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# Welsh Language and Equality Impact Assessment Policy and Procedure

Mae'r ddogfen hon hefyd ar gael yn y Gymraeg.  
This document is also available in Welsh.

## Content

1. Purpose of this policy and procedure .....	3
2. Purpose of impact assessments .....	3
3. Our duties and commitments to assess impact on equality and the Welsh language .....	3
4. Roles and responsibilities .....	7
5. When to conduct a WL&EIA .....	7
6. Welsh language impact assessment .....	8
7. Equality Impact Assessment .....	9
8. Evidence and engagement .....	9
9. Outcomes .....	10
10. Publication .....	11
11. Monitoring and review .....	11
Appendix A: Equality and Welsh Language Impact Assessment Form .....	12
Appendix B: Common questions and answers .....	13
Appendix C: Glossary .....	14

## 1. Purpose of this policy and procedure

- 1.1 This document outlines our policy and procedure for conducting Welsh Language and Equality Impact Assessments (WL&EIA). It is aligned with our:
- [Strategic Equality Plan 2023 2026](#)
  - [Welsh Language Policy](#)
- 1.2 This document aims to ensure that assessments of our policies are conducted consistently; in a timely manner; to a high standard and in line with our statutory duties and voluntary commitments.

## 2. Purpose of impact assessments

- 2.1 An impact assessment is a procedure which enables an organisation to consider the effects of its decisions, policies or services on different communities, individuals or groups. It aims to:
- anticipate or identify the consequences of this work on individuals or groups of service users/staff
  - reduce or remove any negative effects
  - add or increase positive effects.
- 2.2 An impact assessment may be a statutory requirement. However, it also represents good organisational practice. It helps to develop better policies and practices and aids transparency and accountability.

## 3. Our duties and commitments to assess impact on equality and the Welsh language

- 3.1 This section explains what impact assessments we must undertake by law and those we undertake in accordance with our voluntary commitments.

## Protected characteristics

- 3.2 The Equality Act 2010 ('the 2010 Act') defines 9 'protected' equality characteristics:
- age
  - disability
  - gender reassignment
  - marriage and civil partnership
  - pregnancy and maternity
  - race
  - religion or belief – including lack of belief
  - sex
  - sexual orientation.
- 3.3 Under the 2010 Act, it is unlawful to [discriminate](#) against people possessing those characteristics or treat them unfairly in the provision of services and public functions. This is apart from very specific circumstances when discrimination may be allowed based on '[objective justification](#)'. However, we will always check first whether there is another way that either does not discriminate or discriminates less.
- 3.4 The Act also introduces [a duty to provide reasonable adjustments](#) for disabled people.
- 3.5 In addition, the 2010 Act also introduces the 'Public Sector Equality Duty', also known as the 'general duty'. Under the duty, when carrying out our functions, we must have 'due regard' to the need to:
- eliminate unlawful [discrimination](#), [harassment](#) and [victimisation](#)
  - advance equality of opportunity between different groups
  - foster good relations between different groups.

3.6 Finally, under the Equality Act (Statutory Duties) (Wales) Regulations 2010, we must:

- assess the likely impact of any proposed policies and practices, or any planned or proposed revisions of these policies and practices, on our ability to comply with the Public Sector Equality Duty;
- monitor the impact of these policies and practices; and
- publish reports on impact assessments.

### **Socio-economic disadvantage**

3.7 In addition to establishing the 'general duty' in relation to people with protected characteristics, the 2010 Act also introduces a so-called 'socio-economic duty'. The socio-economic duty requires key public bodies, when taking strategic decisions, to have due regard to the need to reduce the inequalities of outcome that result from socio-economic disadvantage.

