due regard” is to record our considerations as an Equality Impact Assessment (EIA), and whilst an EIA is not in itself a “means to an end”, it is an accepted way of paying due and proper regard to equality duty. Producing a written document called an EIA will carry no weight if it fails to fully consider the actual, practical impact that may result from the measure under consideration.
- 3.3 It’s also about proportionality; taking into account the nature of the policy or project/service, considering its intended effect, and considering its potential impact on those affected. The greater the potential effect, and the more vulnerable the group that may be affected, the more thorough the EIA should be.

4. How the law defines “due regard”

- 4.1 Case law sets out broad principles about what public authorities need to do to demonstrate due regard; these are sometimes referred to as the ‘Brown principles’¹. They set out how the law interprets the duties, and what the court considers organisations such as Merseytravel have to do to fulfil their obligation to have due regard to the identified goals of the general equality duty (as set out in para 2.2).
- 4.2 These principles are that:
- *Decision makers must be made aware of their duty to have ‘due regard’ to the identified goals*

¹ They are named after Mrs Brown, who challenged the closure of her local post office, on the grounds that she, as a disabled customer, would be unfairly disadvantaged, as it was the only post office that was reasonably accessible to her.

- *The due regard duty must be fulfilled before and at the time that a particular policy is being considered by the public authority in question.*
- *The duty must be exercised in substance, with rigour and with an open mind.*
- *The duty imposed on public authorities is a non–delegable duty.*
- *The duty is a continuing one.*
- *It is good practice for those exercising public functions in public authorities to keep an adequate record showing that they had actually considered their duties and pondered relevant questions. (An EIA is an established way of doing this.)*

4.3 In terms of the duty being “non-delegable”, this means that it is the duty of the person (or persons) that make(s) the final decision to be fully aware of the potential impact that the decision may have, in respect of the equality duty.

5. When and how to undertake an EIA

5.1 Producing a written document called an EIA will not demonstrate compliance with the duty if it fails to fully and properly get to grips with the actual, practical impacts that may result from the measure under consideration. In other words, an EIA is a means to an end, not the end itself; it is simply a tool to help with the process of equality analysis. That process requires gathering and analysis of information about the impact of the proposal. It is this process rather than the template itself that lies at the heart of compliance with the duty.

5.2 As we have established, what level of regard is “due” will depend on the circumstances of the matter in hand. There is no prescribed way of discharging the duty, although going through a number of stages will ensure that where relevant, not only is full consideration given, it is adequately documented. This section therefore focuses on the stages of equality analysis; completion of the template will come later in the toolkit.

5.2 **Initial screening.**

5.2.1 This will help determine if an EIA is required, and should be completed for every policy, major project, and when Members will be asked to make a decision on a recommendation. If in doubt, screen it. It will determine whether the policy or action under consideration has relevance to the equality strands; eliminating unlawful discrimination, harassment, and victimisation; advancing equality of opportunity; fostering good relations; or is it likely to have an impact on one of the protected characteristics listed in section 2.1.

- 5.2.2 Sometimes this will relate to policy, for example taking away the subsidy paid to commercial operators for charging children half fares. Other instances may be less obvious, and relate to a particular project, for example taking out a disabled persons' parking space to put in a new bus stop. In both cases, a particular group of people are likely to be adversely affected. At other times, it will be self-evident that there will be no impact, such as introducing an anti-money laundering policy.
- 5.2.3 Ultimately, if the policy or action could have a potential effect, if the impact would be significant, especially in terms of the number of people affected, or if it relates to an area where inequalities are known to exist already, then a full screening should be undertaken.

5.3 Evidence

- 5.3.1 Consider what evidence you have to support your EIA. Consider what data or information is already available, such as the number of people likely to be affected. Decide also what further evidence may be needed, and how it may be obtained. Often the most effective way to obtain evidence is through consultation or engagement with the affected groups. This may be through surveys, meetings, or simply asking their opinion.
- 5.3.2 Due regard is an ongoing process. In essence, evidence gathering is the ongoing element of the assessment, and therefore continues to inform not only the decision itself, but also the effectiveness and actual impact of the policy or service in the longer term. There is a section in the template to record the details of your evidence, or to signpost where it can be found. If you are gathering more evidence, you (and your HoS) are responsible for monitoring that this is done.

