

## **Darlington Borough Council Equality Policy – 2023-2027**

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## Foreword

Equality is about ensuring that every individual has an equal opportunity to make the most of their lives and talents, and believing that no one should have poorer life chances because of where, what or whom they were born, what they believe, or whether they have a disability. At Darlington Borough Council, we aim to promote equality in everything we do. This means treating people fairly, valuing diversity and removing barriers that prevent people being able to fully participate in public life and fulfil their potential. This includes the way in which we:

- plan, commission and deliver services to the community
- treat our employees
- treat people who apply for jobs with the Council
- take decisions in our various regulatory functions (e.g. licensing)
- work as a community leader
- work in partnership with other organisations in Darlington
- enter into contracts or tender to provide goods and services.

Darlington has a diverse community and we are committed to serving every member of our community to the best of our ability. We will monitor and review the way we work, and support our employees to fulfil our legal responsibilities for equality. This will help us to address disadvantages that may impact on members of our community for any reason, but particularly because of their age, disability, sex, sexual orientation, gender reassignment, race, religion or belief marital or civil partnership status or pregnancy and maternity status. These are collectively the 'Protected Characteristics' defined in the Equality Act 2010.

We will also work in line with equalities legislation and best practice.

We welcome your comments if there is anything you feel we could be doing better.

Councillor Jonathan Dulston Leader of the Council	Ian Williams Chief Executive
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## **Equality Policy 2023 - 2027**

### **Introduction**

1. This Equality Policy sets out Darlington Borough Council's approach to fulfilling its duties under the Equality Act 2010. It is also designed to support and reinforce the Council's activities and decisions and to guide change for some parts of the community so that it does not inadvertently disadvantage others.
2. The Equality Policy is focused on meeting the Council's legal duties and giving positive support and reinforcement to the Council's activities and decisions whilst being proportionate to the Council's capacity and resources.
1. The Equality Policy applies to:
  - (a) Darlington Borough Council employees
  - (b) Elected Members
  - (c) People on work placements with the Council
  - (d) Volunteer workers with the Council
  - (e) Organisations and individuals commissioned by the Council to provide services or facilities
  - (f) Formal partners.
2. Equality should be considered in everything that the Council does, including new policy development, the design and commissioning of services, capital projects and day-to-day service delivery. Decision-making should take account of equality considerations. For simplicity all of these settings in which the policy will come into play are referred to as 'activities' throughout the document.

### **Vision for Equality**

3. The Equality Policy does not stand alone. It is an integral part of the Council's wider commitment to growing the economy, while supporting the most vulnerable residents. Much of the Council's work, together with its partners, is focused on narrowing the gaps in health, attainment, prosperity and quality of life between more vulnerable and disadvantaged people and the Darlington community as a whole.

- (a) This mission is rooted in the overall vision for Darlington's future, as stated in the Council Plan – "Delivering Success for Darlington".

The vision of the Council Plan is to continue to make Darlington a Place where people want to live, and businesses want to locate, where the economy continues to grow, where people are happy and proud of the borough and where everyone has the opportunity to maximise their potential.

This is the focus for the work of public bodies, the voluntary sector and business partners across the borough. Together we are working towards a series of agreed priorities. These are:

- Growing Darlington's economy by delivering:
  - More sustainable well-paid jobs
  - More businesses
  - More homes
- And we will support economic growth by keeping the borough:
  - Clean
  - Safe
  - Healthy
  - Sustainable
  - Well-planned
  - On the move
  - Whilst valuing our heritage and culture
- Maximise the potential of our young people by:
  - Working with partners to maximise educational achievement
  - Working to remove barriers to young people reaching their potential
  - Working at a Tees Valley level to match jobs with skills and training
- Supporting the most vulnerable in the borough by:
  - Providing care and support when needed
  - Working with people to build on their strengths to maximise their potential
  - Working with partners.
- Working with communities to maximise their potential by:
  - Maximising the benefits of a growing economy for all communities
  - Targeting services where they are most needed
  - Working with partners
  - Working with communities.

4. The Equality Policy has an important role in making sure that decisions and activities designed to make progress towards one or more of these priorities do not inadvertently cause disadvantage elsewhere. The Policy is designed to support and strengthen Council activities and decisions, refining them through the fairness test of Equality Impact Assessment (EIA), rather than constraining and limiting them.

### **The Public Sector Equality Duty**

4. The Equality Act 2010 established the Public Sector Equality Duty. The Duty requires local authorities and other authorities carrying out public functions to have due regard to the need to:
  - (a) Eliminate unlawful discrimination, harassment and victimisation and any other unlawful conduct that is prohibited under the Act
  - (b) Advance equality of opportunity between persons who share a relevant Protected Characteristic and those who do not
  - (c) Foster good relations between persons who share a relevant Protected Characteristic and those who do not.
5. Having due regard means consciously thinking about the three aims of the Equality Duty – outlined above - as part of the process of decision-making. This means that consideration of equality issues must influence the decisions reached by public bodies – such as in how they act as employers; how they develop, evaluate and review policy; how they design, deliver and evaluate services, and how they commission and procure from others. How much regard is due depends on the circumstances and relevance of the three aims to the decision or function in question. The greater the relevance and potential impact, the higher the regard required by the duty.
6. The duty set out above is known as the General Duty, and it applies both to the Council and to other people / organisations exercising the Council's public functions on its behalf (such as companies commissioned to provide public services).
7. Having due regard for advancing equality involves:
  - (a) Removing or minimising disadvantages suffered by people due to their protected characteristics.