3.8 Inequalities of outcome, socio-economic disadvantage or strategic decisions are not defined in the Act. The Welsh Government [statutory guidance](#) defines these terms as follows:

- inequality of outcome: any measurable difference in outcome between those who have experienced socio-economic disadvantage and the rest of the population
- socio-economic disadvantage: living in less favourable social and economic circumstances than others in the same society
- strategic decisions: decisions which affect how the public body fulfils its intended statutory purpose over a significant period of time (not routine 'day-to-day' decisions).

3.9 Socio-economic disadvantage can be linked to many characteristics, such as area deprivation (e.g. rurality), low or no wealth or income (e.g. homelessness; unemployment), caring duties and other.

- 3.10 Differences in these characteristics can lead to inequalities of outcome in relation to education, health, work, justice and personal security, living standards and the ability to participate in decision making in communities or accessing services.
- 3.11 At PSOW, we do not have to comply with the socio-economic duty, but we are committed to work in its spirit. We will carefully consider the impact of our work on people who experience socio-economic disadvantage and will continue to work to ensure that group can take full advantage of our service.

### **Welsh language**

- 3.12 Under the Public Services Ombudsman (Wales) Act 2019, we have statutory duties in relation to the Welsh language.
- 3.13 When we formulate a new policy, or review or revise an existing one, we must consider what effects, if any (whether positive or adverse), the policy decision would have on:
- a) opportunities for persons to use the Welsh language, and
  - b) treating the Welsh language no less favourably than the English language.
- 3.14 We must also consider how to reduce the negative impact and increase the positive impact.

### **Integrated impact assessment**

- 3.15 It is possible to integrate impact assessments – that means, to look within one assessment at different aspects of equality. Integrating impact assessments can encourage more joined-up thinking and avoid duplication of time and effort.
- 3.16 Our procedure considers at the same time the impacts on protected characteristics and socio-economic characteristics. However, in line with [effective practice guidance for public organisations by the Welsh](#)

[Language Commissioner](#), we consider the Welsh language is undertaken in a separate section of the assessment.

## 4. Roles and responsibilities

- 4.1 The Management Team (MT) has overall responsibility for the strategic direction and governance of PSOW. MT ensures that how we operate complies with all legal, statutory, and good practice guidance requirements. WL&EIAs will be generally approved by MT (policies) or a member of MT (projects or decisions).
- 4.2 The Complaints Management Review Group (CMRG) is an internal group that regularly reviews and develops our complaints handling processes. Some policies related to our complaint handling function may also be approved by the CMRG.
- 4.3 The Head of Policy and Engagement is responsible for ensuring that this policy and procedure is implemented correctly and consistently. They assist other members of staff in completing the assessments and keep records of all the assessments completed.
- 4.4 Staff responsible for individual policies, projects and decisions complete WL&EIAs as needed.
- 4.5 All staff must be aware of our equality duties and commitments as explained in this document and other related equality policies.

## 5. When to conduct WL&EIA

- 5.1 A Welsh language and Equality Impact Assessment must be completed in relation to:
  - policies, procedures and strategies ('policies') –new or revised
  - major projects –such as Own Initiative Investigations.

- major decisions – decisions significantly affecting how we operate and for which public consultation is appropriate (for example, a decision to change significantly the availability of our service).

5.2 A Welsh language assessment **only** will also have to be completed in relation to:

- any proposals involving a public consultation. A summary of the assessment should be included in the consultation document.
- any research that is intended to assist us to make a major decision.

## 6. Welsh language impact assessment

6.1 We must always make a conscientious effort to meaningfully consider the impacts of our policies and policy decisions on the use and status of the Welsh language.

6.2 We must consider and assess:

- direct and indirect impact
- positive, neutral and negative impact
- ways to reduce the negative impact and increase the positive impact.

6.3 To guide the assessment, we will ask will this proposal

- treat the Welsh language no less favourably than the English language?
- affect opportunities for people to use the Welsh language?
- affect our ability to deliver a service in Welsh?
- promote, encourage and support the use of Welsh?
- have an impact on how other bodies operate with regard to the Welsh language?