5.4 Assessing the Impact

- 5.4.1 This is where the analysis of the impact of the policy or action begins in earnest. It should be a thorough and rigorous process, without a predetermined view as to what the outcome should be. The sorts of questions that should be asked at this stage include:
- Who should benefit from the proposal and who will not?
 - In what way and to what extent?
 - Does the policy or action advance equality of opportunity or foster good relations? If not, could it be changed to do so?
 - Do the effects amount to unlawful discrimination, and need modifying anyway?
- 5.4.2 It is also important to remember the principle that the thoroughness of an EIA, especially in terms of the evidence collated and assessed, should be proportionate to the size of the anticipated impact.

5.5 Mitigation

5.5.1 If adverse effects are identified, what can be done to lessen them? This will need a frank assessment of what can realistically be achieved, in terms of the extent to which the negative effects can be alleviated. If they can't, or the benefits far outweigh the dis-benefits, then this too should be recorded. It is ultimately the responsibility of the HoS to ensure that appropriate mitigation measures are carried out.

5.6 The Decision

5.6.1 Only after all these steps have been taken, can the final decision be taken. Can it be recommended as is? Does it need modification? Does it warrant abandoning altogether?

5.6.2 An important consideration is that often the final decision is taken by someone other than the person who undertook the EIA, since we learned in section 4.3; the equality duty is non-delegable. This means that if a final decision is to be taken by the Directors or elected Members, they too must be aware of their duty and have fully digested the implications set out in the EIA.

5.7 Documenting the Process

5.7.1 It is important to document the equality analysis, as this improves the transparency of the exercise. It also provides the evidence that equality analysis has been carried out, should it ever be challenged. This is covered in the next section of this toolkit.

6. The EIA Template

6.1 Whilst templates can be formulaic, the benefits of having a template generally outweigh the disadvantages. Without them, the accuracy of the recorded data may be compromised. As such, this toolkit includes an example of the EIA template. This version includes guidance notes (in red) to explain what should be recorded in each section, and it can be downloaded or printed separately without the guidance notes for use in undertaking EIAs.

6.2 The template is split into sections, with 1-3 being the initial screening process. If required, sections 4-6 are completed (full screening).

Initial Screening:

Section 1: details of the person compiling the EIA

Section 2: a summary of the policy, service or project being assessed, and the decision to be taken.

Section 3: a determination on whether the policy or action under consideration would impact on the equality duty or is likely to have an impact on any of the protected groups.

Full Screening:

Section 4: the beneficiaries and objectives of the proposal

Section 5: the impact; positive, negative or neutral

Section 6: details of supporting evidence

Section 7: this tells you what happens next (what to do with the completed EIA).

7. Reporting Process and Performance Monitoring

- 7.1 Merseytravel's approach to the PSED is to "mainstream" responsibility for equalities and legislative compliance throughout the organisation. For example, the Policy Development team provide general advice, raise awareness and build capacity within the organisation; reporting our progress with the Specific Duty is the responsibility of the Performance Team; each HoS is responsible for demonstrating due regard to the PSED in how they oversee the design, delivery, quality and effectiveness of the organisation's functions within their own service areas.
- 7.2 Each Head of Service is therefore responsible for ensuring that, where relevant, "due regard" is demonstrated and documented via an EIA. Heads of Service are also responsible for "signing off" of the EIA. This requires your completed EIA to be sent to your HoS, who in turn forwards it to performance@merseytravel.gov.uk. This action indicates that they have checked the EIA and are happy to "sign it off".
- 7.3 As part of this process, HoS will need to consider a number of issues:
- Initial screening:
 - If "none of the above" is checked, are there genuinely no implications?
 - Full screening:
 - Is the EIA suitably comprehensive?
 - If actions arise from negative impact, they need adding to the relevant service plan, project plan, and/or the individual performance plan of or whoever is responsible for the action.
 - If there are no negative impacts identified, is this adequately justified?
 - If further evidence is being gathered, this should be monitored by building it into the Service Plan, and the EIA updated as required.
- 7.4 Each service area is responsible for updating their EIAs as frequently as necessary, e.g. if further evidence becomes available or there's a change in approach, and sending a revised version to the performance team.

- 7.5 When submitting reports to the Combined Authority or Merseytravel Committee, the “Equality and Diversity Implications” are reported as shown in the report template. This should indicate the outcome of the initial screening. If a full screening has been undertaken, the report should summarise the impacts, both positive and negative. This is important, because the Members must be provided with enough evidence to draw conclusions for themselves; making informed decisions is a non-delegable duty (para 5.6.2), and as such Members must be made aware of their duty and have fully digested the implications set out in the EIA, before agreeing the report’s recommendations.
- 7.6 When the report is circulated for review, responsibility for the EIA “sign-off” rests with the HoS and relevant Director, since it relies on an underlying understanding of the issues being considered, and cannot practicably be delegated to a single nominated officer.
- 7.7 As we established at the outset of this toolkit, EIA is an integral part of our decision making process, and as such should be undertaken for ALL Member decisions, and as a systematic way of identifying the potential impact of our policies, services and functions on our customers and staff.



