



Equality Impact Assessment

Policy and Guidance

Equality and Diversity Unit

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You are welcome to use information from this document, however please acknowledge the University of Glasgow Equality and Diversity Unit as appropriate.

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Equality Impact Assessment Policy Statement

The University of Glasgow is committed to promoting equality in all its activities. We aim to provide a work, learning, research and teaching environment free from discrimination and unfair treatment.

Equality legislation requires public authorities to conduct Equality Impact Assessments on significant changes to policies and practices. This enables the University to meet part of its *general duties* on equality.

Equality Impact Assessment (EIA) is a systematic and evidence based process which verifies that the University's policies and practices are equality proof and not discriminatory.

All new or reviewed policies are required to go through this process to ensure that we are not discriminating against any particular group, to identify any gaps and to highlight areas of good practice where we are promoting equality of opportunity.

All Colleges, Schools and Services that have the lead responsibility for developing and revising policies are required to understand and implement the EIA process.

This document provides advice and guidance on how to conduct an EIA. The Equality and Diversity Unit will provide the appropriate assistance and support to colleagues as required.

1. Introduction

1.1 An impact assessment is a process of identifying and removing any barriers (arising from policy or practice) that may cause discrimination against a minority group. It is a legal requirement for the University to conduct Equality Impact Assessments (EIAs).

1.2 This guide provides information on EIAs and how to conduct these.

1.3 This guide has been prepared following extensive research of material being used in the Higher Education (HE) sector and elsewhere (see section 11).

1.4 The Equality Act 2010 requires public bodies to be pro-active in achieving positive equality¹. The recommended good practice for measuring and achieving equality is to conduct an 'Impact Assessment' of existing and developing policies and practices. This guide will assist with this process and ensure that there are no barriers to minority groups.

1.5 EIA's need to be conducted for all protected characteristics as outlined in the Equality Act 2010; these are age, disability, gender reassignment, sex, race, religion or belief, sexual orientation, marriage and civil partnership and pregnancy and maternity.

1.6 While the concept of EIAs may appear bureaucratic the process is required by law. At the University the approach we are adopting is one of enhancing learning by supportive measures to promote understanding of equality and diversity. Many Colleges, Schools and Services with responsibility for developing or implementing policies and practices are likely to be applying EIA processes already without realising it or using this terminology.

1.7 The responsibility for overseeing the implementation of Equality Impact Assessments on behalf of the Court lies with the Equality and Diversity Strategy Committee (EDSC), which is chaired by the Principal. The Equality and Diversity Unit (EDU) is there to provide advice and support where policy owners feel they lack the relevant understanding, knowledge, skills or data to carry out the assessment. The EDU encourages staff with the lead responsibility for conducting EIAs to contact the Unit for advice and guidance at the outset of the process.

2. What is an Equality Impact Assessment?

2.1 An EIA is a way of looking at University policies and practices systematically from a minority group perspective. This should highlight any inequalities which might not be obvious to someone looking at it from a 'majority' group perspective – often the approach used when policies and practices were originally formulated.

2.2 The EIAs are not about political correctness: they are about ensuring that policies and practices at the University are fair and inclusive in meeting the legitimate

¹ The **general duty** is set out in section 149 of the Act. In summary, those subject to the Equality Duty must have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between different groups; and
- foster good relations between different groups.

needs of the diverse groups that make up the University community of students and staff.

2.3 The EIA method is a continuous process which starts when the need for a new policy or practice is identified, or when an existing one is reviewed. Over time we expect the principles and values inherent in EIAs to become embedded as an automatic way of thinking about new policies and practices.

3. Legislation

3.1 The concept of impact assessments originates in the Race Relations (Amendment) Act 2000 and is included in the legal duty placed on public sector organisations in the Disability (2005) and Gender (2006) Equality legislation. These Acts place a duty on public authorities to consult with relevant stakeholders, when developing or reviewing policy or practice. These separate Acts have been incorporated in the Equality Act 2010; which extends the requirement to conduct an EIA to all the protected characteristic groups (see 1.5).

3.2 Once an EIA has been completed, the results – whether the policy or practice has been changed or not – is required by law to be published. The University will do this through the Equality and Diversity Annual Report and the Equality and Diversity Unit's website.

3.3 Since October 2007, the Equality and Human Rights Commission (EHRC) has been charged with enforcement responsibilities, and failure by a public authority to comply with the legal obligation to conduct EIAs may result in a compliance order being issued against the organisation by the Secretary of State.

3.4 The EIAs should be proportionate to meet the legitimate aim.

The weight that public authorities give to equality should therefore be proportionate to its relevance to a particular function. The greater the relevance of a function to equality, the greater regard that should be paid².

The equality duties do not prevent you from making difficult decisions such as reorganisations and relocations, redundancies, and service reductions nor do they stop you from making decisions which may affect one group more than another. What the equality duties do is enable you to demonstrate that you are making financial decisions in a fair, transparent and accountable way, considering the needs and the rights of different members of your community. This is achieved through assessing the impact that changes to policies, procedures and practices could have on different equality groups.

Assessing the impact of proposed changes to policies, procedures and practices is not just something the law requires, it is a positive opportunity for you as public authority leaders to ensure you make better decisions based on robust evidence.³

² Equality impact assessment guidance: A step-by-step guide to integrating equality impact assessment into policymaking and review, Equality and Human Rights Commission, November 2009 (pg 5)

³ Using the equality duties to make fair financial decisions: A guide for decision-makers, EHRC, Sept 2010, (pg 1)

3.5 There are examples of case law which emphasise the need to conduct EIAs. Please refer to Appendix C for details.

4. When do you need to conduct an Equality Impact Assessment?

The following examples (hypothetical) highlight circumstances when to conduct EIAs.