- (b) Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
  - (c) Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.
- 8. Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
  - (a) Tackle prejudice
  - (b) Promote understanding.
- 9. Compliance with the Duty may involve treating some people more favourably than others, but that is not to be taken as permitting conduct that would otherwise be prohibited by or under the Act, such as:
  - (a) A breach of an equality clause or rule;
  - (b) A breach of a non-discrimination rule.
- 10. The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 11. Under the Act, there is a duty to make reasonable adjustments where a disabled person is at a substantial disadvantage – defined as something more than minor or trivial - in comparison with persons who are not disabled. In addition, the Act requires public bodies to have due regard to the need to advance equality of opportunity between disabled and non-disabled people. This may mean treating disabled people more favourably than others, and making reasonable adjustments to activities to enable disabled people to benefit or participate. Further guidance is available in **Annex 2**.
- 12. The General Duty is reinforced by specific duties that support and aid compliance with the General Duty. The specific duties that the Council must comply with are:
  - (a) To publish information annually to show how we meet the General Duty. This publication is known as the Equality Analysis and Darlington Borough Council first published its analysis in January 2012.
  - (b) To prepare and publish one or more objectives to meet any aims of the General Duty at least every four years.

13. The three parts of the Public Sector Equality Duty set out in the Equality Act – to eliminate unlawful discrimination, advance equality of opportunity, and foster good relations – mean that the Council must work in diverse ways to promote equality and cohesion, but always of central importance is the duty to ensure that the Council's decisions about its plans, strategies, work programmes and use of resources take full account of (have due regard to) potential impacts on people because of their Protected Characteristics.
14. Whilst producing and publishing a specific Equality Policy no longer forms part of our public duties under law, Darlington Borough Council believes that having an Equality Policy will help to ensure that it complies with the general and specific duties, assist in tackling discrimination and promoting community cohesion and improve its knowledge and awareness of equality and diversity issues.
15. There are nine 'Protected Characteristics' as defined by the Equality Act 2010. Definitions of all the Protected Characteristics are set out in **Annex 1**.
16. Everyone shares one or more of these characteristics. We all have an age, sex and sexual orientation, for example, and therefore everybody has legal protection under the Public Sector Equality Duty.
17. The duty to have due regard recognises that sometimes difficult choices have to be made that may cause disadvantage, However, having due regard also means that it is vital that decision makers have full information about the potential impact of their decisions on people because of their Protected Characteristics, and this policy seeks to ensure that all relevant information is made available through the process of Equality Impact Assessment (EIA).
18. The Council has developed and used EIA as the tool for identifying, assessing and reporting the effects of actions, services and proposals (referred to throughout this document as activities) on people in respect of their legally Protected Characteristics. This policy adopts the established approach to EIA, but updates some key aspects.
19. Guidance to carrying out EIA is set out in **Annex 3**.

## **A Social Model**

20. The key principle running through the policy is that inequality and social exclusion are caused by social and organisational barriers rather than the medical, economic,

cultural or other circumstances of the individual. This principle is well established in the Social Model of Disability but it can be applied more widely. It is the position that underpins EIA and is appropriate across all the legally Protected Characteristics.

## **Equality Impact Assessment**

21. Equality Impact Assessment (EIA) is the principal tool we have available to help the Council fulfil the requirements of the Public Sector Equality Duty to have due regard to the need to advance equality of opportunity, eliminate harassment and discrimination and foster good relations.
22. The general Equality Duty does not set out a particular process for assessing impact on equality that public authorities are expected to follow. Having due regard to the aims of the general equality duty is about informed decision-making, not about carrying out particular processes or producing particular documents.
23. All Council reports and recommendations on any proposal or action, whether to chief officers or Cabinet and from feasibility to final report, should include current equalities thinking, even where a full Equality Impact Assessment is not required. All Council reports submitted for consideration by Members at Cabinet or Council therefore include a checklist, where officers are required to evidence what advice they have taken with regards to equalities considerations and summarise what impacts, if any, the report will have on groups in the borough.
24. Where it is considered that an EIA may be required, the Council records its assessments of the impact on equality in an Initial Screening form and, if required, an EIA Record form. The Council's EIA forms assess the impact of a policy, service or function on all protected characteristics, as well as other vulnerable groups. Outcomes for community cohesion and assessment of whether the policy, service or function does or could promote good relationships within and between communities are also required.
25. The Council uses EIA to help it manage and review services to achieve the fairest possible outcomes.

## **EIA and Disability**



26. Section 149(4) of the Equality Act explicitly recognises that disabled people's needs may be different from those of non-disabled people. The law specifically requires that the needs of disabled people with different impairments should be taken into account in discharging the Public Sector Equality Duty. A person who has a particular visual impairment will have different needs and impacts even to a person with a different visual impairment, let alone a wheelchair user or a learning disabled person. The Council will take account of disabled people's disabilities when making decisions.

### **Carrying Out Equality Impact Assessment**

27. **Annex 3** provides guidance on the Council's approach to carrying out EIA. It should be read in conjunction with the Initial Screening form and EIA Record Form, attached as **Annex 4**.
28. The principles and thinking underlying the EIA process are relevant to everything from the development of major new policy initiatives to the day-to-day actions of an individual. EIA should be carried out when revising or introducing new:
- (a) Policies
  - (b) Strategies
  - (c) Budget proposals
  - (d) Procedures
  - (e) Service (re)design and commissioning
  - (f) Capital and transformation projects
  - (g) EIA can also be used to assess existing services or activities for fair access and fair outcomes for everyone in the community.

