

Equality with Human Rights Analysis Toolkit



The Equality Act 2010 and Human Rights Act 1998 require us to consider the impact of our policies and practices in respect of equality and human rights.

We should consider potential impact before any decisions are made or policies or practices are implemented. This analysis toolkit provides the template to ensure you consider all aspects and have a written record that you have done this.

If you need any guidance or assistance completing your Equality and Human Rights Analysis contact:

Heather Grover, Principal Policy Officer on (87)3326; email: heather.grover@lincoln.gov.uk . Alternatively contact Legal Services on (87)3840

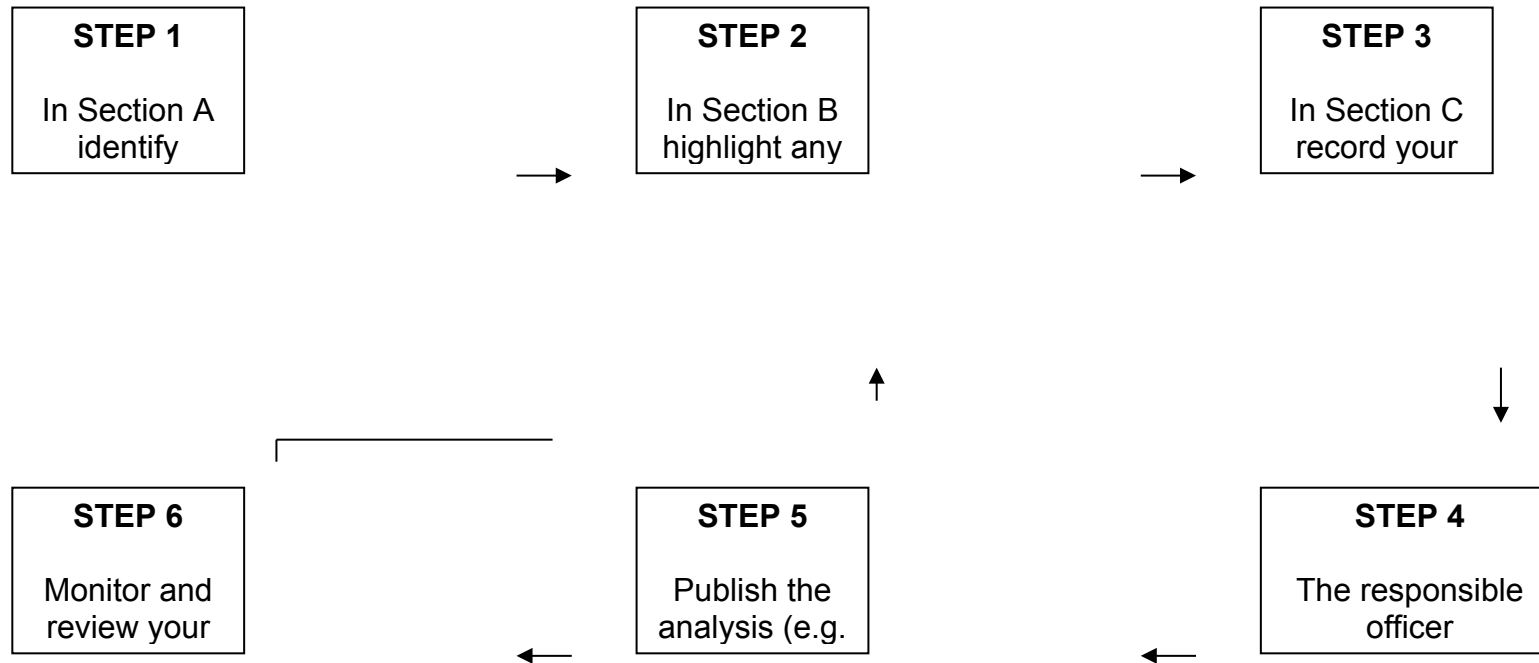
A diagram of the process you should follow is on page 2, and glossary and guidance to help you complete the toolkit can be found on pages 6-9.

Even after your policy, project or service has been implemented; it is recommended that analysis is undertaken every three years, and that this analysis is updated at any significant points in between. The purpose of any update is that the actual effects will only be known after the implementation of your policy, project or service. Additionally, area demographics could change, leading to different needs, alternative provision can become available, or new options to reduce an adverse effect could become apparent.

