

Equality impact assessment (EIA) screening form

Please refer to the [guidance notes](#) when completing this form.

This form has been developed to help you to identify the need for EIA when developing a new policy, strategy, programme, activity, project, procedure, function or decision (hereafter all understood by the term policy). You must also complete this form when reviewing or revising existing policies. It will also help to prioritise existing policies that may need to undergo a full EIA.

Unless they are 'screened out' following this initial prioritisation process, policies **will** be required to undergo full EIA in priority order. Refer to the **above** guidance notes on when an equality screening should happen, and some initial principles to bear in mind when getting started.

No new or revised policy should be approved unless an equality screening and, if required, a full EIA has taken place.

The following sections must be completed for all new policies:

Name of policy being screened:

Public Protection Orders

Brief description of the Policy:

PSPO's are designed to stop individuals or groups committing anti-social behaviour in a public space. They are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour

Does this policy relate to any other policies?

Public Safety Protection Orders replace Designated Places Orders, Dangerous Dog Orders and Gating orders

What is the aim or purpose of the policy?

The responsibility for dealing with anti-social behaviour is shared between a number of agencies, particularly the police, councils and social landlords. The Home Office has reformed the anti-social behaviour powers to give professionals increased flexibility they need to deal with any given situation

Who is affected by this policy (e.g. staff, residents, disabled people, women only?)

Individuals who commit anti-social behaviour. Individuals and businesses who experience, or who are the victims of anti-social behaviour

Who is responsible for delivery of the policy?

Bridgend Community Safety Partnership

The following sections must be completed for all policies being reviewed or revised:

Is this a review of an existing policy?

Public Safety Protection Orders replace existing Designated Public Places Orders, Dangerous Dog Orders and Gating Orders

If this is a review or amendment of an existing policy, has anything changed since it was last reviewed?

South Wales Police have requested an extension of the area covered by the street alcohol powers to include from the bottom on Coity Road to the entrance to the Princess of Wales Hospital

Has an EIA previously been carried out on this policy?

No

If an EIA exists, what new data has been collected on equality groups since its completion?

N/A

Screening questions

1. Is this policy an important or 'large scale' function, and/or is it likely the policy will impact upon a large number of staff, residents and/or contractors?

Yes✓

2. Is it possible that any aspect of the policy will impact on people from different groups in different ways? (See guidance for list of 'protected characteristics' to consider)

Characteristic	Yes	No	Unknown	Explanation of impact
Age	✓			Older people tend to feel vulnerable to incidences of anti-social behaviour. There is anecdotal evidence that reducing ASB may have a positive effect on older people's feeling of safety Young people are also adversely affected by ASB. But there is evidence that incidents of ASB perpetrated by Young People is higher than other age groups. While there is evidence of young people committing ASB, there is also anecdotal evidence that there is less tolerance towards young people, especially in groups. Therefore there may be a risk that young people are unfairly accused of ASB
Disability	✓			Reducing anti-social behaviour could reduce the number of 'hate instances' experienced by disabled people
Gender reassignment	✓			Hate instances could also affect individuals undergoing gender reassignment. Reducing ASB in the

				identified areas might have a positive effect on this.
Pregnancy and maternity			✓	
Race	✓			Reducing ASB could reduce the number of hate incidences relating to race. It could also encourage more people to use the specified areas
Religion/belief			✓	Reducing ASB could reduce the number of hate incidents relating to religion/belief
Sex		✓		There is little evidence to suggest one gender is more likely to be affected by ASB than another
Sexual orientation	✓			There are some reports of ASB relating to sexual orientation
Civil Partnerships and Marriage		✓		

Yes

No

Unknown

[\(Guidance\)](#)

Please expand on your answer:

Anti-social behaviour can also cover issues such as hate instances rather than hate crimes and these will impact on several of the protected characteristic groups. Reducing anti-social behaviour in the specified areas could help encourage more people with protected characteristics to use town centres and the other specified areas.

3. What is the risk that any aspect of the policy could in fact lead to discrimination or adverse affects against any group of people? (See guidance for list of protected characteristics?)

It is possible that young people and others could be unfairly accused of Anti-social behaviour. The issuing of fixed penalty notices (PNDs) to young people and individuals already in poverty may not succeed in reducing ASB and may result in escalation through the criminal justice system
Bridgend Community Safety Partnership will monitor this through their regular meetings.

