

What equalities legislation is there?

The [Equality Act 2010](#) is a single legal framework that seeks to provide a clear basis upon which to tackle disadvantage and discrimination. Most of the provisions of the Act came into force in October 2010, replacing and consolidating nine pieces of legislation. The Act seeks to ensure people are not discriminated against because they **share certain ‘protected characteristics’**¹, are **assumed to share** those characteristics or **associate with other people** that share a protected characteristic. It also aims to increase equality of opportunity and foster good relations between groups.

In the Act the Government created a [Public Sector Equality Duty](#). This Duty seeks to ensure public authorities play their part in making society fairer by requiring them to have ‘due regard’ to the need to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- foster good relations between people who share a protected characteristic and those who do not share it.

The Act covers both direct and indirect discrimination². The Act also extended protection to those experiencing associative discrimination. This occurs when a victim of discrimination does not have a protected characteristic but is discriminated against because of their association with someone who does e.g. the parent of a disabled child. It also extended the concept of discrimination by perception, where a victim of discrimination is presumed to have a protected characteristic, whether they do have it or not.

What does ‘due regard’ mean?

Having ‘due regard’ means giving an appropriate level of consideration to equalities issues. The Equality Act 2010 explains that having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

¹ The ‘protected characteristics’ defined in the Act are: age; disability; gender reassignment; pregnancy and maternity; race (including ethnic or national origins, colour or nationality); religion or belief (including lack of belief); sex and sexual orientation. Marriage and civil partnerships is also protected but only with regards to the need to eliminate discrimination.

² Equality Law provides [useful summaries](#) of different types of discrimination.

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The Act also states that meeting different needs involves taking steps to take account of disabled people's disabilities. It also describes fostering good relations as tackling prejudice and promoting understanding between people from different groups. Further, it states that compliance with the duty may involve treating some people more favourably than others.

The issue of 'due regard' has been considered in a number of Court cases³. It has been emphasised that there are no "prescribed" steps that public bodies must take to demonstrate due regard. In addition there are no particular outcomes that authorities must achieve for those that share protected characteristics as a result of having had 'due regard'. Rather the test of whether an authority has given due regard is a test of substance not "of mere form or box ticking". The duty therefore must be performed "with rigour and with an open mind" and where it forms part of a decision to be made by Members it is important for officers to "be rigorous in enquiring and reporting to them".

Surrey County Council demonstrates how it has applied 'due regard' to equalities by developing Equality Impact Assessments (EIAs) and incorporating the findings from these assessments into changes it makes to services, functions or policies.

Surrey County Council has also made a wider commitment to fairness and respect, which underpins everything we do. Our [One Council One Team Fairness and Respect Strategy 2012-2017](#) sets out our equality objectives for the organisation. It also demonstrates our commitment to deliver these objectives in partnership with local organisations and public bodies that are best placed to improve services for Surrey's residents.

What is this guidance and template for?

This guidance and template seeks to support staff when they are developing an EIA by:

- asking a series of questions that will ensure the equalities implications of any policy, function or service are considered in a robust fashion;
- ensuring that an action plan is produced to address any impacts that are identified; and
- ensuring that decision makers are provided with clear information about the potential impact of decisions on people with protected characteristics.

Do I need to complete an Equality Impact Assessment?

As a first step you will need to determine whether you need to complete an EIA for the policy, function or service you are developing or changing. The key question is whether any aspect of a new policy, function or service, or changes to an existing one, will have an impact on residents or staff, particularly people sharing protected characteristics. If it will then it is likely that an EIA will need to be completed⁴. **Very few of our policies, functions or services will have no equalities implications for either our residents or our staff.**

³ The Equality and Human Rights Commission has produced a summary of the implications of these cases in [The Public Sector Equality Duties and financial decisions](#).

⁴ The Equality and Human Rights Commission publication [Meeting the equality duty in policy and decision-making](#) includes useful guidance on what should be assessed.

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However, the level of detail within the EIA should be proportionate to the issue being considered and the scale of the impact. This means that the range of data used and the extent of community engagement undertaken should be proportionate to the issue being considered. For example, changes to an adult social care service that supports vulnerable elderly residents are likely to require a detailed EIA. However, changes to highway verge maintenance are likely to require either a light touch EIA or no EIA at all. **It is for Directorates to decide the level of detail required in their EIAs.**

If you decide not to complete an EIA, you must make a record of this decision. This might take the form of minutes of a meeting, an internal email or a record in a service plan. Most importantly, it must make clear **why you have concluded that an EIA is unnecessary**

When should I complete an Equality Impact Assessment?