For the sake of simplicity these are all referred to as **activities** in the guidance and forms.

### **Annual Review and Policy Action Plan**

29. The policy is supported by a number of processes and arrangements, some of which are reviewed and updated annually. These are:
- (a) Equality analysis & Equality Objective(s)
  - (b) Leadership and co-ordination roles and responsibilities
  - (c) Training provision
  - (d) Engagement framework

- (e) Performance management framework
- (f) Action plan

## Equality Analysis

30. The Equality Act 2010 (Specific Duties) Regulations 2011 came into force on 10th September 2011. These set deadlines for the Council to carry out two specific tasks. The first of these was the requirement to publish information (the Equality Analysis) showing how the Council is complying with the Public Sector Equality Duty by 31st January 2012. The Council published its first Equality Analysis in January 2012; the latest version is available on the Council website through this link:

<http://www.darlington.gov.uk/your-council/communities/equality-information/#facts>

31. The annual review and publication of the Equality Analysis, as required by law, enables equality information and improvement actions contained within the Joint Strategic Needs Assessment (JSNA) and service plans to be highlighted for the benefit of stakeholders. The Council will also continue to publish Equality Impact Assessments.

## Equality Objectives

32. The other specific task required by the 2011 regulations was the publication of Equality Objective(s) by 6th April 2012. The Council published its first set of Objectives at the beginning of April 2012.

33. The Objective(s) set out specific and measurable tasks to improve equality. They are not intended to reflect the full scope of the Council's commitment to equality, but to set out steps that can be taken to make progress in particular areas of activity highlighted for improvement in the Equality Analysis. Actions to deliver the objectives will be included in the annual Action Plan that forms part of this policy.

34. The Council's Equality Objective for the period 2018-2022 was:

1. *"To remind all Members and staff of their duties under the Equality Act 2010, demonstrate how the council has done this via training and engagement with services users and support organisations, and publicise the differences that this work has made."*

35. This objective has involved the training of 70% of staff and members, as well as engagement with the community and voluntary and community sector. The next objective is designed to build on the work done since 2018.
36. The Equality Objective for 2023-2027 has been reviewed [Annexe x] and further developed during the preparation of this policy.
37. The regulations require the objective(s) to be reviewed at least every four years (the life cycle of this policy is aligned to that four year review period).
38. The Council's Equality Objective for the period 2023 – 2027 is:
1. *To provide ongoing training and support for staff and members to help them meet their duties under the Equality Act of 2010, raise awareness of the Equality Policy and ensure residents of Darlington are treated with dignity and respect, and continue to report on progress.*

### **Leadership and Co-ordination Roles and Responsibilities**

39. In Darlington, equality is an integral part of mainstream work rather than a separate function carried out by specialists. Senior managers (Assistant Directors, Heads of Service and Service Managers) are responsible for implementing the Equality Principles and meeting the requirements of the Equality Duty within their service areas.
40. One of the key principles underlying the policy is that testing the fairness of activities, proposals and decisions as an integral process within mainstream work helps managers and Members to carry out their roles effectively, leads to better and more sustainable services, and is the most cost-effective way of meeting the Public Sector Equality Duty.
41. However, appropriate support is needed to help staff to do this, and to provide a planned and co-ordinated approach to equalities across all Council functions. Such arrangements have been in place for a number of years. The current structure of key roles are:
- (a) A Cabinet Member lead (the Stronger Communities Cabinet Portfolio Holder) will have overall accountability
  - (b) The Chief Executive will have overall officer accountability for the Policy at Chief Officer Executive (COE) level
  - (c) Chief Officer Board (COB) will raise any performance issues with COE.

- (d) A manager with responsibility for leading the development and implementation of the policy will chair the Council Equalities Group and report any equality-related issues escalated by the Group to COB.
- (e) Equality Advisors in each service area will support and advise officers, from Director-level to frontline staff, on equality-related matters. Equality Advisors will be senior officers to ensure they can effectively support their service area.
- (f) The Corporate Equalities Group, chaired by the equality lead and comprised of the Equality Advisors, will meet, at a minimum, on a quarterly basis and provide a forum for co-ordinating and supporting equality work across the Council including:
  - i. Advising on draft policy and work programmes,
  - ii. discussing issues (current, emerging and potential),
  - iii. recommending actions to Chief Officers' Board and/re specific Assistant Directors,
  - iv. sharing learning from EIAs,
  - v. advising on equalities training requirements,
  - vi. liaising with relevant internal and partnership groups to share information and intelligence.
- (g) The Equalities Reference Group will oversee and support progress of the Equality Policy, by providing feedback to the Corporate Equalities Group and wider organisation, following receipt of an annual status report. This group will be comprised of self-nominated staff members from protected characteristic groups who have an interest in equalities and are willing to share their knowledge and experiences to help the Council fulfil the PSED. This group will act as a consultation platform, helping the council to develop inclusive policies, action plans and corporate objectives, by feeding back their views using their expertise and experience. This group will also support delivery of the policy by providing advice and support on how to target and involve particular groups in the community.

42. The allocation of the above roles will be reviewed annually to ensure that the arrangements are working effectively and in response to staffing and workload changes.