What action has been taken to mitigate this risk? [Guidance](#)

Police Officers and other officers with the powers to issue fixed penalty notices will receive guidance and training on the appropriate issuing of fixed penalty notices

Please expand on your answer:

Guidance and training to be provided to police officers and other relevant personnel
 Updates on training, number of incidences and data on number of notices issued to be provided to Bridgend Community Safety partnership meetings

4. Could any aspect of the policy help BCBC to meet the main public sector duties? Bear in mind that the duty covers 9 [protected characteristics](#).

[Guidance](#)

Duty	YES	NO	Unknown
Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Act			x
Advance equality of opportunity between persons who a relevant protected characteristic and persons who do not share it	x		
Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	x		

Please set out fully your reasoning for the answers given to question 4 including an awareness of how your decisions are justified.

Reduction of Anti-Social behaviour in town centres and other specified areas should encourage more people with protected characteristics to visit and use the areas and feel safe doing so.

5. Could any aspect of this “policy” assist Bridgend County Borough Council with its compliance with the Welsh Language Standards and the Welsh Language (Wales) Measure 2011 which are to consider:-

- whether the policy would impact on people’s opportunity to a) use the Welsh language in a positive or negative way and b) treat both languages equally;
- how the policy could be changed to have a positive effect or increase the positive effect on a) people’s opportunity to use the Welsh language and b) treating both languages equally;
- how the policy could be changed to minimise or remove any adverse effects on a) people’s opportunity to use the Welsh language and b) treating both languages equally.

Consultation on Public Safety Protection Orders will be fully bi-lingual. All materials produced will be bi lingual. Each area covered by a Public Safety Protection Order will need signs outlining the restrictions in place to be prominently displayed. This signage will all be bi lingual

6. Are you aware of any evidence that different groups have different needs, experiences, issues and/or priorities in relation to this policy?

Yes ✓

If 'yes', please expand:

There is some evidence that older people, disabled people and people from the Lesbian, Gay, Bisexual, and Transgender communities are disproportionately affected by anti-social behaviour. Reducing anti-social behaviour is likely to have a positive effect on these groups. Consideration will need to be given to the effect of issuing fixed penalty notices to young people and people living in poverty.

7. Is this policy likely to impact on Community Cohesion?

A reduction in anti-social behaviour is likely to encourage more people to feel safer when using town centres and other specified areas. This may encourage people to share facilities, experiences and venues and improve community cohesion

Conclusions

8. What level of EIA priority would you give to this policy? ([Guidance](#))

MEDIUM - full EIA within one year of screening

Please explain fully the reasons for this judgement including an awareness of how your decisions are justified.

Medium: The full EIA to be carried out using the findings of the 12 week statutory consultation

7. Will the timescale for EIA be affected by any other influence e.g. Committee deadline, external deadline, part of a wider review process?

The recommendations and proposals from the consultation will be made to cabinet in October.

[\(Guidance\)](#)

8. Who will carry out the full EIA?

Community Safety Partnership in conjunction with the Consultation and Engagement team and BCBC Equalities Officer

EIA screening completed by: Judith Jones

Date: 16 June 2017

When complete, this initial screening form and, if appropriate, the full EIA form must be sent to [Paul Williams](#).

Full Equality Impact Assessment

Name of project, policy, function, service or proposal being assessed:	Public Space Protection Order
Date assessment completed	

At this stage you will need to re-visit your initial screening template to inform your discussions on consultation and refer to [guidance notes on completing a full EIA](#)

1. Consultation

		Action Points
Who do you need to consult with (which equality groups)?	No specific group are required to be consulted.	Effective engagement with all equality groups will help monitor the effectiveness of the PSPO
How will you ensure your consultation is inclusive?	The CSP will consider accessibility and participation	The CSP will work closely with BCBC Consultation and Engagement Team to ensure effective inclusivity