4.1 Example - Downsizing staff ratio

The number of staff is being reduced in a department from 40 to 30. However, the student numbers attending the department remain the same.

4.1.1 Is an EIA required for students?

As the student body remains the same this would not require an EIA. However, consideration would be required for factors such as:

- Would the reduction in staff numbers lead to larger class size?
- How would this affect teaching methods?
- Would either of the above changes have an impact on a protected characteristic group?

4.1.2 Is an EIA required for staff?

An EIA is required on staff affected by the downsizing to consider impact on the protected characteristics groups.

4.2 Example - Amalgamation of a course

In order to avoid duplication of effort, some courses offered by different Schools are merged to form a core module. An example of this would be combining a statistics module offered by different Schools to enhance skills required in relation to programme of study.

4.2.1 Is an EIA required for students?

As in 5.1.1 above, an EIA is not required for the student body per se because it remains the same.

However, consideration would be required for factors such as:

- Would the merger lead to larger class size?
- How would this affect teaching methods?
- Would either of the above changes have an impact on a protected characteristic group?

4.2.2 Is an EIA required for staff?

If the amalgamation resulted in a staff reduction, this would require an EIA.

4.3 Example - Removing modules

In order to streamline provision a module is removed from a programme.

4.3.1 Is an EIA required for students?

An EIA is not required as the course is not being offered in the next academic session. However, the School need to ensure that students who are currently studying the module are allowed to complete.

4.3.2 Is an EIA required for staff?

If the removal of modules resulted in a staff reduction, this would require an EIA.

4.4 Example - Closure of a programme

In a climate of financial constraint the University decides to close a programme based on business needs.

4.4.1 Is an EIA required for students?

An EIA is required for students affected by the closure of the programme.

4.4.2 Is an EIA required for staff?

An EIA is required for staff affected by the closure of the programme.

In this example consultation would be required with a range of stakeholders including:

- Staff from protected characteristic groups
- Students from protected characteristic groups
- Students Representative Council and relevant student group/ network.

5. What evidence is required when conducting an Equality Impact Assessment?

5.1 The EIA process entails an evidence based approach. How the evidence is obtained will vary and it will be important to choose a method that is appropriate and proportionate. The EDU will advise on data or evidence already available locally or nationally to avoid unnecessary duplication of effort. Some evidence gathering methods are exemplified below.

5.2 Data gathering – When you are gathering information about a policy or activity (including student feedback on courses) consider whether the EIA requirement means that it should be analysed to show impact on minority groups (which may reveal that there is no impact). Ensure you structure your data gathering to enable you to do this. Bear in mind that the University holds a lot of data centrally – you may not need to collect new data but can simply tap into relevant data sets already available to assist with the analyse of impact on minority groups. The EDU can advise further on this.

5.3 Consultation - Consulting with members of protected characteristic groups to establish how best to meet their needs or to overcome barriers. This needs to be planned carefully to avoid consultation fatigue. You may have local reference groups of staff and/ or students from minority groups who are happy to help, but you should consult with the EDU if you are thinking about undertaking wider consultation. It is possible that feedback already exists, having been gathered for similar purposes elsewhere. If required the EDU will manage and organise consultation with minority groups.

5.4 Research – the EDU can advise on this where any local or national published research can be used to provide supporting evidence.

5.5 Anecdotal evidence – Where none of the above exist, some anecdotal information may be used as supportive evidence until such time where data gathering, consultation or research becomes available.

6. Benefits of Equality Impact Assessment

6.1 There are benefits to the University other than legal compliance in conducting EIAs.

6.2 Recruiting and retaining the best staff - The University has a core strategic aim of 'recruiting and retaining the best staff'. By completing EIAs for Recruitment and Selection, Promotions, and Reward and Recognition policies we will ensure that these policies support the recruitment and retention of the best people judged purely on their abilities and merit.

6.3 Promoting the University's internationalisation strategy - As our community of international students and staff grows; the EIA process will ensure that our policies and procedures are inclusive. This will enhance the experience of international students and staff and increase the University's competitiveness by making it the destination of choice.

6.4 Enhanced service delivery by University Services - Understanding the needs of all service users and stakeholders and seeking their feedback allows services to stay responsive, relevant and customer focused. The information collected in the course of EIAs is valuable management information.

6.5 Refuting ill-founded claims of discrimination - EIAs and the monitoring inherent in them produce an evidence base which helps counter claims where discrimination is alleged.

6.6 Protecting the University from vicarious liability - This is a legal term referring to instances when the employer is liable for the negligent actions of the employee, even though the employer was not directly responsible for discriminatory behaviour.

7. Critique of Equality Impact Assessment

As with much equality legislation, EIA has its criticisms, these include:

7.1 Creates unnecessary bureaucracy - the systematic approach does mean that there is new bureaucracy at least until we embed the processes and ways of thinking that underpin the EIA approach. The EDU is working to ensure that this is proportionate and measured. It is also worth remembering that the investment of

effort in EIAs will save time and resource that might otherwise be diverted to deal with complaints, grievances or legal processes related to resolving alleged discrimination.

7.2 Over-the-top political correctness - EIAs are a systematic approach to doing things that are already important to us – such as recruiting the most talented staff and students and ensuring that they can give their best and succeed within the University community. Being systematic should make us more effective in implementing the University's core objectives.

8. Support, Guidance and Responsibility

A collaborative approach is required to successfully conduct EIA's. Outlined below are the roles and responsibilities of those involved.