6.4. We will also check whether the proposal complies with all the relevant Welsh Language Standards, as specified in our [Compliance Notice](#).

## 7. Equality Impact Assessment

7.1 Impacts identified through our procedure may be negative or positive.

7.2. Negative impacts can be identified by asking whether there is a risk that the proposal may

- result in less favourable treatment for particular groups,
- give rise to indirect discrimination, harassment or victimisation
- lead to discrimination arising from disability.

7.3 Positive impacts can be identified by asking whether the proposal could help us to:

- remove or minimise disadvantage
- meet the needs of different groups
- encourage increased participation of particular groups
- take account of disabled people's impairments / build in reasonable adjustments where these may be needed.
- tackle prejudice
- promote understanding

7.4 When conducting the assessment, it is essential to consider the impact on every equality group.

## 8 Evidence and engagement

8.1 The WL&EIA procedure must be based on evidence. It is not enough to rely on assumptions about possible impacts – we must consider a broad range of data that will inform the assessment.

8.2 This may include existing data such as:

- quantitative data (e.g., equality profile of the people affected; numbers of people affected; demographic information; employment statistics; satisfaction surveys)
- qualitative data (e.g., case studies; reports; survey feedback).

8.3 At the heart of compliance with the [Public Sector Equality Duty](#) is the principle of engagement with potentially affected groups. Where a policy, project or decision is relevant to a particular equality group, we must do our best to consult with or involve a representative of this group as early as possible.

8.4 If the evidence available to conduct a WL&EIA is insufficient or not reliable, we may need to pause the procedure and look for the evidence required. Any general comments on the quality and range of data available should be recorded in the WL&EIA form.

8.5 Previous assessments may be of help as a reference point. All assessments are kept on our Intranet.

8.6 All evidence that we used to conduct an assessment **must** be recorded. This record is essential to demonstrate our due regard to the Public Sector Equality Duty, socioeconomic duty and Welsh language policy standards.

## 9 Outcomes

9.1 The final step of the procedure involves recording outcomes. There are 3 main possible outcomes:

- proceed – no changes
- proceed – changes needed
- do not proceed

- 9.2 It is unlawful to proceed with a policy, decision or project which would discriminate against people who share protected characteristics (includes failing to provide reasonable adjustments). This is apart from very specific circumstances in which discrimination may be allowed based on '[objective justification](#)'.
- 9.3 If we need to make changes to a policy, project or decision, the outcomes report must specify a plan to make these changes and assign responsibilities for any actions.
- 9.4 A completed assessment must accompany the proposal when it is presented to the Management Team (or a relevant member of the Management Team) for approval.
- 9.5 The final version of the completed WL&EIA must be shared with the Head of Policy and Engagement.

## 10 Publication

- 10.1 We will publish summaries of impact assessments on equality groups and Welsh language on our website.

## 11 Monitoring and review

- 11.1 The policy will be reviewed every 2 years and will be published internally and externally.
- 11.2 All queries about this policy can be directed to [policycontrol@ombudsman.wales](mailto:policycontrol@ombudsman.wales)

## Appendix A: Equality and Welsh Language Impact Assessment Form

Our Welsh Language and Equality Impact Assessment form is available [here](#) (internal link)

## Appendix B: Common questions and answers

**Q:** When do I need to complete a WL&EIA?

**A:** You must complete an assessment every time you develop a new policy, or you review an existing one. You must also complete it if you are planning a major project or are responsible for a major decision significantly changing how we operate. Remember to also conduct a Welsh language impact assessment before launching a public consultation about our policy decision, or before commissioning or undertaking research likely to affect our policy decision.

**Q:** What evidence do I need to conduct a WL&EIA?

**A:** Look at previous assessments of the same or similar proposals. All our assessments are stored on our Intranet. You will also be able to find relevant assessments completed by other organisations. Beyond that, consider other quantitative and qualitative evidence that may be relevant to your specific policy, project or decision. Think also about who you need to engage with to get feedback on your proposal.