Useful questions to consider when completing this toolkit

1. What is the current situation?
2. What are the drivers for change?
3. What difference will the proposal make?
4. What are the assumptions about the benefits?
5. How are you testing your assumptions about the benefits?
6. What are the assumptions about any adverse impacts?
7. How are you testing your assumptions about adverse impacts?
8. Who are the stakeholders and how will they be affected?
9. How are you assessing the risks and minimising the adverse impacts?
10. What changes will the Council need to make as a result of introducing this policy / project / service / change?
11. How will you undertake evaluation once the changes have been implemented?

STEP BY STEP GUIDE TO EQUALITY ANALYSIS



*** Evidence could include information from consultations***

SECTION A

Name of policy / project / service	Empty Homes Strategy 2017-22
Background and aims of policy / project / service at outset	As of 1 January 2018 there are 419 privately owned homes that have been empty and unoccupied for six months or longer. The strategy sets out the council's approach to bringing empty homes back to use through engagement with owners, voluntary options, and enforcement, including the potential to use empty private homes to meet housing need.
Person(s) responsible for policy or decision, or advising on decision, and also responsible for equality analysis	Hannah Cann Private Housing Team Leader
Key people involved <i>i.e. decision-makers, staff implementing it</i>	Private Housing Team

SECTION B

This is to be completed and reviewed as policy / project / service development progresses

	Is the likely effect positive or negative? (please tick all that apply)			Please describe the effect and evidence that supports this and if appropriate who you have consulted with*	Is action possible to mitigate adverse impacts?	Details of action planned including dates, or why action is not possible
	Positive	Negative	None			
Age	X	X		The strategy proposes enforcement action to improve the condition, and as a last resort, change the ownership or control of a person's property. Some homes are empty because the owner is receiving or giving care (council tax exemption category data) and some of these may be elderly. These homes are not targeted for action and are exempt from some enforcement actions such as EDMO. Advice, assistance and voluntary options can have a positive impact on the owner by removing a financial, physical or psychological burden.	Yes/No/NA	Everyone is treated equally in the context of the strategy covering the relevant issues and is subject to the same process/procedure. Consideration is given to an owner's vulnerability before formal enforcement commences – on a case by case basis
Disability including carers (see Glossary)	X	X		The strategy proposes enforcement action to improve the condition, and as a last resort, change the ownership or control of a person's property. Some homes are empty because the owner is receiving or giving care (council tax exemption category data) which may be due to disability. These homes are not targeted for action and are exempt from some enforcement actions such as EDMO. Some homes are empty because the owner is unable to cope with their upkeep or sale due to physical disability or mental ill health (case records). Advice, assistance and voluntary options can have a positive impact on the owner by removing a financial physical or	Yes/No/NA	Everyone is treated equally in the context of the strategy covering the relevant issues and is subject to the same process/procedure. Consideration is given to an owner's mental capacity and vulnerability before formal enforcement commences – on a case by case basis.

				psychological burden.		
Gender re-assignment			X		Yes/No/NA	
Pregnancy and maternity			X		Yes/No/NA	
Race			X		Yes/No/NA	
Religion or belief			X		Yes/No/NA	
Sex			X		Yes/No/NA	
Sexual orientation			X		Yes/No/NA	
Marriage/civil partnership			X		Yes/No/NA	
Human Rights (see page 8)		X		The European Convention on Human Rights are affected by empty homes enforcement, in particular compulsory acquisition, as follows:- Article 1 (of the First Protocol) This protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws. Article 6 This provides that in determining civil rights and obligations ... everyone is entitled to a fair and public hearing within a responsible time by an independent and impartial tribunal established by law. Article 8 (of the Convention) This protects private and family life, home and correspondence. No public authority can	Yes/No/NA	These rights are qualified rights and may be interfered with provided such interference is prescribed by law, is pursuant to a legitimate aim, is necessary in a democratic society and is proportionate. Compulsory purchase of land, Empty Dwelling Management Order, and Enforced Sale are permitted under the terms of the Housing Act 1985, Housing Act 2004, and Law of Property Act 1925 respectively and are subject to a statutory procedure (including rights to consultation and to be heard

				interfere with these interests except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well being of the country. Article 14 (of the Convention) This protects the right to enjoy rights and freedoms in the Convention free from discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, or national or a social origin.		at a Public Inquiry or Tribunal) which will be followed. In addition, compensation is payable making the action fair and proportionate. Furthermore, in relation to Article 14, everyone is treated equally in the context of the policy covering the relevant issues and is subject to the same process/procedure.
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**Evidence could include information from consultations; voluntary group feedback; satisfaction and usage data (i.e. complaints, surveys, and service data); and reviews of previous strategies*