8.1 The Equality and Diversity Unit will:

- Coordinate the EIA schedule for revising HR and Senate Policies
- Develop and update, as appropriate, the EIA guidelines and process
- Provide advice, guidance and training to relevant policy/ practice owners on conducting EIAs
- Support consultation with relevant stakeholders (such as protected characteristic groups)
- Receive and review the EIAs for formal sign off
- Include information on EIAs conducted within the University's Equality and Diversity Annual Report and publish completed EIAs on the University website.

8.3 The relevant policy/ practice owner (College/ School/ Service) will:

- Be responsible for conducting an EIA in collaboration with the EDU. Where necessary, for staff related matters HR department may also be involved. For student relating matters the Senate office may be involved.
- Identify relevant local evidence in support of the EIA
- Revise and update policy/ practice as appropriate
- Review policy/ practice in a timely manner as and when required.
- Notify the EDU of EIAs once completed and forward relevant documentation.

8.4 The Senior Management Group (SMG) will ensure that EIAs are conducted by the appropriate lead responsible team prior to approval of any policy or practice development.

8.5 The Equality and Diversity Strategy Committee has responsibility for overseeing the implementation of EIA on behalf of the University Court.

9. Signing off an EIA

The EDU will coordinate receipt of EIAs and relevant documents. The EDU and the policy/ practice owner will sign off the EIAs together. Where necessary involving the Director of HR (for staff related matters) and the Clerk of Senate (for student related matters).

The Senior Management Group will receive updates to ensure that EIAs are effectively conducted.

10. How to conduct an Equality Impact Assessment

10.1 The EDU has designed a methodology to support individuals, Services, Schools and Colleges in completing EIAs. No standard template or format exists to guide organisations on conducting EIA's. The step by step guidance which follows includes case studies which should assist you with the way of thinking that is required to complete the EIA successfully.

10.2 The flowchart on page 11 shows an overview of the full process.

10.3 The EDU is available to offer support and guidance at every stage of this process.

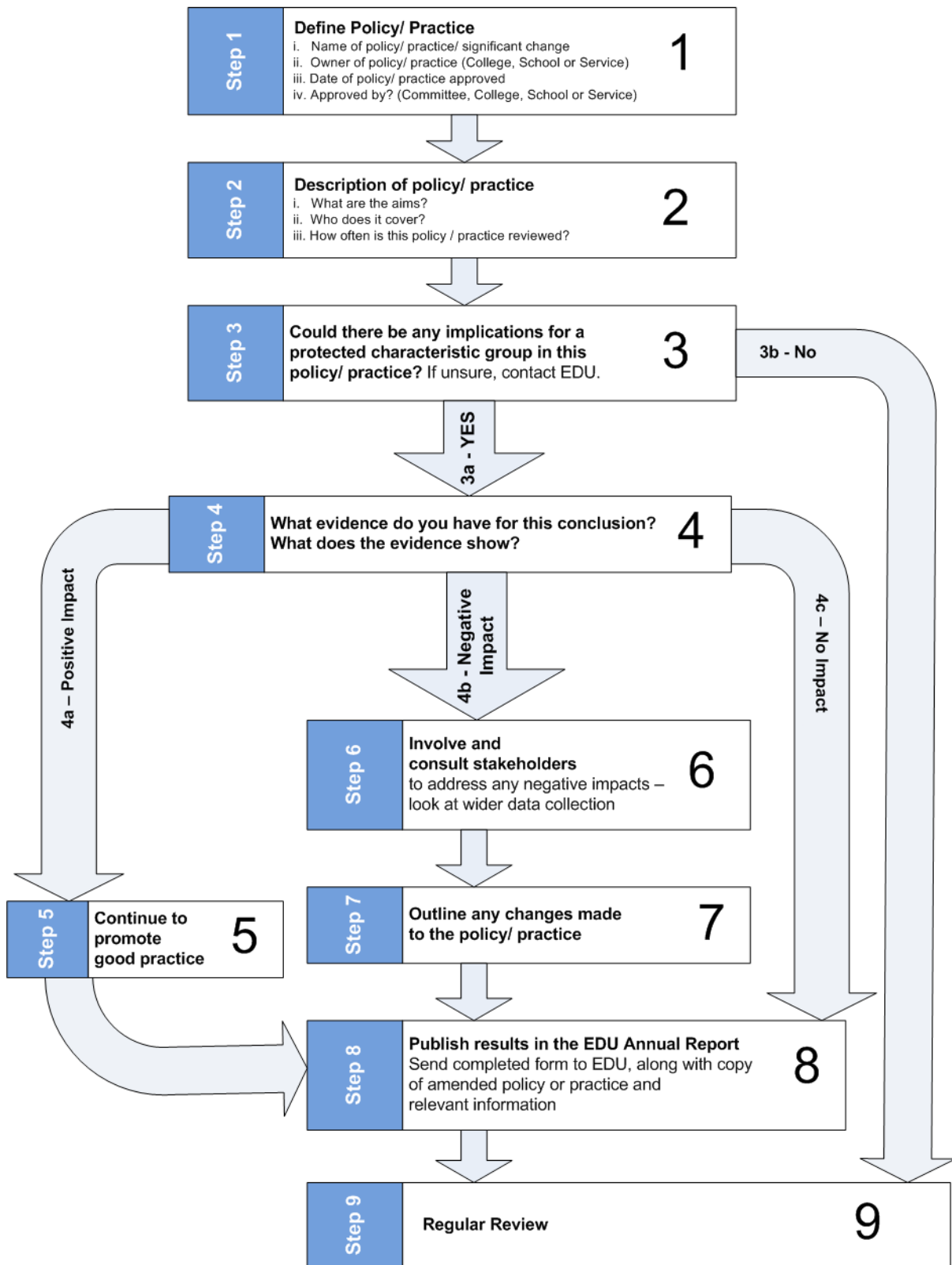
10.4 An EIA should be carried out at the University where there are significant changes suggested, including when:

- Developing a new policy or practice;
- Reviewing an existing policy or practice; or
- Changing or amending existing policy or practice.

