# Equalities and EIA

The Equality Act 2010 includes a public sector equality duty (PSED). This duty requires public organisations to show due regard to the need to eliminate unlawful discrimination, harassment, victimisation; to advance equality of opportunity; and to foster good relations between communities. The Act applies to anyone providing goods, facilities or services to the public or a section of the public, or carrying out public functions. This article provides a brief overview on the application of the requirements of the Act in the context of public sector projects. It considers the relationship between equality impact assessment (EqIA) and environmental impact assessment (EIA) and discusses challenges practitioners may face and guiding principles to follow when conducting EqIAs.

## Equality impact assessment

EqIA has been developed as a tool to assist in meeting the PSED. It should be noted, however, that an EqIA alone may not be sufficient to fully meet this duty. The purpose of an EqIA in the context of a project, is to consider the impacts of a project on relevant groups who share characteristics which are protected under the Act. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion and beliefs, sex and sexual orientation. An EqIA can also consider impacts on other groups considered to be vulnerable within society, such as low-income groups.

## Equalities and EIA

An EqIA is typically undertaken at the very early stages of a plan, policy or project and will therefore be conducted in a similar timeframe to EIA, although its outcomes will generally be reported a separate document.

When undertaken concurrently, an EqIA can be informed by the baseline collected in the EIA, particularly demographic information such as the age profile of the local population, ethnicity and gender ratios.

The EqIA can also draw on the EIA’s conclusions on environmental effects and mitigation measures. Similarly, the results of the EqIA could further inform the socio-economic assessment and allow mitigation measures to be targeted to most vulnerable groups.

However, an EqIA goes beyond an EIA in the sense that instead of looking at the whole population homogenously, it looks at the potential effects of changes for protected groups. An EqIA does not use defined significance criteria to assess potential effects. Instead, a more qualitative approach is used to assess whether or not the environmental effects identified through the EIA would result in differential or disproportionate effects on protected groups. An impact can be differential when it affects members of a protected characteristic group differently from the rest of the population. An impact can be disproportionate when it has a proportionately greater effect on members of a protected characteristics group than the rest of the population.

Given the relationship between EqIA and EIA, there are clear benefits in integrating both assessments.

## Practical challenges

EIA practitioners are likely to notice an increase in demand for EqIA, which is no longer merely seen as a way to fulfil PSED requirements, but also as general good practice on large public projects. Typically, recent EIA Scoping Opinions have a tendency of asking for an EqIA to be carried out concurrently with the Environmental Statement and used to inform its findings. However, there are a number of challenges to conducting EqIA. There is currently little guidance or training available on how to conduct EqIAs, especially in the context of projects (rather than policy). Furthermore, there is often limited budget allocated to EqIA, with the assessment often being undertaken as something of an afterthought. This often results in poorly scoped, rushed and ultimately ineffective EqIA.
Practical guidance

The following should help practitioners to overcome some of the challenges noted and ensure good practice when undertaking EqIA.

- **Data and consultation**: Up-to-date and relevant data is essential in order to have an appropriate baseline enabling to reflect on potential equality effects. Targeted consultation is generally needed to supplement baseline data obtained and to identify protected groups that may not be identifiable through desktop research.

- **Scoping**: The scoping is a critical stage as not all protected characteristics are likely to be affected by a given project. The scoping stage should involve the use of a matrix assessing key components against protected characteristic groups. The scoping should also be informed by consultation.

- **Brainstorming**: Development of the EqIA scope with a number of participants is particularly important to ensure all matters are covered comprehensively. This could include involving representatives from protected groups themselves.

- **Assumptions**: The assumptions and limitations of the assessment need to be made explicit, partly to assist with managing the expectations of stakeholders and clients.

- **Balance**: Mitigation measures should aim to reduce any less favourable treatment, discrimination or disadvantage which may be direct, indirect or not immediately obvious. However, in the context of EqIA, impacts can be balanced in the cases where discrimination is inherent to the legitimate aim of the project, or can be justified on the grounds that a genuine determining reason exists.

- **Internal Quality Assurance**: A poor quality EqIA can do more harm than good and can have substantial reputational and financial consequences to a project and/or a client. While not all stakeholders may agree with the conclusions, a robust assurance process will help to ensure that the conclusions are evidence-based and defensible.


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