## **Equality Training**

43. Equality training will continue to be provided to support the roles and responsibilities outlined above and will continue to be reviewed annually to make sure that it is delivering the skills necessary to implement the policy.
44. Front-line staff who interact with the public and service users are a training priority, to ensure that they have the skills and awareness to respond appropriately to the diverse range of people with whom they come into contact.
45. It is also important to ensure that a general understanding of the Public Sector Equality Duty and of the Equality Policy is maintained across the Council, particularly amongst Chief Officers, Heads of Service and Council Members in their decision-making role.
46. The Equalities training programme implemented since 2018 will continue to be available for staff to access.
47. **External Engagement Arrangements**
48. Securing the involvement of representatives of people who share Protected Characteristics will be important for the effectiveness of the Equality Policy.
49. It is proposed that the purpose of such engagement will include involvement of representatives in the provision of expertise, on a case by case basis, to:
  - (a) advise on equality impact assessments;
  - (b) provide a perspective on local issues to inform the Equality Analysis;
  - (c) reflect on regional and national guidance and good practice and its application in Darlington;
  - (d) facilitate early, informal discussion about views on emerging equalities issues.

## **Performance Management**

50. Performance management of the policy will be the responsibility of the Head of Strategy, Performance and Communications. These arrangements will be incorporated into the corporate performance management framework and embed equalities into all areas of service planning. There are several broad components that require performance management:
  - (a) Progress in carrying out the actions focused on delivering the Equality Objective

- (b) The effectiveness of the Equality Policy in guiding work across the Council towards fair outcomes - is it making a difference?
51. Progress towards delivery of the policy and objective will be measured in a number of ways:
- (a) A number of selected indicators (**Annex 5**) will be added to the corporate performance management framework. These indicators will be regularly reviewed and, where new priorities are identified or emerge, new indicators may be added.
  - (b) Questions to determine staff perceptions of how well they understand equalities and their responsibilities have been added to the staff survey, in order to establish a baseline for monitoring going forward as training is delivered.
  - (c) Equality information relating to Darlington Borough Council's workforce and the wider borough will continue to be published on the website.
  - (d) The Corporate Equalities Group will produce an annual status report on how progress towards the objective is being achieved, outlining key actions taken over the previous 12 months and any equality-related measures which have shown significant change.
  - (e) Service areas will be tasked with ensuring equalities is embedded within their own performance monitoring arrangements.
52. Whilst performance management of the policy and objective will sit with the Head of Strategy, Performance and Communications, delivery of the Equality Objective will require sufficient budget and commitment from Assistant Directors and management to release staff for training and embed an equalities culture within their service, as per the equality governance arrangements.
53. Information gathered as a result of performance monitoring will be used to inform learning and future action plans.

### **Action Plan**

54. Action plans will identify actions and responsibilities for delivering:
- (a) Equality Analysis which needs to be reviewed annually;
  - (b) Equality Objectives which need to be reviewed at least every four years;
  - (c) Improvement plans, where required, to address performance issues.

## **Communication of the Equality Policy**

55. The updated Equality Policy and Objective will be communicated to staff through staff briefings, the corporate induction and equality training. Councillors will receive information about the Equality Policy and Objective as part of their induction programme and in Member Briefings. The Equality Policy and Objective will also be published on our website for members of the public to view. Alternative formats of this information will be available on request.
56. Ongoing work in respect of the Policy will be communicated to staff, members and the public as it is undertaken.

## Equality Policy: ANNEX 1

### Definitions of Legally Protected Characteristics

**Age:** where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).

Note: It is lawful to treat people differently because of their age in circumstances where the law allows, or requires, people to be treated differently because of their age.

**Disability:** a person has a disability if they have a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

Note: In Darlington we use the definition above but have previously found it helpful to place this in the context of a social model approach to disability. We will continue to do so. See paragraph 25.

**Gender reassignment:** As well as providing protection for transgender people The Act also extends its protection to transsexual people. A transsexual person is someone who proposes to, starts or has completed a process to change their gender. The Equality Act no longer requires a person to be under medical supervision to be protected – so a woman who decides to live as a man but does not undergo any medical procedures would be covered. It is discrimination to treat transsexual people less favourably for being absent from work because they propose to undergo, are undergoing or have undergone gender reassignment than they would be treated if they were absent because they were ill or injured.

**Marriage and Civil Partnership:** marriage is defined as a 'union between two people'. Civil partnership is defined as 'legal recognition of a couple's relationship. Civil partners must be treated the same as married couples on a wide range of legal matters.

Note: For public authorities, only the first aim of the general duty applies to this characteristic, and only in relation to employment matters.

**Pregnancy and Maternity:** Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment



context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating someone unfavourably because they are breastfeeding.

**Race:** Refers to the Protected Characteristic of Race. It refers to a group of people defined by their race, colour, and nationality (including citizenship), ethnic or national origins.

**Religion and Belief:** Religion means any religion and a reference to religion includes a reference to a lack of religion. Belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief.

**Sex (formerly gender):** Refers to a person's biological sex, both men and women are protected under the Equality Act. This section of the Equality Act also covers discrimination towards a transgender person on the grounds of the sex they most associate with. Discrimination towards a transgender person with reference to the fact that they are transgender is covered in a separate section of the Equality Act.

**Sexual orientation:** Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

## **Reasonable Adjustments Notes: ANNEX 2**

1. The Council as a provider of services and also as an employer is required to make reasonable adjustments for disabled employees or service users.
2. As a provider of services we may need to make changes to help disabled customers or potential customers to use our services. The types of changes that will be reasonable will depend on the circumstances but could include making changes to the way things are done (for instance to a policy), to buildings (for instance to improve access or using a better venue) and by providing auxiliary aids and support (for instance providing information an accessible format, an induction loop or additional staff support or home visits).
3. Reasonable adjustments are required wherever disabled customers or potential customers would otherwise be at a substantial disadvantage compared with non-disabled people. A substantial disadvantage is more than a minor or trivial disadvantage. Service providers cannot charge disabled customers for reasonable adjustments.
4. The Equality Act 2010 requires that service providers forward plan and take steps to address barriers that impede disabled people. For instance considering the range of disabilities that actual or potential service users might have (and not waiting until a disabled person experiences difficulties using a service, as this may make it too late to make the necessary adjustment).
5. As an employer we may need to make changes to the recruitment to a particular role and for employees to any elements of a job that place a disabled person at a substantial disadvantage compared to non-disabled people. What constitutes a reasonable adjustment will depend on the circumstances.