<p>What consultation was carried out? Consider any consultation activity already carried out, which may not have been specifically about equality but may have information you can use</p>	<p>Public Consultation via on line survey Invitation to respond to consultation sent to all statutory consultees</p> <p>No areas of concern raised</p> <p>Face to face meeting with Bridgend Hate Forum</p> <p>Face to face meeting with Bridgend Community Safety Partnership</p>	<p>Equalities responses received</p> <p>33% of the consultees that took part in the survey were happy to complete the equalities questions 67% did not complete the equalities questions</p> <p>Below are the findings from the consultees that answered the questions</p> <p>64% described their nationality as Welsh 9% described their nationality as English 27% described their nationality as British</p> <p>100% selected white as their ethnic group</p> <p>27% stated they had no religion or belief 64% stated they were Christian 9% preferred not to say</p> <p>64% male 36% female</p> <p>73% indicated their gender was that assigned at birth 27% did not answer</p>
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		<p>36% indicated they were not pregnant and had not given birth in the last 26 weeks</p> <p>91% stated their sexual orientation was heterosexual/straight 9% preferred not to say</p> <p>9% stated they were single 55% stated they were married 18% stated they were partnered 18% stated they were widowed</p> <p>9% indicated that they were a carer 82% indicated they were not a carer 9% preferred not to say</p> <p>82% stated they could not speak Welsh at all 18% stated they could speak Welsh a little</p> <p>91% stated they could not read Welsh at all 9% stated they could read Welsh a little</p> <p>91% stated they could not write Welsh at all 9% stated they could write Welsh a little</p> <p>27% provided their contact details</p>
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Record of consultation with people from equality groups

Group or persons consulted	Date, venue and number of people	Feedback, areas of concern raised	Action Points																												
Bridgend Hate Forum	5 December 2017 <table border="1" data-bbox="689 683 1135 1383"> <thead> <tr> <th data-bbox="689 683 907 715"><u>Name:</u></th> <th data-bbox="907 683 1135 715"><u>Organisation:</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="689 715 907 783">Cheryl Griffiths (Chair)</td> <td data-bbox="907 715 1135 783">South Wales Police</td> </tr> <tr> <td data-bbox="689 783 907 852">Dave Lawrence</td> <td data-bbox="907 783 1135 852">South Wales Police</td> </tr> <tr> <td data-bbox="689 852 907 920">Yaina Samuels</td> <td data-bbox="907 852 1135 920">EYST / All Wales BAME</td> </tr> <tr> <td data-bbox="689 920 907 989">Hannah Richards</td> <td data-bbox="907 920 1135 989">Community Safety Partnership BCBC</td> </tr> <tr> <td data-bbox="689 989 907 1058">Irene Blower</td> <td data-bbox="907 989 1135 1058">Community Safety Partnership BCBC</td> </tr> <tr> <td data-bbox="689 1058 907 1126">Pat Jones</td> <td data-bbox="907 1058 1135 1126">ABFABB / New LEGACY</td> </tr> <tr> <td data-bbox="689 1126 907 1158">Ffion Jones</td> <td data-bbox="907 1126 1135 1158">Victim Support</td> </tr> <tr> <td data-bbox="689 1158 907 1190">Sue Cunningham</td> <td data-bbox="907 1158 1135 1190">BCBC Housing /SP</td> </tr> <tr> <td data-bbox="689 1190 907 1222">Kerry Morgan</td> <td data-bbox="907 1190 1135 1222">BCBC Housing</td> </tr> <tr> <td data-bbox="689 1222 907 1254">Zenda Caravaggi</td> <td data-bbox="907 1222 1135 1254">BCBC YOS</td> </tr> <tr> <td data-bbox="689 1254 907 1286">Gaynor Griffiths</td> <td data-bbox="907 1254 1135 1286">BCBC PSB</td> </tr> <tr> <td data-bbox="689 1286 907 1318">Helen Hammond</td> <td data-bbox="907 1286 1135 1318">BCBC PSB</td> </tr> <tr> <td data-bbox="689 1318 907 1383">Dai Rees</td> <td data-bbox="907 1318 1135 1383">South Wales Police</td> </tr> </tbody> </table>	<u>Name:</u>	<u>Organisation:</u>	Cheryl Griffiths (Chair)	South Wales Police	Dave Lawrence	South Wales Police	Yaina Samuels	EYST / All Wales BAME	Hannah Richards	Community Safety Partnership BCBC	Irene Blower	Community Safety Partnership BCBC	Pat Jones	ABFABB / New LEGACY	Ffion Jones	Victim Support	Sue Cunningham	BCBC Housing /SP	Kerry Morgan	BCBC Housing	Zenda Caravaggi	BCBC YOS	Gaynor Griffiths	BCBC PSB	Helen Hammond	BCBC PSB	Dai Rees	South Wales Police	<p>When considering the relevance to equality, members were asked to discuss whether the Public Space Protection Order is likely to impact differentially on any particular group of people they support.</p> <p>All members agreed that there were no issues of potential impact from the orders on any protected group.</p>	
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	Joanna Ryan	LINC Cymru		
Bridgend Community Safety partnership	18 December 2017		<p>When considering the relevance to equality, members were asked to discuss whether the Public Space Protection Order is likely to impact differentially on any particular group of people they support.</p> <p>All members agreed that there were no issues of potential impact from the orders on any protected group.</p>	
	Name	Organisation		
	Clr Richard Young (Chair)	BCBC		
	Gethin Charles	DWP		
	Insp Cheryl Griffiths	SWP		
	Alan Michael	SW Police and Crime Commissioner		
	Mark Brace	PCC		
	Laura Kinsey	BCBC Safeguarding		
	Terri Warrilow	BCBC Safeguarding		
	Bethan Lindsey Gaylard	BCBC DA Co-ordinator		
	Judith Jones	PSB Support		
	Gaynor Griffiths	PSB Support		
	Laura Butcher	South Wales Police		