Equality Impact Assessment: Template

Section 1: Your Details

EIA Lead Officer (name and title)

Head of Service (name and title)

Date

When the EIA is finalised it will be “signed off” by your HoS. It is therefore important that the HoS named above is fully aware of the EIA, and is satisfied with its contents.

Section 2: Summary of proposal

What is the title of this assessment?

.....

Please provide a short, clear summary of what is being assessed.

Avoid jargon and acronyms, and provide someone unfamiliar with the details of the project a clear overview of the proposal.

Will this be submitted to the Combined Authority, Merseytravel Committee (or a sub-committee), or Merseytravel? Yes/no (delete as applicable)

If “yes”, please provide the name and date of the meeting

e.g. Merseytravel Committee, 26th June 2014

Section 3: Initial Screening

You are using your judgement as to whether or not the policy or action under consideration would impact on the equality duty or is likely to have an impact on any of the protected groups.

If it does not, the initial screening is complete, no further analysis is required, and you can go straight to section 7. If it does, then continue with the EIA in sections 4-7.

Is the proposal likely to impact on the way Merseytravel is showing “due regard” to three aims of the Public Sector Equality Duty (PSED)? Please select relevant box or boxes, by double clicking the box and selecting “checked”.

- eliminating unlawful discrimination, harassment, and victimisation;
- advancing equality of opportunity
- fostering good relations between different groups of people.

If you have checked one or more of the above boxes, please proceed to section 4. Otherwise, consider if it is likely to have a significant impact on any of the protected characteristics?

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

- Socio-economic factors - **As we established in para 2.5, socio-economic considerations are not covered by the legislation. However, Merseytravel has made a commitment to give them consideration.**

If you have checked one or more of the above boxes, please proceed to section 4.

Otherwise, the initial screening is complete, and full screening is not required. Please now go to Section 7.

Section 4: Beneficiaries and Objectives

Who should benefit from the proposals, and how does the proposal fit with Merseytravel's aims and objectives?

Consider what it is you are assessing and think about who or what is likely to benefit the most. In terms of its "fit" with wider Merseytravel policy and priorities, you should refer to the Corporate Plan, or your Service Plan. Again, keep it focussed, and avoid jargon and acronyms.

Section 5: Impact

- a) Could the proposal have a positive or negative impact on any of the protected characteristics (race, gender, disability, gender reassignment, age, pregnancy and maternity, religion and belief, sexual orientation)? Please list in the table below (add more rows if required) and include actions required to mitigate any potential negative impact.

This is where you demonstrate the full potential impact of your proposal. Use your gut instinct, and refer to the evidence you have gathered (see section 5.3). If there are negative impacts, you will need to say what can and will be done to mitigate them. Assign this action to a nominated person and give a timescale for completion. If this action has resource implications, say what they are. Make sure this action is recorded in the relevant Service, Project or Individual Performance Plan.

Which group(s) of people could be affected	Potential positive or negative impact	Action required to mitigate any potential negative impact	Lead person	Timescale	Resource implications
Record the relevant protected characteristic (e.g. over 60s)					
<p>b) If there are no negative impacts, what is your reasoning behind this?</p> <p>If you say there are no negative impacts, you will need to give a reason; You can make this box/row as big as you need.</p>					

Section 6: Evidence

What research / data / information have you used in support of this process? Add detail about links to evidence or provide actual summary, rather than simply giving the title of the research. Remember that your evidence is important – you should not rely solely on your gut instinct.

This is where you document what evidence you have to substantiate your assessment, or provide details of where to find it. You should consider reporting:

What data has been used to assess the impact of this proposal?

What data do you have from monitoring?

Has any external relevant data or research been used?

Do you have feedback from consultation or engagement?

Do you intend carrying out further consultation? If so, you will need to remember to revisit/update the EIA when you have more evidence. You may need to defer your decision.

Section 7: Next Steps

Send this form to your HoS for them to forward to:

performance@merseytravel.gov.uk

This is essentially the sign off procedure. By submitting this form, the named officer and the HoS are agreeing to the content of the assessment.

Make sure all the actions are acknowledged in appropriate service and/or other plan.