6. When recruiting consideration will need to be given to the types of questions that can be asked and the assessment process followed (for instance adjustments may be required to enable a candidate to sit a test, for instance by providing an auxiliary aid).
7. For existing employees adjustments may need to be made to enable an employee to be able to carry out their role without disadvantage. For instance providing accessible parking, better building access, auxiliary aids, or specialist equipment. What is reasonable will depend on the circumstances.
8. If a person requests something that they believe to be a reasonable adjustment, and the Council disagrees, the onus is on the Council to demonstrate why it is not reasonable.
9. Officers should seek appropriate guidance from Human Resources or Legal Services as is appropriate when considering what adjustments may be reasonable to make.

## **EIA Guidance Notes: ANNEX 3**

### **Introduction**

1. This guidance should be used alongside the Initial Officer Assessment form and Equality Impact Assessment Record Form.
2. EIA should be carried out when revising or introducing new:
  - (a) Policies
  - (b) Strategies
  - (c) Budget proposals
  - (d) Procedures
  - (e) Service design and commissioning
  - (f) Capital and transformation projects.

EIA can also be used to assess existing services or activities for fair access and fair outcomes for everyone in the community. For the sake of simplicity these are all referred to as activities in this guidance and in the EIA Record Form.

3. EIA will vary with the activity being assessed, and officers are encouraged to be creative, proportionate and sensible within the broad approach set out here to integrate EIA appropriately into their activities.
4. An EIA may be triggered by a range of factors, including the review or development of a policy or service plan; the instigation of a new action such as a capital project, commissioning activity or procurement of goods; significant changes to budgets; or an 'impact alert' by partners, stakeholders or the general public highlighting effects or impacts on people with Protected Characteristics of a Council service, activity or facility.
5. Where an officer is unclear as to whether an EIA should be undertaken they should seek support through the relevant pages of the intranet, their Equality Advisor and/or the Policy and Performance team.

## **The Public Sector Equality Duty**

5. The Public Sector Equality Duty requires all public bodies to consider the needs of individuals in their day-to-day work – in shaping policy, delivering services and in relation to their own employees.
6. The Equality Duty has three aims. These require public bodies to have due regard to the need to:
  - (a) Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
  - (b) Advance equality of opportunity between people who share a Protected Characteristic and people who do not share it; and
  - (c) Foster good relations between people who share a Protected Characteristic and people who do not share it.
7. The legally Protected Characteristics are defined in Annex 1 of the Equality Policy. The policy provides more information on the Equality Duty and the Council's approach to meeting its requirements.
8. Equality Impact Assessment (EIA) is the tool used to enable the Council to meet the duty and to demonstrate that it has done so. If due regard cannot be demonstrated, decisions may be challenged and proposals delayed by judicial review resulting in lost time, money and negative publicity.
9. EIA should be carried out as an integral part of the planning of an activity. It does not take place at one point in time, but should evolve with the planning process, from concept to final product.

## **Effects and Impacts**

10. The purpose of EIA is to identify, assess and seek to avoid, minimise or mitigate the negative impacts of the activity on people because of their Protected Characteristics. In doing this it is important to understand the distinction between effects and impacts. This can best be illustrated by an example. The loss of a bus service will affect all the

people who use that service – the effect is that there is no bus to make the usual journey to work or the shops and everybody experiences the effect equally. The impact will be experienced differently by different people, depending on their circumstances. Some people may not be able to get out, and become more isolated and perhaps depressed. Some will have to do their shopping at a local shop, spending more and being less able to afford other goods and services. For others, there may be positive impacts from teaming up with friends to car-share, or improving their health by walking or cycling.

11. The role of EIA is to go beyond an understanding of the shared effects of an activity, to identify the varying impacts on individuals. Doing that may require engagement with the affected people, because only they know how they will be impacted.

### **Initial Screening**

12. The first stage of EIA is for the officer(s) responsible for the activity to carry out an initial screening form to scope the EIA. This may be done by a single officer if the activity or proposal is minor, but for larger and more complex matters such as the development of a new strategy or policy a group of officers familiar with the area of work should be involved. The screening form will determine whether a full EIA is required, to inform the decision-making process.
13. When considering whether the activity is relevant to equality, you will need to ask yourself:
  - (a) What information do I have to base my initial screening on? What does this information tell me?
  - (b) Will the activity have an impact on service users, communities or employees? Consider this in terms of the numbers of people affected *and* the likely extent of impact i.e. a service change may be likely to affect a number of individuals but the level of impact on those individuals will only be small or, conversely, a decision may only affect a small number of residents but the level of impact on each individual will be significant.
  - (c) Does it potentially affect different groups of people differently?