2. Assessment of Impact

Based on the data you have analysed, and the results of consultation or research, consider what the potential impact will be upon people with protected characteristics (negative or positive). If you do identify any adverse impact you **must**:

a) Liaise with the Engagement Team who may seek legal advice as to whether, based on the evidence provided, an adverse impact is or is potentially discriminatory, and

b) Identify steps to mitigate any adverse impact – these actions will need to be included in your action plan.

Include any examples of how the policy helps to promote equality.

Gender	Impact or potential impact	Actions to mitigate
Identify the impact/potential impact on women and men.	<p>There is nothing to indicate this policy would have different impact on men or women.</p> <p>Gender is not expected to influence the actions of enforcement officers or the execution of the order. The process of enforcing the PSPO is solely focussed on the prohibition of the order. The process of applying the order will be the same for all</p>	CSP to monitor the number of fixed penalty notices issued to identify any unexpected trends.
Disability	Impact or potential impact	Actions to mitigate
Identify the impact/potential impact on disabled people (ensure consideration of a range of impairments, e.g. physical, sensory impairments, learning disabilities, long-term illness).	<p>Disability is not expected to influence the actions of enforcement officers or the execution of the order</p> <p>Potential positive impact. Reducing anti-social behaviour has to potential to reduce the number of hate incidences relating to disability. It is hoped it will</p>	CSP to regularly attend BEF and Bridgend Hate crime forum to assess any positive impact on disabled people.

	encourage disabled people to feel safer in the controlled areas.	
Race	Impact or potential impact	Actions to mitigate
Identify the impact/potential impact of the service on Black and minority ethnic (BME) people.	<p>Race is not expected to influence the actions of enforcement officers or the execution of the order. The process of enforcing the PSPO is solely focussed on the prohibition of the order. The process of applying the order will be the same for all</p> <p>Potential positive impact. Reducing anti-social behaviour has the potential to reduce the number of hate incidences relating to race.</p>	
Religion and belief	Impact or potential impact	Actions to mitigate
Identify the impact/potential impact of the service on people of different religious and faith groups.	<p>Religion and or faith is not expected to influence the actions of enforcement officers or the execution of the order. The process of enforcing the PSPO is solely focussed on the prohibition of the order. The process of applying the order will be the same for all</p> <p>Potential positive impact</p>	

	Reducing anti-social behaviour has the potential to reduce the number of hate incidences relating to religion/belief	
Sexual Orientation	Impact or potential impact	Actions to mitigate
Identify the impact/potential impact of the service on gay, lesbian and bisexual people.	<p>Sexual orientation is not expected to influence the actions of enforcement officers or the execution of the order. The process of enforcing the PSPO is solely focussed on the prohibition of the order. The process of applying the order will be the same for all</p> <p>Potential positive impact.</p> <p>Reducing anti social behaviour may have a positive impact on the LGBT community's feelings of safety in the controlled areas.</p>	
Age	Impact or potential impact	Actions to mitigate
Identify the impact/potential impact of the service on older people and younger people.	Young people are adversely affected by ASB. But there is evidence that incidents of ASB perpetrated by Young People is higher than other age groups. While there is evidence of young people committing ASB, there is also anecdotal evidence that there is less tolerance	<p>Police Officers and other officers with the powers to issue fixed penalty notices will receive guidance and training on the appropriate issuing of fixed penalty notices</p> <p>Updates on training, number of incidences and data on number of</p>