10.5 The College, School or Service that has the lead responsibility for developing and implementing the policy or practice, in conjunction with the Equality and Diversity Unit (EDU), should conduct an EIA.

10.6 Before you begin, you are encouraged to consult with the EDU who will support and guide you through the various steps of the EIA process.

Equality Impact Assessment Process



The Equality Impact Assessment Process

An EIA is required for any proposed significant change to policy or practice. The following is an explanatory process on how to conduct an EIA. Examples are provided throughout the various steps of the process to enable a better understanding.

Step 1 – Define policy/ practice

- i. Name of policy/ practice/ significant change (see appendix A)
- ii. Owner of policy/ practice (College, School or Service).
- iii. Date of policy/ practice approved.
- iv. Approved by? (Committee, College, School or Service)

1.1 Define the name and ownership of the policy/ practice

1.2 Confirm the date the policy or practice was approved and by which authority within the University. This will assist with any future auditing or freedom of information requests and implementation of good practice around retention of information.

Step 2 – Description of policy/ practice

- i. What are the aims?
- ii. Who does it cover?
- iii. How often is this policy/ practice reviewed?

2.1 Identify the policy/ practice aims, including the scope of the policy or practice, for example does it cover students, staff or a particular cohort such as postgraduate research students.

2.2 Where a practice is identified, this is likely to be informal and might not be written down. Therefore you would need to write down the business process as to how this practice is applied. For example providing online tutorial system for students who use assistive technology.

Case study A

The University has developed a new Recruitment and Selection policy and procedure. The aim of the policy is to ensure that;

*All individuals are treated on the basis of their relevant merits and abilities.
The University seeks to promote good recruitment and selection practices and to ensure that in all cases the best candidate for the position is appointed.*

To ensure that this policy is applied across the board, the University Court has agreed to make Recruitment and Selection training mandatory for members of recruitment panels. This ensures the University staff understand the importance of equality and diversity in this context. The training and understanding will help the University discharge its legal obligation and protect it from vicarious liability if any potential discrimination cases arise during the recruitment and selection process.

Step 3 – Could there be any implications for a protected characteristic group in this policy/ practice?

3.1 Identify whether the policy or practice has any links with University equality policies, equality schemes and action plans for any of the protected characteristics. The EDU can advise on which equality policies and action are relevant to you.

3.2 Consider the effect of the policy/ practice on the protected characteristic groups, for example:

3.3 People with a disability – including those with:

- Visual impairment
- Hearing impairment, including those who use BSL as their first language
- Mobility impairment
- Long term health condition (such as cancer)
- Mental health impairment (such as depression)
- Learning disability
- Dyslexia or dyspraxia
- Unseen disability (such as diabetes)

For example – An academic uses a video within the learning and teaching programme, ensuring that subtitles and audio commentary meet the needs of deaf and visually impaired students, an unintended positive outcome is that bilingual students also benefit from this resource.

For example - A member of staff with diabetes who works in a laboratory is allowed regular breaks for food and drink.

For example – When validating a new course the diverse learning needs of students are taken into account.

3.4 People from an ethnic minority group.

For example - In delivering lectures academic staff consider the implications of learning and teaching for students who have English as a second language, by avoiding local colloquialisms without explanation.

3.5 Men or women going through gender re-assignment

For example - A School adapts a practice of holding additional seminars at lunchtime, instead of the evening so that students with caring responsibilities can attend.

For example - Sport and Recreation Service has a practice which allows students and staff undergoing gender reassignment to use appropriate changing facilities.

3.6 Young and older people.

For example - The University ensures that school leavers and people who are nearing retirement have equal access to training opportunities.

3.7 People with a different sexual orientation (lesbians/gay women, gay men and bisexuals)

For example - Same sex partners receive the same rights, conditions and entitlements such as parental leave and opportunities for flexible working.

3.8 People with a specific religion or belief (this includes philosophical belief).

For example - When timetabling lectures the School avoids setting them late on a Friday afternoon to respect the Sabbath practiced by Jewish students. (The Sabbath lasts from Friday sunset to Saturday sunset).

For example - Where refreshments are provided at meetings, vegan or vegetarian food is included as norm, thereby meeting the needs of Hindu staff.

Case study B

A School wants to encourage its staff to attend and deliver papers at external conferences. The Head of School (HoS) on reviewing the previous year's attendance recognises a trend of fewer female staff participating and contributing.

To investigate this matter, the HoS requests a meeting to ask female staff in the School why this is the case. It is highlighted to the HoS that although the School encourages and provides resources for staff to attend conferences, no resources are available for childcare, nor has the School explored video conferencing facilities to mitigate this. On highlighting this, the HoS ensures that appropriate resources are made available in the future budget, so that all staff have equal opportunity to participate in external conferences.

Step 3a – Yes, there is an implication for a protected characteristic group.

→ **Go to Step 4**

Step 3b – No, there is no implication for a protected characteristic group.

→ **Go to Step 8**

3.9 Where you arrive at conclusion of 'no' or 'not relevant' to equality and diversity, please return the completed form (an example of which is in Appendix D) to the EDU.

→ **Go to Step 8**

3.10 If you arrive at 'unsure' you are advised to discuss this with the EDU. The EDU will help you establish whether there is a potential barrier for a protected characteristic minority group or if the policy or practice is actually neutral and has no adverse effect on any group of students or staff.

Step 4 – Yes, there is an implication for a protected characteristic group - what evidence do you have for this conclusion?