Did any information gaps exist?	Y/N/NA	If so what were they and what will you do to fill these?
	N	

SECTION C

Decision Point - Outcome of Assessment so far:

Based on the information in section B, what is the decision of the responsible officer (please select one option below):

- | | Tick here |
|---|-----------|
| • No equality or human right Impact (your analysis shows there is no impact) - sign assessment below | [] |
| • No major change required (your analysis shows no potential for unlawful discrimination, harassment)- sign assessment below | [X] |
| • Adverse Impact but continue (record objective justification for continuing despite the impact)-complete sections below | [] |
| • Adjust the policy (Change the proposal to mitigate potential effect) -progress below only AFTER changes made | [] |
| • Put Policy on hold (seek advice from the Policy Unit as adverse effects can't be justified or mitigated) -STOP progress | [] |

Conclusion of Equality Analysis (describe objective justification for continuing)	The potential negative impact of enforcement action on a person with a physical or mental disability are reduced by the consideration of each case in relation to proportionality, and the offering of advice, assistance and voluntary options that have a positive impact reducing the burden of the empty home. The interference in an owner's qualified Human Rights in relation to enforcement is prescribed by law, is
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	pursuant to a legitimate aim, is necessary in a democratic society and is proportionate.
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When and how will you review and measure the impact after implementation?*	The most appropriate course of action will be considered on a case by case basis with regards to the owner's circumstances.
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Checked and approved by responsible officer(s) (Sign and Print Name)	Hannah Cann	Date	09/03/2018
Checked and approved by Assistant Director (Sign and Print Name)		Date	

When completed, please send to policy@lincoln.gov.uk and include in Committee Reports which are to be sent to the relevant officer in Democratic Services

The Equality and Human Rights Commission guidance to the Public Sector Equality Duty is available via: www.equalityhumanrights.com/new-public-sector-equality-duty-guidance/

City of Lincoln Council Equality and Human Rights Analysis Toolkit: Glossary of Terms

Adult at Risk - an adult at risk is a person aged 18 years or over who is or may be in need of community care services by reason of mental health, age or illness, and who is or may be unable to take care of themselves, or protect themselves against significant harm or exploitation.

Adverse Impact. Identified where the Council's operations has a less favourable effect on one or more groups covered by the Equality Act 2010 than it has on other groups (or a section of a group)

Carer - see also disability by association. A carer is a person who is unpaid and looks after or supports someone else who needs help with their day-to-day life, because of their age, long-term illness, disability, mental health problems, substance misuse

Disability by association. Non disabled people are also protected from discrimination by association to a disabled person. This might be a friend, partner, colleague or relative. This applies to carers who have a caring responsibility to a disabled person.

Differential Impact. Identified where a policy or practice affects a given group or groups in a different way to other groups. Unlike adverse impact, differential impact can be positive or negative.

Disability. It is defined under the Equality Act 2010 as 'having a physical or mental impairment which has a substantial and adverse long term effect on a person's ability to carry out normal day to day activities'.

Physical impairment is a condition affecting the body, perhaps through sight or hearing loss, a mobility difficulty or a health condition.

Mental impairment is a condition affecting 'mental functioning', for example a learning disability or mental health condition such as manic depression

Diversity. Diversity is about respecting and valuing the differences between people. It is also recognising and understanding the mix of people and communities who use services and their different needs.

Discrimination. Discrimination has been defined as 'the unequal treatment of individuals or groups based on less because of a protected characteristic – see protected characteristic. This includes discrimination by association, perception, direct and indirect discrimination.

Example of discrimination: An employer does not offer a training opportunity to an older member of staff because they assume that they would not be interested, and the opportunity is given to a younger worker

Equality. The right of different groups of people to have a similar social position and receive the same treatment:

Equality Analysis. This is a detailed and systematic analysis of how a policy, practice, procedure or service potentially or actually has differential impact on people of different Protected Characteristics

Equality Objectives. There are specific strategic objectives in the area of equalities and should set out what services are seeking to achieve in each area of service in terms of Equality.