	<p>towards young people, especially in groups. Therefore there may be a risk that young people are unfairly accused of ASB</p> <p>Reducing anti-social behaviour should have a positive impact on younger and older persons' feelings of safety</p>	<p>notices issued to be provided to Bridgend Community Safety partnership meetings</p> <p>Vulnerable individuals of all ages to be referred to safeguarding</p>
Pregnancy & Maternity	Impact or potential impact	Actions to mitigate
	No adverse impact or potential impact is anticipated	
Transgender	<p>Impact or potential impact</p> <p>Transgender is not expected to influence the actions of enforcement officers or the execution of the order. The process of enforcing the PSPO is solely focussed on the prohibition of the order. The process of applying the order will be the same for all</p> <p>Potential positive impact.</p> <p>Reducing anti-social behaviour may have a positive impact on transgender individuals' feelings of safety</p>	Actions to mitigate

Marriage and Civil Partnership	Impact or potential impact	Actions to mitigate
	No adverse impact is anticipated	

Under the Welsh Language Standards, EIAs must also consider:

- whether the policy would impact on people's opportunity to a) use the Welsh language in a positive or negative way and b) treat both languages equally;
- how the policy could be changed to have a positive effect or increase the positive effect on a) people's opportunity to use the Welsh language and b) treating both languages equally;
- how the policy could be changed to minimise or remove any adverse effects on a) people's opportunity to use the Welsh language and b) treating both languages equally.

Welsh Language	Impact or potential impact	Actions to mitigate
Identify the impact/potential impact on Bridgend County Borough Council, the Welsh Language, Welsh Culture, Welsh Language (Wales)	Each area covered by a Public Safety Protection will have signs outlining the restrictions in place prominently displayed. This signage will be bi-lingual	

Measure 2011 and the Welsh Language Standards.	with the Welsh version printed first.	
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The following Section only applies where there is a potential impact (negative, positive or neutral) on children

United Nations Convention on the Rights of the Child (UNCRC)

The UNCRC is an agreement between countries which sets out the basic rights all children should have. The United Kingdom signed the agreement in 1991. The UNCRC includes 42 rights given to all children and young people under the age of 18. The 4 principles are:

1. Non-discrimination
2. Survival and development
3. Best interests
4. Participation

This section of the Full EIA contains a summary of all 42 articles and some will be more relevant than others, depending on the policy being considered however, there is no expectation that the entire convention and its relevance to the policy under review is fully understood. The Engagement Team will review the relevant data included as part of its monitoring process. The EIA process

already addresses two of the principle articles which are non-discrimination and participation. This section covers “Best interests” and “Survival and development”.

Some policies will have **no direct impact** on children such as a day centre for older people.

Some policies will **have a direct impact** on children where the policy refers to a childrens’ service such as a new playground or a school.

Some policies will **have an indirect impact** on children such as the closure of a library or a cultural venue, major road / infrastructure projects, a new building for community use or change of use and most planning decisions outside individual home applications.

What do we mean by “best interests”?

The “Best interest” principle does not mean that any negative decision would automatically be overridden but it does require BCBC to examine how a decision has been justified and how the Council would mitigate against the impact (in the same way as any other protected group such as disabled people).

- The living wage initiative could be considered to be in the “Best interests”. The initiative could potentially lift families out of poverty. Poverty can seriously limit the life chances of children.
- The closure of a library or cultural building would not be in the “Best interests” of children as it could limit their access to play, culture and heritage (Article 31.)

Please detail below the assessment / judgement of the impact of this policy on children aged 0 – 18. Where there is an impact on “Best interests” and “Survival and development”, please outline mitigation and any further steps to be considered.

Impact or potential impact on children aged 0 - 18	Actions to mitigate
N/A	

It is essential that you now complete the action plan. Once your action plan is complete, please ensure that the actions are mainstreamed into the relevant Service Development Plan.

3. Action Plan

Action	Lead Person	Target for completion	Resources needed	Service Development plan for this action
E.g. Information about the service to be available in BSL video on the website	Service manager	End of financial year	£XX Staff time?	X Service Plan

Please outline the name of the independent person (someone other the person undertaking the EIA) countersigning this EIA below:

Please outline how and when this EIA will be monitored in future and when a review will take place:

Signed:

Date:

4. Publication of your results and feedback to consultation groups

It is important that the results of this impact assessment are published in a user friendly accessible format.