Consideration of equalities is an ongoing process. Your assessment should start early in the development of a new or amended policy, service or function. **It is vital that your consideration of equalities issues is not a one-off exercise undertaken at the end of a project.** You need only publish your final EIA. However, you should keep previous versions of your EIA as a record of how the proposals changed as a result of your analysis.

What if I identify negative impacts that can't be mitigated?

The outcome of your equality analysis is only one factor in the overall decision making process. Other factors (such as financial issues or legal matters) may have equal or greater influence over the decision. Further, the new or amended policy, service or function may have to proceed even though not all of the negative equality impacts can be mitigated. The important thing is that decision makers are aware of the equalities implications of the new or amended policy, service or function when making their decision and these implications are considered alongside all other factors.

How should I finalise my Equality Impact Assessment?

All EIAs should be approved by an appropriate level of management in accordance with equalities processes in your Directorate. This may include consideration of your EIA by your Directorate Equality Group, if you have one. Your Strategic Director, Leadership Team and/or Cabinet Member may also wish to approve your EIA.

Once your EIA is approved, you should send it to the Chief Executive's Policy Team (Equality and Diversity/CEO/SCC) for publication on the Council's website. It is important that we publish our EIAs as this is one of the ways that we demonstrate how we have paid 'due regard' to the equalities issues identified in the Equality Act.

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1. Topic of assessment

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| EIA title: | Pay & Conserve |
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|--------------------|----------------------------------|
| EIA author: | Keith McKain, Change Consultatnt |
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2. Approval

| | Name | Date approved |
|--------------------------------|--|----------------------|
| Approved by⁵ | Jason Russell, Deputy Director, Environment & Infrastructure | 04.12.2017 |

3. Quality control

| | | | |
|-----------------------|-----|----------------------|------------|
| Version number | 1.1 | EIA completed | 04.12.2017 |
| Date saved | | EIA published | |

4. EIA team

| Name | Job title (if applicable) | Organisation | Role |
|---|----------------------------------|---------------------|--------------------------------|
| Lisa Creaye-Griffin | Countryside Group Manager | SCC | Project Sponsor |
| Environment & Infrastructure Directorate Equalities Group | | SCC | Scrutiny of impact assessments |
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5. Explaining the matter being assessed

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| What policy, function or service is being introduced or reviewed? | This assessment looks at the current use of 5 Countryside sites that are owned by Surrey County Council and managed on our behalf by Surrey Wildlife Trust. The assessment focuses on the access to the sites and in particular the potential equalities impacts should any charge be introduced for people to park at these sites. |
| What proposals are you assessing? | <p>Proposals are to charge people to park at:</p> <ul style="list-style-type: none"> • Chobham Common • Norbury Park • Rodborough Common • Whitmoor Common • Wisley & Ockham Commons <p>This proposals form part of the business plan to offset the current operating cost of maintaining the Countryside Estate. With significant pressure on council budgets in general, including funding for the</p> |

⁵ Refer to earlier guidance for details on getting approval for your EIA.

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| | Countryside function it is necessary to find a sustainable way to fund the Estate. |
| Who is affected by the proposals outlined above? | <p>The proposals will or may effect:</p> <ul style="list-style-type: none"> • Site users, potential new site users and their carers • The Surrey Wildlife Trust |

6. Sources of information

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| Engagement carried out |
| <p>A public consultation exercise was carried out for a period of 6 weeks. Significant communications activity was undertaken via printed, digital and social media to raise awareness of the consultation.</p> <p>People could feed back using the SurreySays website, via letter, email or complete a hard copy of the survey.</p> |
| Data used |
| <p>Surreyi Census data, Family Resource Survey</p> <p>Feedback from the public consultation, parish councils, user groups (such as angling groups) etc</p> |

7. Impact of the new/amended policy, service or function

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7a. Impact of the proposals on residents and service users with protected characteristics

| Protected characteristic ⁶ | Potential positive impacts | Potential negative impacts | Evidence |
|--|---|---|---|
| Age | Income for investment in improved facilities such as improved trails and surfaces will provide benefits for people with mobility problems | Some people may not be able to afford to park and so would not get the health and wellbeing benefits | 58 people responding to the consultation stated that the proposals would specifically impact people on low incomes. 124 people stated that access to the countryside is important for both physical and mental health and charging could impact on people's ability to gain those benefits from being outdoors |
| Disability | | Parking arrangements may disadvantage some groups, for example if payment is only available by phone. | |
| Gender reassignment | n/a | n/a | The proposals do not impact people's ability to access the sites based on them having these protected characteristics. |
| Pregnancy and maternity | n/a | n/a | |
| Race | n/a | n/a | |
| Religion and belief | n/a | n/a | |
| Sex | n/a | n/a | |
| Sexual orientation | n/a | n/a | |
| Marriage and civil partnerships | n/a | n/a | |

⁶ More information on the definitions of these groups can be found [here](#).