4.1 To support your response you should use relevant data sources. Sources of internal data might include:

- Monitoring information for students (available from Planning Office) and staff (available from Human Resources) according to age, disability, gender reassignment, race, religion and belief, sex, sexual orientation, pregnancy or maternity and marriage or civil partnership (some of this information may not be available or currently monitored at the University).
- Surveys of students, staff or visitors
- Evaluation and feedback from staff learning and development training
- Feedback from students and staff networks
- SRC reports and investigations
- Recruitment and promotions data
- Admissions and attainment data
- Disciplinary, grievance and complaints data for students and staff
- Feedback on teaching programmes
- Feedback from policy/ practice users

4.2 If you are unable to find suitable internal data sources, you might want to look at appropriate external sources, these could include:

- Information collated by UCAS and HESA
- Universities Scotland research
- Census data
- Research completed by national policy institutions, such as the Equality and Human Rights Commission (EHRC)
- National Student Survey
- International Student Barometer

4.3 If you have no relevant data set, you should consider the following;

- Collecting anecdotal information such as hold a one-off focus group
- Review policy or practice with a staff or student network/ forum
- Review the policy/ practice with a relevant external community group
- Benchmark against a relevant external source (such as the Russell Group Universities)

4.4 If you have no relevant data, in the long term you should look at developing an appropriate data source. However it is recognised that this is a challenging area and data sets may not always be available.

Step 4 (continued) – What does the evidence show?

- **4a - A positive impact**
- **4b - A negative impact**
- **4c - No impact**

Step 4a – A positive impact

4.5 This would mean the policy or practice complies with the University's equality policies and national legislation, it may even support the legal requirement to foster good relations between protected characteristic groups.

Examples of a positive impact for a minority group could be:

- University publications indicating availability in different formats
- Catering facilities across campus achieving the Sunflower Award, which supports people from minority faith groups
- In renovating a reception area accessible counters are provided
- Accessible podiums provided in lecture theatres
- The Research Excellence Framework provides opportunities for all staff by reducing the number of outputs required for submission from women who have been on maternity leave and people who have extended periods of sick leave

→ **Go to Step 5**

Step 4b – A negative impact

4.6 This would mean the policy/ practice could be potentially discriminatory and possibly breach legislation.

Examples of a negative impact for a protected characteristic group could be:

- Evidence of no ethnic minority staff participating in staff training
- Male or female only interview panels
- Facilities provided for young students only
- Placement policy not covering accessibility needs for disabled students

→ **Go to Step 6**

Step 4c – No impact

4.7 This would mean the policy/ practice has no relevance to protected characteristic groups, and is therefore equally applicable to all.

Examples of no impact could be:

- Relocation Policy for staff – accessible to everyone who is appointed at the qualifying grade at the University
- Provision of sports facilities – which are open to all students and staff

→ **Go to Step 8**

Step 5 - Continue to promote good opportunity for all people

5.1 Where the outcome of an impact assessment is positive, then you should continue to promote (via publicity material, at meetings, on website etc) and implement this as an exemplar policy or practice, thereby actively promoting good equality of opportunity for all people.

→ Go to Step 8

Case study C

A group of staff successfully campaigned for a wider selection of vegan and vegetarian food to be provided by the Hospitality Service. The service, in consultation with staff, successfully acquired *the Sunflower Standard* accreditation from the Vegan Society. This means a vegan hot meal, snacks and sandwiches are available every day in catering facilities across campus.

A positive, unintended consequence of this is that Hindu students and staff will benefit from this policy as it adheres to their faith based dietary needs. This provision is also consistent with the University's Religion and Belief Policy and the Internationalisation strategy.

Step 6 – Involve and consult stakeholders to address any negative impacts in the policy/ practice – look at wider data collection

6.1 Legislation states that opinions should be sought from relevant stakeholders about the policy or practice on how these fit their needs.

6.2 The EDU will manage the co-ordination of the involvement and consultation process, where required. We recognise there is a risk of 'consultation fatigue' with protected characteristic groups and would like to keep this to a minimum.

6.3 There are many ways to consult and involve stakeholders, suggested examples of involvement would be:

- Conducting students or staff survey
- Focus groups
- Face to face interviews
- Web forums
- Workshops
- Discussion with relevant equality student and staff forum/ network
- Discussion with Student Representative Council
- Via email

6.4 Consider using wider external data sets (if not completed already) as suggested in section 5.

→ Go to Step 7

Case study D

The University is renewing its signage in line with the revised University logo. It is recognised that this is an area where people with a disability, and particularly visual impairment would have a valuable input. As a result Estates and Buildings hold a focus group with some students through the Disability Service and disabled staff through the staff disability network. The stakeholders involved in the process highlight the need for good colour contrast in the signage.

Whilst involving these stakeholders Estates and Buildings become aware of anecdotal evidence from security and janitorial staff about the need for clear signage for visitors to the University, including those with English as a second language. The latter was an equalities perspective they had not considered, and this enabled the Department to look for international (including pictorial) signs for key attractions on the University campus.

Step 7 – Outline any changes made to the policy/ practice

7.1 If a negative impact has been found, we are required to consider how to amend the policy or practice.

7.2 If it is not possible to amend the policy or practice, then the University should implement a positive action process to mitigate the negative impact.

Examples of positive action may include:

- Lack of female senior managers – develop women’s only management training course
- Student recruitment – involve female engineering lecturers in schools and the community to encourage female applicants
- Invite external speakers from representative minority groups to encourage appropriate application for promotion or further study

7.3 Where changes to a policy are decided this should be approved through the appropriate channels e.g. University Committee, Court or Senate.