It is also important that you feedback to your consultation groups with the actions that you are taking to address their concerns and to mitigate against any potential adverse impact.

Please send completed EIA form to [Paul Williams, Equality Officer](#)

Equality Impact Assessments – Frequently Asked Questions

1: What is an Equality Impact Assessment (EIA)?

An EIA is a tool used to assess new policies/services/functions or changes to existing policies/services/function.

It involves examining a proposed policy/service/function or change to see whether it has the potential to affect different sectors of society in different ways and, in particular, whether there are likely to be any adverse impacts or negative consequences of the policy, service function or proposed change for any particular sector (s) of the diverse community.

Consultation with those most likely to be affected by the policy/service/function is an essential feature of an EIA. Where a negative or adverse impact is thought likely, measures to reduce or eliminate the negative or adverse impact must be considered.

2: What are the aims of an EIA?

The main aim of an EIA is to improve the quality of service and employment policies by ensuring that we think carefully about the likely impact of our work on different communities or groups.

Your role in carrying out an EIA is to assess whether there is an adverse impact caused by your policy, service, and function or in your proposals for change on one or more sectors of the diverse community.

3: An adverse impact

An adverse impact means negative consequences for one or more communities. The term disproportionate means significant differences in patterns of representation or outcome between groups.

When adverse or disproportionate impact is found it is important to take action to minimise, reduce or counterbalance the negative impact through other measures. Adverse or disproportionate impact may indicate direct or indirect discrimination on the part of BCBC and therefore a breach of the law.

A positive action policy, function or service targeted towards a sector of the diverse community which intentionally seeks to disproportionately impact on one or more sectors of the community is justifiable where there is evidence of the need for targeted information.

Examples of adverse/disproportionate impact that could be justified:

a) Specifically targeting management training towards groups currently under-represented in management levels of the organisation obviously has a disproportionate impact. However this is justified positive action.

b) The requirement by an employer for some roles to involve shift work would have a disproportionate impact on women by inadvertently discriminating against child-carers, who are more likely to be women. However, this may be justified if it is a key requirement of the role that they are performed round-the-clock, making shift-work inevitable

4: Why do we need to carry out EIA's?

There is a legal requirement to do so. EIAs help you identify improvements to services; make better decisions; identify how you can make your services more accessible and appropriate and to check whether there is anything you can do to promote equality and reduce inequalities.

5: Who should do an EIA?

Generally, those responsible for developing a policy or managing a function or service carry out the assessment. Where a function or service is jointly run between different departments or different organisations, care must be taken to ensure that every organisation involved can publish the EIA's (as they are required to by law), even if the work is done jointly, or the assessment was carried out by only one of the parties.

6: What areas should an EIA cover?

Equality Impact Assessments must cover the nine equality strands (race/ethnicity, gender, gender reassignment, age, disability, faith/religious belief, sexual orientation, pregnancy and maternity and civil partnerships and marriage) covered by current legislation. EIAs should also consider the impact of a policy on the Welsh language and Welsh culture.

Under the Welsh Language Standards, EIAs must also consider:

- whether the policy would impact on people's opportunity to a) use the Welsh language in a positive or negative way and b) treat both languages equally;
- how the policy could be changed to have a positive effect or increase the positive effect on a) people's opportunity to use the Welsh language and b) treating both languages equally;
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7: What will happen if I fail to comply?

Failure to conduct EIA could leave you open to legal challenge. Please see separate guidance on [recent legal cases](#)

Additional useful information can be found on the [BCBC Equalities Web Pages](#)

Case Law

Although the Equality Act came into effect in 2010, the extensive case law that existed on the previous individual duties is directly relevant to the interpretation of the single duty. In addition, the Equality Act has been tested, with one notable and ground breaking ruling made regarding cuts made by Birmingham City Council in social care.

The following is a summary of some key legal challenges which have brought under previous requirements in respect of EIAs. They should help you understand the above guidance and how courts will consider any approach which does not answer the above questions.

Birmingham City Council and Social Services judgement

The application of the duty concerned Birmingham City Council (BCC) and its decision to restrict eligibility for adult social care to only those individuals with 'critical' needs.

This meant that the Council would no longer offer free social care to those with substantial needs. Such needs include being unable: 'to carry out the majority of personal care or domestic routines' and 'the majority of family and other social roles and responsibilities'. For those who have substantial care needs but who do not have the means to fund care themselves, withdrawal of the support the Council provided would have a significant, detrimental impact on their day-to-day activities and lives.