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| Carers⁷ | See above for Age and Disability | | |
|---------------------------|----------------------------------|--|--|

7b. Impact of the proposals on staff with protected characteristics

| Protected characteristic | Potential positive impacts | Potential negative impacts | Evidence |
|--|----------------------------|----------------------------|----------|
| Age | n/a | n/a | n/a |
| Disability | n/a | n/a | n/a |
| Gender reassignment | n/a | n/a | n/a |
| Pregnancy and maternity | n/a | n/a | n/a |
| Race | n/a | n/a | n/a |
| Religion and belief | n/a | n/a | n/a |
| Sex | n/a | n/a | n/a |
| Sexual orientation | n/a | n/a | n/a |
| Marriage and civil partnerships | n/a | n/a | n/a |

⁷ Carers are not a protected characteristic under the Public Sector Equality Duty, however we need to consider the potential impact on this group to ensure that there is no associative discrimination (i.e. discrimination against them because they are associated with people with protected characteristics). The definition of carers developed by Carers UK is that 'carers look after family, partners or friends in need of help because they are ill, frail or have a disability. The care they provide is unpaid. This includes adults looking after other adults, parent carers looking after disabled children and young carers under 18 years of age.'

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|---------------|-----|-----|-----|
| Carers | n/a | n/a | n/a |
|---------------|-----|-----|-----|

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8. Amendments to the proposals

| Change | Reason for change |
|--------|---|
| None | <p>Charging for parking may discourage people from using the site and therefore missing out on the health and wellbeing benefits of accessing the countryside. However, this would affect all site users, not just those with protected characteristics.</p> <p>On that basis specific impacts for each group cannot be identified. To do so would require us to be able to estimate the affordability for each group through 'means testing.'</p> <p>It is felt that parking charges by themselves would not disproportionately impact older or disabled people or their carers. This is on the basis that the parking charges should be set a reasonable level in comparison to other countryside sites. There would also be a season ticket available to bring the cost down for regular visitors. Blue Badge holders will be able to park for free when displaying their badge.</p> <p>Also, that the benefits of maintaining the site to allow it to continue to be used and enjoyed outweigh any potential disbenefit from having to pay for use. There is a need to consider parking arrangements to ensure that they do not disadvantage equalities groups.</p> <p>As well as this, a person's 'means' is not a protected characteristic and therefore cannot be considered as part of this impact assessment process</p> |

9. Action plan

| Potential impact (positive or negative) | Action needed to maximise positive impact or mitigate negative impact | By when | Owner |
|---|---|----------------------------------|-------------------|
| Impact of parking arrangements on specific groups, particularly the elderly who, for example, may not be comfortable paying by phone. | Recommended approach will include an option to pay by card. | As part of scheme implementation | Countryside Group |
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10. Potential negative impacts that cannot be mitigated

| Potential negative impact | Protected characteristic(s) that could be affected |
|---|---|
| <p>Charging for parking may discourage people from using the site and therefore missing out on the health and wellbeing benefits of accessing the countryside. However, this would affect all site users, not just those with protected characteristics. On that basis specific impacts for each group cannot be identified. To do so would require us to be able to estimate the affordability for each group through ‘means testing.’</p> | <p>All visitors, including those not from a protected group</p> |

11. Summary of key impacts and actions

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|--|--|
| Information and engagement underpinning equalities analysis | Public meetings, feedback from the public, stakeholders and interest groups. |
| Key impacts (positive and/or negative) on people with protected characteristics | <p>Charging for parking may discourage people from using the site and therefore missing out on the health and wellbeing benefits of accessing the countryside but by not charging in all locations this provides an alternative for those who do not want to or cannot afford to pay.</p> <p>The elderly may be less likely to own a mobile phone.</p> <p>Investment in better infrastructure such as improved trails and surfaces will benefit people with mobility issues.</p> |
| Changes you have made to the proposal as a result of the EIA | None |
| Key mitigating actions planned to address any outstanding negative impacts | N/A |
| Potential negative impacts that cannot be mitigated | The imposition of a charge, necessary for the financial sustainability of the site, may stop some people from visiting. |