→ **Go to Step 8**

Case study E

The School of Medicine has a policy of interviewing prospective candidates for its undergraduate degrees. The policy ensures all individuals on the selection panel are trained in fair admission procedures that include equality and diversity issues. Each year admissions staff ask a question relating to a current affairs issue, which does not always relate to health matters which is not scored. By going through the EIA process the School recognises this question, and its unrelated nature to the health sector has the potential to discriminate. On reviewing the policy, they decide to ensure that this question relates to a health matter and the answer is evaluated objectively.

Step 8 – Publish results.

8.1 The completed EIA form (see Appendix D) should be returned to the EDU, and where appropriate accompanied by a copy of the amended policy or practice and relevant information, for annual reporting.

8.2 Equality legislation places statutory responsibility on the University to publish the results of the EIAs. It is considered good practice to notify and inform students and staff who have participated in the EIA process of how their contribution has improved or affected the policy or practice.

8.3 The EDU will publish the summary results of the EIAs on the University website and will report to Equality and Diversity Strategy Committee.

→ Go to Step 9

Step 9 – Regular review

9.1 Regular review ensures that policy or practice are kept up to date and meet the requirements of current equality legislation.

9.2 A timescale should be defined by the policy owner in consultation with the EDU to review the policy or practice where a negative impact has been identified and where remedial action is being implemented.

9.3 Where there are changes to legislation that may have an impact policy and practice, the EDU will inform all Colleges, Schools and Services.

11. Further Reading

11.1 The following resources provide useful information on how the higher education sector and other public authorities are addressing EIAs. Whilst the legislation recommends the EIAs as good practice, there is no single standard approach provided as an exemplar for public authorities to follow. Readers will note that some of the guides outlined below are lengthy and bureaucratic. We have tried to make the University of Glasgow's guidelines and process as succinct, fit for purpose and well aligned to a learning organisation.

Using the equality duties to make fair financial decisions: A guide for decision-makers, EHRC, Sept 2010:

http://www.equalityhumanrights.com/uploaded_files/PSD/using_the_equality_duty_to_make_fair_financial_decisions_final.pdf

Equality and Human Rights Commission, March 2010, Equality impact assessment quick-start guide:

http://www.equalityhumanrights.com/uploaded_files/PSD/equality_impact_assessment_guidance_quick-start_guide.pdf

Equality and Human Rights Commission, November 2009, Equality impact assessment guidance: *A step-by-step guide to integrating equality impact assessment into policymaking and review*:

http://www.equalityhumanrights.com/uploaded_files/eiaguidance.pdf

Equality Challenge Unit, Equality in restructuring and redundancy: Equality impact assessments in higher education, 2010:

<http://www.ecu.ac.uk/publications/equality-in-restructuring-and-redundancy>

12. Appendices

Appendix A

Terminology and definitions

A policy is any decision, principle, plan or set of procedures that influences and determines the way an institution carries out its business (internally or externally). A significant change to a policy (see example 4.4, page 7) requires an Equality Impact Assessment.

A practice is more informal than a policy and refers to a customary way of operation or behaviour, perhaps built up over a number of years. It can be identified through being routinely performed, locally, regardless of any official requirements in policy. A significant change to a practice (see Step 3, page 13) requires an Equality Impact Assessment.

A significant change - an EIAs should be proportionate to meet the legitimate aim. The weight that public authorities give to equality should therefore be proportionate to its relevance to a particular function. The greater the relevance of a function to equality, the greater regard that should be paid⁴.

Equality is about creating a fairer society where everyone can participate and has the opportunity to fulfil their potential. It is mostly backed by legislation designed to address unfair discrimination based on membership of a particular group.

Diversity is about recognising and valuing difference in its broadest sense. It is about creating a culture and practices that recognise, respect, value and harness difference for the benefit of the students, other users of the University, members of the public and members of staff. We may need to change our existing processes and systems to accommodate diversity.

Mainstreaming equality is about ensuring equal opportunities principles are embedded into an organisation's strategy, practices and the day to day work of the institution. This includes all decision makers, policy deciders and practitioners and is not solely owned by those who are equality practitioners. Mainstreaming ensures equality is embedded in the long term planning of the organisation.

Positive Action is when you encourage a particular equality group to aid equal representation in a particular area. Examples include women only management courses, career counselling for girls in under represented areas, targeting jobs on websites aimed at disabled people. It is legal to use positive action measure to address an imbalance. The Equality Act 2010 allows positive action.

Positive Discrimination is when you actively discriminate against majority group with the aim of readdressing underrepresentation. Examples include all women short lists in recruitment. Positive discrimination is illegal, unless an employer can demonstrate a genuine occupation requirement (for example, recruitment for a swimming pool attendant for women only sessions can request female applicants only). The Equality Act 2010 prohibits positive discrimination for all groups, except disabled people.

⁴ Equality impact assessment guidance: A step-by-step guide to integrating equality impact assessment into policymaking and review, Equality and Human Rights Commission, November 2009 (pg 5)

Favourable treatment of disabled people

In relation to disability discrimination, the Equality Act 2010 allows treating a disabled person more favourably than a non-disabled person.⁵

⁵ The full Equality Act 2010 can be viewed at: <http://www.legislation.gov.uk/ukpga/2010/15/contents>

Appendix B

Equality policies at the University of Glasgow

Policy	Date policy approved (by Court)
Equality and Diversity Policy and related Appendices	17 April 2014
Dignity at Work and Study Policy and related Appendices	17 April 2014

The above policies can be viewed at

<http://www.gla.ac.uk/services/humanresources/equalitydiversity/policy/>

Appendix C

Case Law examples which reference EIAs

1. Kaur and Shah v London Borough of Ealing (CO/3880/2008)⁶

Ealing Council provided financial support to organisations dealing with domestic violence. Southall Black Sisters had previously been funded by the Council to support Afro-Caribbean and Asian women and part of their work involved addressing issues of domestic violence amongst those communities. In 2007, the Council took the view that in the interests of 'community cohesion' they should only fund organisations that provided services to the whole borough, not just to specific racial groups.