**Q:** What do I do with a completed WL&EIA?

**A:** A completed assessment must accompany the proposal when it is presented to the Management Team (or a relevant member of the Management Team) for approval. You will need to send the approved assessment to the Head of EDI, who will keep them on our Intranet.

## Appendix C: Glossary

### Discrimination

Discrimination means less favourable treatment because of someone's protected characteristics. It includes a situation where someone is wrongly assumed to have a particular characteristic and when someone is connected to a person with protected characteristics. Discrimination may be direct (when someone is treated less favourably because of a protected characteristic) or indirect (when a policy, project or decision is applied equally to everyone but has a disproportionate negative effect on people who share a protected characteristic).

### Harassment

Harassment means unwanted behaviour related to a protected characteristic, or of a sexual nature, that has the purpose, or effect, of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

### Public Sector Equality Duty

The Public Sector Equality Duty, also known as the 'general duty' states that, when carrying out their functions, public bodies must have 'due regard' to the need to:

- eliminate unlawful [discrimination](#), [harassment](#) and [victimisation](#)
- advance equality of opportunity between different groups
- foster good relations between different groups.

### Objective justification

The Equality Act says that indirect discrimination can be justified if there's a good enough reason for treating someone unfavourably. It also allows, in specific circumstances, for direct age discrimination. A defence on these grounds is known as 'objective justification'.

Objective justification may apply to the following circumstances:

- occupational requirement: sometimes, having a protected characteristic is an occupational requirement and certain jobs need to be reserved for people with that protected characteristic
- positive action: employers are allowed to take steps to encourage people from groups sharing a protected characteristic who have different needs; have a past track record of disadvantage; or have a record of low participation
- direct age discrimination: in some specific circumstances it is permissible to treat some age groups less favourably. For example, a GP can offer flu jabs to over 65s only. Direct discrimination can only ever be justified in the context of the complainant's age, and not in relation to any of the other protected characteristics
- discrimination arising from disability: in very specific circumstances, it is not unlawful to discriminate against someone based on something connected to their disability. This is only when a person who discriminates against someone else can show that they didn't know, or couldn't reasonably have expected to have known, that that person was disabled.

To rely on the objective justification defence, the employer, service provider or other organisation must show that its policy or age-based rule was for a good reason – that it is 'a proportionate means of achieving a legitimate aim'.

According to EHRC guidance, to prove objective justification:

- the aim must be a real, objective consideration and not in itself discriminatory (for example, ensuring the health and safety of others)
- there must be no alternative measures available that would meet the aim without too much difficulty and would avoid such a discriminatory effect: if proportionate alternative steps could have

been taken, there is unlikely to be a good reason for the policy or age-based rule

- it is insufficient to argue based on cost only - if the aim is simply to reduce costs because it is cheaper to discriminate, this will not be legitimate.

However, employers should always check first whether there is another way that either does not discriminate or discriminates less.

### **Reasonable adjustments duty**

This duty is applicable if the way that we carry out our functions places a disabled person at a substantial disadvantage to someone who is not disabled.

In such circumstances we have a duty to offer reasonable adjustments.

Reasonable adjustments may include 'provisions, criteria and practices', 'physical features' and 'provision of auxiliary aids'. In other words, they may involve:

- changing the way things are done
- making changes to overcome barriers created by the physical features in the office
- providing extra equipment or securing assistance.

The duty to offer reasonable adjustments is an 'anticipatory duty'. This means that we must think in advance about what people with a range of disabilities might reasonably need.

As an employer, we may seek the advice of external occupational health services to establish the needs of an individual and to seek advice about what reasonable adjustments may be helpful to a disabled individual.

## **Victimisation**

Victimisation means treating a person badly because they have made or supported a complaint about discrimination or harassment or because they are thought to have done one of these things.