BCC produced several equality impact assessments which purported to show 'due regard' to the disability equality duty. However, the judge held that 'due regard' had not in fact been shown. He noted the lack of assessment of the practical impact on those individuals affected by the change in eligibility. As a result, the judge found that both the budget and the resulting cuts to adult social care were unlawful and described the impact of the proposed move to 'critical only' care on disabled people as 'potentially devastating'.

Similarly, the courts found that BCC had not had 'due regard' in another judgment concerning cuts to funding to legal advice services. The Equality Impact Needs Assessment was found to have been driven by the hopes of the benefits to be gained from the new policy rather than focusing on the assessment of the degree of disadvantage to existing users, and how their needs could be alternatively met.

Brown -v- DWP

One of the leading cases, *Brown -v- Secretary of State for Work and Pensions* (2008) set out some general principles. Mrs Brown was disabled and lived with her husband in Sussex. She could not stand or walk for long periods without acute pain. In late 2007, she discovered that the government was proposing to shut down a number of post offices in Sussex, including the branch in her village. Because of her disability, this would make it very difficult for her to access another post office further away.

In a legal challenge to the decision, Mrs Brown claimed that the government had failed to comply with its duties under the Disability Discrimination Act 2005, in particular its duty to pay due regard to the equality duties as it had not carried out a disability equality impact assessment of the closure proposal.

The court set out the following principles:

- Those responsible for the duty to have due regard must consciously bring it to mind when considering the duty. If they don't or if their appreciation of the duty is incomplete or mistaken, the courts will deem that due regard has not been applied.
- The due regard duty must be fulfilled before and at the time that a particular policy is being considered. Compliance with the duty should not be treated as a rear-guard action after a decision to implement the policy in question.
- It must be exercised with rigour and with an open mind. Due regard involves more than a tick box exercise. The "substance and reasoning" of the decision must be examined. However, a failure to make explicit reference to the relevant positive equality duty will not, of itself, be fatal to a decision.
- It is good practice for public authorities to keep an adequate record showing that they had actually considered their equality duties and pondered relevant questions.
- The due regard duty cannot be delegated to a third party by the public authority charged with it.
- The duty is on-going.
- When applying the "due regard" test, the public authority must take into account whatever countervailing factors are relevant in the circumstances.

Kaur -v- London Borough of Ealing

This case dealt with the issue of whether a race impact assessment should have been carried out before the council decided to cut funding to a voluntary organisation, Southall Black Sisters (SBS). It provided services to Asian and Afro-Caribbean women who experience domestic abuse. In 2007-2008 they were partly funded by Ealing Borough Council.

The council decided in September 2007 that it would only fund borough-wide services provided to everyone experiencing domestic violence irrespective of gender, sexual orientation, race, faith, age, or disability.

SBS said that this would have a disproportionate adverse impact on black and minority ethnic (BME) women and pointed out that the council had not done a race equality impact assessment.

The council then undertook a “draft equality impact assessment”, which indicated that the impact on BME women would be monitored when the new arrangements were in place.

However, it did not carry out a full equality impact assessment. A few months later, the council confirmed its earlier decision to fund a single borough-wide service provider. The claimants, service users of SBS, successfully applied to judicially review this decision.

The court quashed the council’s decision and reiterated the importance of undertaking an equality impact assessment, and also the importance of carrying out an impact assessment before formulating policy.

R (Chavda and Others) v London Borough of Harrow

In the case of R (Chavda and Others) v London Borough of Harrow, the High Court ruled that Harrow Council's decision to restrict adult care services to people with critical needs only was unlawful.

In making its ruling the High Court stated that Harrow Council had failed to carry out an equality impact assessment that gave proper and explicit consideration to disability when it introduced a policy change that had a significant impact on hundreds of disabled people.

Other cases

There are a number of other examples of successful cases that have resulted in the courts' quashing the decisions of public authorities.

These include:

- refusing to allow a Sikh girl to wear a kara through the rigid application of a school uniform policy in *Watkins-Singh -v- Governing Body of Aberdare Girls High School*
- refusing to license a particular model of taxi for use as a hackney cab despite disabled groups making representations that many wheelchair users could not travel safely in *Lunt and another -v- Liverpool City Council*
- approving planning permission for a development of chain stores and luxury flats on a site overwhelmingly occupied by BME businesses and tenants in *Harris -v- London Borough of Haringey*