The Council's decision was challenged on the grounds that they had failed to carry out a race impact assessment to assess the impact of the proposals on women from Afro-Caribbean and Asian communities before they were implemented.

The challenge was upheld by the High Court who held that the impact assessment had to be carried out before the policy was adopted: 'What is important is that a racial equality impact assessment should be an integral part of the formation of a proposed policy, not justification for its adoption.'

1.1 Recognising different needs

The High Court did not accept Ealing's argument that the principle of community cohesion meant that they could not fund one specific demographic group. Lord Justice Moses said that 'There is no dichotomy between the promotion of equality and cohesion and the provision of specialist services to an ethnic minority', and quoted from the government's 2007 Equalities Review that 'an equal society recognises people's different needs, situations and goals and removes the barriers that limit what people can do and can be.'

The High Court decision also reinforces the significance of the codes of practice relating to the public sector duties issued by the former equality commissions. The Court held that an authority is only entitled to depart from the statutory codes for reasons which are clear and convincing.

1.2 What this means for higher education

This case reinforces the need for compliance with the public sector duties. The courts are increasingly prepared to intervene if the duties are ignored. This includes compliance with the requirements to carry out impact assessments prior to policy or practice being introduced, and also compliance with the terms of the relevant codes of practice.

The fact that higher education institutions obtain significant funding from the private sector does not affect the fact that as a matter of law they are subject to the requirements of the race, disability and gender duties.

⁶ source: <http://www.ecu.ac.uk/news/high-court-ruling-on-impact-assessments>

2. The Extra Factor for Redundancy

Woodcock v Cumbria Primary Care Trust [2010] UKEAT 0489/09⁷

The President of the EAT has commented that 'cost' alone could justify a redundancy dismissal which would otherwise have been discriminatory because of an employee's age. His comments are likely to have an impact on redundancy and in all probability will be debated in future litigation.

Mr Woodcock was a Chief Executive in an NHS Trust. The two important facts of the case were that he had a 12 months' notice clause in his contract; and, as part of the relevant NHS redundancy scheme, those who were dismissed as redundant after the age of 50 received an enhanced pension package.

During a restructuring exercise Mr Woodcock was told he was at risk of redundancy. He was asked whether he wanted to leave the NHS or be redeployed. He decided to stay in the NHS with the intention of re-applying for a Chief Executive position a year later when it would be easier for him to get the post. He did not return to work in the restructured Trust but was instead placed on secondment.

The Trust, which was now paying his salary but getting no benefit from his services, wanted to terminate his employment. A redundancy consultation meeting was arranged. However, someone at the Trust realised that

Mr Woodcock was due to turn 49 only eleven days after the date now fixed for this meeting. If he was not given notice of his dismissal until after this birthday he would, because of his 12 months' notice clause, be dismissed as redundant after his 50th birthday. Therefore, he would be entitled to take early retirement with enhanced redundancy and pension payments. If Mr Woodcock's redundancy happened when he was 49, he would receive a payment of £220,000. It was estimated that the cost of funding his pension when he was 50 would have been between £500,000 and £1m. The Trust decided that the risk of this windfall was unacceptable. Notice of his dismissal was given in advance of the meeting and before his 49th birthday.

2.1 The Decision

Mr Woodcock had been directly discriminated against because of his age. The timing of the notice, not the dismissal itself, was the discriminatory act. However, the act was justified because it was a proportionate means of achieving a legitimate aim. The aim was to stop him from receiving a windfall. The act was proportionate because moving the date of dismissal forward by only a number of days would save the employer between £250,000 and £750,000.

The law previously had been that 'cost alone' cannot be a factor which is a legitimate aim. This 'cost plus' approach led to tribunals and the parties often undertaking what could be viewed as an artificial exercise to find an extra factor. Although not the issue in focus in this case, had 'cost' been the sole reason for Mr Woodcock's dismissal, rather than being the reason for the timing of the dismissal, the EAT said that in the case of age discrimination an act can be justified on the basis that the cost of avoiding the discriminatory act would be disproportionately high.

⁷ Source: http://www.dundas-wilson.com/publications/dw_cms_6970.asp

2.2 Comment

Despite making these comments, the current EAT President said that tribunals 'should be slow to depart from the established position... accepted by two previous Presidents'. Furthermore, his comments are not binding on other Tribunals. However, given the changes to the economic climate, cost is increasingly likely to be the sole factor which leads to redundancies. The EAT's comments are likely to be the topic of debate in future cases and may be the persuasive authority on which Tribunals find that an employer's decision to make an employee redundant, because of their age, was justified where it saves disproportionately high costs.

3. Procurement

Hereward & Foster LLP and another v The Legal Services Commission [2010]⁸

In October 2008, the Legal Services Commission (LSC) issued a consultation document on the terms upon which it proposed to tender for new contracts for publicly-funded legal services during 2010. On 30 November 2009, the LSC invited tenders for the contracts in immigration law.

The relevant award criteria for immigration contracts included a requirement that applicant organisations employ an immigration supervisor regularly working in the office related to the relevant bid that was not included in the LSC's original consultation. The criterion was marked out of eight, with:

Eight points available to organisations that employed a supervisor 100% of the time.

Five points awarded to organisations that employed a supervisor working 80 - 99% of the time.

The claimant's bid indicated that if successful it would employ a supervisor for between 80-99% of the time. This reflected the fact that the partner at the claimant responsible for immigration law (and the only supervisor the claimant employed for immigration matters) worked the equivalent of a four day week spread over five working days. The claimant did not question the supervisor criterion during the tender process.