- (d) Will the activity have an impact on one or more aim of the equality duty?
  - (e) Has previous engagement or assessment shown that the activity is relevant to equality?
  - (f) Does it have an effect on how other organisations operate in terms of equality (i.e. commissioned services)?
  - (g) Does the function relate to an area of established inequality?
14. In some cases like grant giving, commissioning, funding programmes or changes to service delivery (including new, reduced or closing services), it will be easy to show a relevance to equality. However some functions may be less straightforward to judge.
15. You should use the Initial Screening form to communicate whether the activity has demonstrated a relevance to equality or not.
16. Where the Initial Screening demonstrates that the activity is relevant to equality:
- (a) Briefly use the tick boxes to show which characteristics the activity is relevant to;
  - (b) Ensure that the completed Initial Screening form is signed off at Assistant Director-level. Sign-off must be in the form of an actual signature and not an emailed authorisation.
  - (c) Make sure a copy of the Initial Screening form is retained
  - (d) You will then need to undertake a full EIA.
17. Where your Initial Screening form demonstrates that the function is not relevant to equality:
- (a) Provide a full narrative of how this conclusion was reached in the 'Reason for decision' box. Simply stating 'no relevance' or 'no information available' will not be sufficient; the Council must be able to show that its decisions are based on thorough analysis of robust data.
  - (b) A copy of the Initial Screening form should be retained for future reference.

- (c) NB if the Initial Screening suggests that there will be no effect on people with Protected Characteristics, the activity should continue to be monitored for such effects as it develops.

### **Carrying out a Full EIA**

18. If the Initial Screening form has identified that the activity is relevant to equality then a full EIA should be undertaken using the Equality Impact Assessment Record.
19. The key issue in EIA is whether we need to engage with people who will be impacted by the activity, and when and how to engage. The key principle is that impacts can only be properly identified by the people who will experience them. Where the Initial Screening Form has identified that the activity is relevant to equality then it is likely that engagement/ consultation will be required.
20. For complex activities it may be that the initial screening cannot identify the people likely to be affected or the level of impact because the required information is not available in the early stages of the activity. Nevertheless it may be apparent that impacts are likely in the future (for example with the implementation of detailed proposals that have not yet been specified or designed).
21. In this case, you should consider whether there is anything at the current stage of development (for example in the wording of draft policies) that could cause disadvantage to people with Protected Characteristics in future or which does not make the most of opportunities for positive impact in the future implementation of the activity.
22. If so, you will need to decide whether to make appropriate changes. These should be recorded in the action plan (Section 8 of the EIA Record Form) as part of the full documentation of the EIA.
23. As soon as it is apparent that people with particular Protected Characteristics are likely to be impacted by the activity, it is advisable to consult with the stakeholder/representative organisations for the relevant Protected Characteristics for guidance in identifying the groups of people with which to engage and how to engage with them.



24. Further officer assessment should be carried out as the activity develops, to further identify affected people and any engagement required.

### **Two Key Questions on Engagement**

25. Officers must ask two vital questions, depending on the nature and scale of the activity:
  - (a) Have all the people who will be affected by the activity been identified, informed and invited to be involved via a suitable method?
  - (b) Is the activity (proposal or action) framed in a lawful way (legal advice is recommended here) - can the Council do what it is proposing in the way it is proposing to do it? The answer to this question may change the view of the people who are affected and need to be involved.
26. Legal advice should be sought if there is any uncertainty on these questions; representative organisations may also offer views on them.
27. A further question to ask at this stage is whether it is possible or realistic to identify and seek to engage with all of the people who may be impacted by an activity. Whilst we have emphasised the best practice of engaging directly with affected people with Protected Characteristics this will not always be practical, particularly where the activity will impact directly on a wide population. Engagement may then need to involve focus groups or proxy groups such as the staff and members of representative organisations.
28. A record and commentary of the engagement/ consultation carried out should be included in the engagement and consultation box of the EIA Record form, including details of the stakeholders/ groups who have been involved, together with the method and dates of engagement. Engagement might take place through a range of channels such as phone, email, social media, the Council website and post.
29. Experience shows that small group and one-to-one sessions work better than large consultation type forums or other channels for exploring impacts. Impacts are personal to the individual and often emotionally charged, and it takes time and effort to identify them. Officers need to listen and encourage, and record what people say.

30. Staff involved in engagement sessions should be good listeners and able to encourage and support people to express themselves. Staff may also need to be DBS-cleared.
31. Sometimes the emotive nature of discussions about impacts on individuals may mean that both members of the public and staff may need additional support during and/or immediately after these discussions. Lead officers for each activity will assess the need for additional support and details of how to access this.

## **Assessment**

32. Once the engagement / consultation has been done then an analysis of the findings should be undertaken in section 3 of the EIA record form. Officers should include a detailed narrative of why any of the impacts identified will have this effect.
33. Whilst not Protected Characteristics, the EIA form includes an assessment of whether the activity might affect either those on low incomes, those living in rural locations or those who are carers. This is so that Officers and Members are also able to consider service users from other social excluded groups in their decision-making.
34. Officers should also seek to identify any cumulative impacts from the activity in Section 4 of the EIA Record form. This involves an analysis of whether the activity will affect anyone more because of a combination of Protected Characteristics. Officers should include what they think the effect might be and why, providing evidence from engagement, consultation and/or service user data or demographic information, etc. Further, Officers should seek to identify whether there are any other Council activities of which they are aware which might also impact on the same protected characteristics.

## **Analysis**

35. The following content relates to action following involvement and engagement, but it is vital that evolving equalities thinking and findings are documented and taken into account in any reporting/decisions as the activity develops. The officer(s) responsible for the activity should feed EIA findings into its planning/development. The EIA record document assists officers to do this, but the key questions at this stage are:

(a) To what extent does the activity result in a positive or negative impact for people with Protected Characteristics?