Equality of Opportunity. Equality of opportunity or equality opportunities may be defined as ensuring that everyone is entitled to freedom from discrimination. There are two main types of equality encompassed in equal opportunities:

1. Equality of treatment is concerned with treating everyone the same. Thus, in an organisational context it recognises that institutional discrimination may exist in the form of unfair procedures and practices that favour those with some personal attributes, over others without them. The task of equal opportunities is therefore concerned with the elimination of these barriers.
2. Equality of outcome focuses on policies that either have an equal impact on different groups or intend the same outcomes for different groups.

Evidence. Information or data that shows proof of the impact or non impact - evidence may include consultations, documented discussions, complaints, surveys, usage data, and customer and employee feedback.

Foster good relations. This is explicitly linked to tackling prejudice and promoting understanding.

General Equality Duty. The public sector equality duty on a public authority when carrying out its functions to have 'due regard' to the need to eliminate unlawful discrimination and harassment, foster good relations and advance equality of opportunity.

Gender reassignment. The process of changing or transitioning from one gender to another – for example male to trans-female or female.

Harassment. This is unwanted behaviour that has the purpose or effect of violating a person's dignity or creates a degrading, humiliating, hostile, intimidating or offensive environment.

Human Rights – Human rights are the basic rights and freedoms that belong to every person in the world - **see below**

Marriage and Civil Partnership. Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters. Single people are not protected. Discrimination on grounds of marriage or civil partnership is prohibited under the Act. The prohibition applies only in relation to employment and not the provision of goods and services.

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 a woman unfavourably because she is breastfeeding.

Protected Characteristics. These are the grounds upon which discrimination is unlawful. The characteristics are:

- Age
- Disability
- Gender reassignment
- Race
- Religion and belief (including lack of belief)
- Sex/gender
- Marriage and civil partnership
- Pregnancy and maternity
- Sexual orientation

Public functions. These are any act or activity undertaken by a public authority in relation to delivery of a public service or carrying out duties or functions of a public nature e.g. the provision of policing and prison services, healthcare, including residential care of the elderly, government policy making or local authority services.

Race. This 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 or belief. Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

Section 11 of the Children Act. This duty is a duty under the Children Act 2004 that requires all agencies with responsibilities towards children to discharge their functions with regard to the need to safeguard and promote the welfare of children. They must also ensure that any body providing services on their behalf must do the same. The purpose of this duty is that agencies give appropriate priority to safeguarding children and share concerns at an early stage to encourage preventative action.

Sex. It refers to whether a person is a man or a woman (of any age).

Sexual Orientation. A person's sexual attraction is towards their own sex; the opposite sex; or to both sexes: *Lesbian, Gay or Bisexual*

Victimisation. Victimisation takes place where one person treats another less favourably because he or she has exercised their legal rights in line with the Equality Act 2010 or helped someone else to do so.

Vulnerable Adult. A Vulnerable Adult is defined as someone over 16 who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of him/herself or unable to protect him/herself against significant harm or exploitation'

Human Rights

Human rights are the basic rights and freedoms that belong to every person in the world. They help you to flourish and fulfill your potential through:

- being safe and protected from harm
- being treated fairly and with dignity
- living the life you choose
- taking an active part in your community and wider society.

The Human Rights Act 1998 (also known as the Act or the HRA) came into force in the United Kingdom in October 2000. It is composed of a series of sections that have the effect of codifying the protections in the European Convention on Human Rights into UK law.

The Act sets out the fundamental rights and freedoms that individuals in the UK have access to. They include:

- Right to life
- Freedom from torture and inhuman or degrading treatment
- Right to liberty and security
- Freedom from slavery and forced labour
- Right to a fair trial
- No punishment without law
- Respect for your private and family life, home and correspondence
- Freedom of thought, belief and religion
- Freedom of expression
- Freedom of assembly and association
- Right to marry and start a family
- Protection from discrimination in respect of these these rights and freedoms
- Right to peaceful enjoyment of your property
- Right to education
- Right to participate in free elections

Many every day decisions taken in the workplace have no human rights implications. However, by understanding human rights properly you are more likely to know when human rights are relevant and when they are not. This should help you make decisions more confidently, and ensure that your decisions are sound and fair.