On the basis of this response the claimant was awarded five points out of eight. As a result of failing to score the maximum eight points for this criterion, the claimant was unsuccessful with its tender submission.

The claimant was unsuccessful with an appeal to the LSC alleging three grounds of complaint:

- That the wording of the supervisor criterion was ambiguous.
- The criterion indirectly discriminated on the grounds of sex in breach of section 1 of the Sex Discrimination Act 1975 (SDA 1975), as a significant proportion of part time workers who would be unable to fulfil the requirement for 100% attendance would be women.
- The LSC had failed to have due regard to the equality duty under section 76A of the SDA 1975.

⁸ <http://www.maceandjones.co.uk/news/archive/education-update-february-2011-procurement.html>

On 7 September 2010, the claimant issued proceedings in the High Court. The LSC refuted that it was in breach of the SDA 1975 and further that the claimant had brought its claim out of time.

The court held:

1 - Indirect discrimination

The criterion did not require that an identifiable supervisor worked full time, just that work undertaken was supervised by one or more supervisors whenever it was undertaken.

The claimant was not itself at a disadvantage, as it could have put in place arrangements to ensure supervision 100% of the time without the need to employ an additional supervisor, for example, by stipulating that immigration work would only be undertaken when the supervisor was in attendance.

The court also held that even if either of these two conclusions was incorrect, the supervisor criterion was a proportionate means of achieving a high quality of work.

2 - Equality duty

The supervisor criterion had been introduced after the LSC had conducted an equality impact assessment (EIA) of the draft evaluation criteria set out in its consultation paper issued in October 2008.

The LSC had failed to revisit its EIA when deciding to include the supervisor criterion.

The supervisor criterion was capable of having an impact on service providers whose supervision arrangements were such that, for a variety of reasons, they did not have existing full time cover. One of those reasons could be that a person exercising supervisory functions was working part time.

Failing to consider the impact of the supervisor criterion meant that the LSC had failed to satisfy the equality duty under section 76A of the SDA 1975.

3. Time limit

The court held that the time at which the grounds for the challenge arose was 30 November 2009 (when the LSC invited tenders for immigration work and set out details of the supervisor criterion). The limitation periods for both judicial review proceedings and any claim under the Public Contracts Regulations 2006 is three months and the court concluded that it was not in the public interest to extend this period in this instance due to the impact that any requirement to retender the contracts would have on other providers.

The court specifically rejected the claimant's arguments that:

- It was entitled to see if it was successful in the tender process before bringing proceedings.
- It had relied on a general sense among the legal profession that it would be better to delay issuing proceedings as a regulatory body may bring an action in respect of the breach.

As a result, the claimant's application for judicial review was refused.

From the point of view of contracting authorities, it is important that the fact that this claim was unsuccessful does not take attention away from the fact that it was held that in setting evaluation criteria, the LSC failed to comply with the gender equality duty. It is important that equality issues are taken into account throughout procurement processes and that decisions taken with regard to them are well documented.

Appendix D

Equality Impact Assessment Form

Please ensure you have read the EIA Policy and Guidance document before completing this form.
If you need assistance please contact the EDU. Please return the completed form to the EDU.

STEP 1 - Define policy/ practice

i. Name of policy/ practice/ significant change

ii. Owner of policy/ practice (College, School or Service)

iii. Date of policy/ practice approved

iv. Approved by? (Committee, College, School or Service)

STEP 2 - Description of policy/ practice

i. What are the aims?

ii. Who does it cover?

iii. How often is this policy / practice reviewed?

STEP 3 - Could there be any implications for a protected characteristic group (as defined by the Equality Act 2010) in this (or the development of) policy/ practice?

STEP 3a - Yes, there is a potential implication or barrier for a protected characteristic group.

Please tick all that are relevant

Notes

Age
Disability
Gender Reassignment
Marriage and Civil Partnership
Pregnancy and maternity
Race
Religion or Belief
Sex
Sexual Orientation

Go to Step 4

STEP 3b - No, there is no potential implication for a protected characteristic group.

Go to Step 8

STEP 4 - What evidence do you have for this conclusion (potential implication for a protected characteristic group)?

Briefly explain:

--

STEP 4a - Does the evidence show a positive impact?		Go to Step 5
Please provide an example and attach evidence: 		
STEP 4b - Does the evidence show a negative impact?		Go to Step 6
You need to consult with relevant stakeholders - the EDU will assist with this process Please provide brief details and attach evidence: 		
STEP 4c - Does the evidence show no impact?		Go to Step 8
Attach evidence to this form 		
STEP 5 - Continue to promote good opportunity for all people		Go to Step 8
Promote and implement as exemplar policy/ practice 		
STEP 6 - Involve and consult stakeholders to address any negative impacts		Go to Step 7
EDU will assist with this process Please provide brief details of involvement and consultations: 		
STEP 7 - Outline any changes made to the policy/ practice as a result of the consultation		Go to Step 8
Please provide details of changes: 		
STEP 8 - Publish results (as required by law)		Go to Step 9
Please return this form, once completed, along with copy of amended policy or practice and any relevant information, to the EDU for annual reporting and for inclusion on the University website. Please note items sent to EDU here: 		
STEP 9 - Regular review		
Regular reviews ensures that policy and practice is kept up to date and meets the requirements of current equality legislation. Where a negative impact has been identified and remedial actions is being implemented, the policy owner should define a timescale for review.		
Please give details of review process:		
SIGNING OFF PROCESS		
Name of EIA Owner		
Signature		
College/ School/ Service		
Date of Completion		
Date received by EDU		
Approved in principle?		Yes <input type="checkbox"/> No <input type="checkbox"/>
Any actions required? Please specify 		
Signed on behalf of EDU Date:		Signature