- (b) In relation to disabled people, does the activity affect people with different needs differently?
- (c) Is there evidence of unlawful discrimination, requiring the activity to be changed?
- (d) Will the activity increase equality of opportunity for people with Protected Characteristics?
- (e) Will the activity help to reduce harassment and victimisation, and foster good relations?
- (f) Does the evidence gathered through involvement and engagement show that the activity could be modified to avoid negative impacts on Protected Characteristics, or that such impacts could be minimised or mitigated?

### **When is the EIA Complete?**

- 36. This is not quite as simple a question as it sounds. It is essential to maintain a clear separation between identifying and reporting impacts, and planning and recommending ways to manage (avoid, minimise or mitigate) those impacts. Therefore once the impacts have been identified through engagement it is recommended that a line be drawn under the equalities impact assessment and that it be signed-off by the responsible officers (Section 6 of EIA Record Form).
- 37. However, this is not the end of the overall process. EIA findings must be made available to decision-makers so that they can make decisions on the activity in the light of their full potential impact. Equalities findings and perspectives must also be taken into account in making recommendations to decision-makers, but these findings and perspectives will be balanced with all the other considerations that need to be taken into account – finance and funding, health and safety, staffing and capacity, the benefits and costs of the activity, and so on.
- 38. The recommendations (Section 7 EIA Record Form) may include proposals for managing the impacts. Ways of avoiding, minimising or mitigating impacts may have been identified during the EIA process, whether by officers or people engaged in the

process. It is essential that the impacts of the activity are reported separately from and without being modified or 'softened' by proposals for managing them.

39. Any proposals for managing impacts included in the report and recommendations should then be fed back into the Action Plan and Performance Management arrangements (Section 8 of the EIA Record Form), so that their implementation can be managed and monitored.

## **Reporting Findings**

40. Reporting the findings of EIA to decision-makers may occur at several stages, depending on the complexity of the activity. Interim reports on feasibility studies or options appraisals, whether to executive boards or Cabinet, should include the latest equalities findings. Reports recommending final decisions on activities must await and include the findings of the full EIA process. Impacts must be reported separately from any proposals to manage those impacts, so that decision-makers have a clear understanding of the potential effects of their decision. The full EIA should be made available to decision-makers within the reporting/decision-making process.

## **Decision-Making**

41. As noted above, reports and recommendations on any proposal or action, whether to chief officers or Cabinet and from feasibility to final report, should include current equalities thinking, even where a full Equality Impact Assessment has not been required.
42. The Equalities and Human Rights Commission's guidance for decision makers, 'Making Fair Financial Decisions', outlines what Members should be looking for in an EIA. This includes:
  - (a) A written record of equality considerations
  - (b) Consideration of the actions that would help to avoid or mitigate impacts on particular protected groups
  - (c) A clear evidence base for making decisions, with sources for all information clearly stated.

43. Members should seek to ensure that EIA and decisions are transparent, and that the process complies with the law. The guidance can be accessed at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>

#### **After Completion**

44. The completed EIA Record Form, including the Action Plan, should be retained. The completed EIA will also be posted on the Council website, to provide an up-to-date view of equalities activity for the benefit of stakeholders and the general public.

## EIA Screening Form and Record Form: ANNEX 4

### Initial equality impact assessment screening form

This form is an equality screening process to determine the relevance of equality to an activity, and a decision whether or not a full EIA would be appropriate or proportionate.

<b>Directorate:</b>	
<b>Service Area:</b>	
<b>Activity being screened:</b>	
<b>Officer(s) carrying out the screening:</b>	
<b>What are you proposing to do?</b>	
<b>Why are you proposing this? What are the desired outcomes?</b>	
<b>Does the activity involve a significant commitment or removal of resources? Please give details</b>	

**Is there likely to be an adverse impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or any other socially excluded groups?**

**As part of this assessment, please consider the following questions:**

- **To what extent is this service used by particular groups of people with protected characteristics?**
- **Does the activity relate to functions that previous consultation has identified as important?**
- **Do different groups have different needs or experiences in the area the activity relates to?**

**If for any characteristic it is considered that there is likely to be a significant adverse impact or you have ticked 'Don't know/no info available', then a full EIA should be carried out where this is proportionate.**

Protected characteristic	Yes	No	Don't know/ Info not available
Age			
Disability			
Sex (gender)			
Race			
Sexual Orientation			
Religion or belief			
Gender reassignment			
Pregnancy or maternity			
Marriage or civil partnership			
<b>Other</b>			
Carer (unpaid family or friend)			
Low Income			
Rural Location			
<b>Does the activity relate to an area where there are known inequalities/probable impacts (e.g. disabled people's access to public transport)? Please give details.</b>			
<b>Will the activity have a significant effect on how other organisations operate? (e.g. partners, funding criteria, etc.). Do any of these organisations support people with protected characteristics? Please explain why you have reached this conclusion.</b>			
<b>Decision (Please tick one option)</b>	EIA not relevant or proportionate:		Continue to full EIA:
<b>Reason for Decision</b>			
<b>Signed (Assistant Director)</b>			
<b>Date</b>			



# DARLINGTON

Borough Council

## Equality Impact Assessment Record Form

This form is to be used for recording the Equality Impact Assessment (EIA) of Council activities. It should be used in conjunction with the guidance on carrying out EIA in **Annex 2** of the Equality Policy. The activities that may be subject to EIA are set out in the guidance.

EIA is particularly important in supporting the Council to make fair decisions. The Public Sector Equality Duty requires the Council to have regard to the need to eliminate discrimination, harassment and victimisation, advance equality of opportunity and foster good relations.

Using this form will help Council officers to carry out EIA in an effective and transparent way and provide decision-makers with full information on the potential impact of their decisions. EIAs are public documents, accompany reports going to Councillors for decisions and are published with committee papers on our website and are available in hard copy at the relevant meeting.

<b>Title of activity:</b>	
<b>Name of Directorate and Service Area:</b>	
<b>Lead Officer and contact details</b>	
<b>Assistant Director accountable for this EIA</b>	
<b>Who else will be involved in carrying out the EIA:</b>	

<b>When did the EIA process start?</b>		
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## Section 2 – The Activity and Supporting Information

<b>Details of the activity</b> ( describe briefly - including the main purpose and aims) (e.g. are you starting a new service, changing how you do something, stopping doing something?)
<b>Why is this being proposed? What are the aims? What does the Council hope to achieve by it?</b> (e.g. to save money, meet increased demand, do things more efficiently)
<b>What will change? What will be different for service users/ customers and/ or staff?</b>
<b>What data, research and other evidence or information is available which is relevant to the EIA?</b>
<b>Engagement and consultation</b> (What engagement and consultation has been done regarding the proposal and what are the results? What consultation will be needed and how will it be done?)
<b>What impact will this activity have on the Council's budget?</b> (e.g. cost neutral, increased costs or reduced costs? If so, by how much? Explain briefly why this is the case)

Section 3: Assessment

How will the activity affect people with protected characteristics?	No Impact	Positive impact	Negative impact	Why will it have this effect? (refer to evidence from engagement, consultation and/or service user data or demographic information, etc)
Age				
<b>Disability</b> (Mobility Impairment, Visual impairment, Hearing impairment, Learning Disability, Mental Health, Long Term Limiting Illness, Multiple Impairments, Other – Specify)				
Sex (Gender)				
Race				
Gender Reassignment				
Sexual Orientation				

<b>Religion or belief</b>				
<b>Pregnancy or maternity</b>				
<b>Marriage or civil partnership</b>				
<b>How will the activity affect people who:</b>	<b>No impact</b>	<b>Positive Impact</b>	<b>Negative Impact</b>	<b>Why will it have this effect?</b> (Refer to evidence from engagement, consultation and/or service user data or demographic information, etc)
<b>Live in a rural location?</b>				
<b>Are carers?</b>				
<b>Are on a low income?</b>				

#### Section 4: Cumulative Impacts

**Cumulative Impacts – will the activity affect anyone more because of a combination of protected characteristics?** (e.g. older women or young gay men – state what you think the effect might be and why, providing evidence from engagement, consultation and/or service user data or demographic information, etc)

**Are there any other activities of which you are aware which might also impact on the same protected characteristics?**

#### Section 5: Analysis

**a) How will the activity help to eliminate discrimination, harassment and victimisation?**

**b) How will the activity help to advance equality of opportunity?**

**c) How will the activity help to foster good relations?**

**During the engagement/ consultation process were there any suggestions on how to avoid, minimise or mitigate any negative impacts? If so, please give details.**

Section 6 - Sign-off when assessment is completed

Officer Completing the Form:		
Signed	Name:	
	Date:	
	Job Title:	
Assistant Director:		
Signed	Name:	
	Date:	
	Service:	

Section 7 – Reporting of Findings and Recommendations to Decision Makers

<p><b>Next Steps to address the anticipated impact</b> (Select one of the following options and explain why this has been chosen – remember we have a duty to make reasonable adjustments so that disabled people can access services and work for us)</p>
<p>a) <b>No negative impact on people because of their Protected Characteristics and therefore no major change is needed to the activity</b> (There is no potential for discrimination or adverse impact identified)</p>
<p>b) <b>Negative impact identified – recommend continuing with the activity</b> (Clearly specify the people affected and the impacts, and providing reasons and supporting evidence for the decision to continue. The EIA identifies potential problems or missed opportunities. Officers will advise to change the proposal to reduce or remove these adverse impacts, or the Council will achieve its aim in another way which will not make things worse for people. There must be compelling reasons for continuing with the proposal which will have the most adverse impacts.)</p>
<p>c) <b>Negative impact identified - adjust the activity in light of the identified impact to avoid, minimise or mitigate the impact</b> (The EIA identifies potential problems or missed opportunities. The Council will change the proposal to reduce or remove these adverse impacts, or it will achieve the aim in another way which will not make things worse for people)</p>
<p>d) <b>Actual or potential unlawful discrimination – stop and remove the activity</b> (The EIA identifies actual or potential unlawful discrimination. It should be stopped.)</p>
<p><b>Explanation of why the option above has been chosen</b> (Including any advice given by legal services)</p>
<p></p>

**If the activity is to be implemented how will you find out how it is affecting people once it is in place? (How will you monitor and review the changes?)**

**Section 8 – Action Plan and Performance Management**

List any actions you need to take which have been identified in this EIA, including post implementation reviews to find out how the outcomes have been achieved in practice and what impacts there have actually been on people with protected characteristics

What is the negative impact?	Actions required to reduce/eliminate the negative impact (if applicable)	Who will lead on action	Target completion date

Performance Management	
Date of the next review of the EIA	
How often will the EIA action plan be reviewed?	
Who will carry out this review?	

## **Performance Management: ANNEX 5**

The following performance measures will be added to the corporate performance monitoring framework:

- Proportion of staff members who have completed basic equality training
- Workforce equality data
- Service access statistics