

MEETING THE PUBLIC SECTOR EQUALITY DUTY

INTRODUCTION TO THE NOTE

This note outlines the role of the Public Sector Equality Duty (PSED) within the Towns Fund and provides some material to support its discharge.

INTRODUCTION TO THE PUBLIC SECTOR EQUALITY DUTY AND PROTECTED CHARACTERISTICS

The Equality Act 2010¹ set out measures to protect people from discrimination. The 'axes' on which this is defined and measured cover the nine protected characteristics:

- **Age**
- **Disability**
- **Gender reassignment**
- **Marriage and civil partnership** (note, this is a protected characteristic only in regard to eliminating discrimination)
- **Pregnancy and maternity**
- **Race**
- **Region or belief**
- **Sex**
- **Sexual orientation**

The Equality Act also sets the PSED, requiring public bodies (as defined in the Act, but for the purposes of the Towns Fund, covering all local authorities) to consider how their policies or decisions affect people who are protected under the Equality Act.

The standard set is to ensure local authorities 'have due regard' to the need to '*eliminate discrimination ... advance quality of opportunity, and ... foster good relations between different people*'. As such, it is a positive or affirmative duty, in that equality should be promoted, as opposed to a 'do not harm' duty to not worsen a situation. To support this, positive discrimination is possible.

Additionally, in 2014 Government introduced a requirement for government departments to explicitly consider the family perspective in decision making – the 'Family Test'². Whilst the Family Test only applies to government departments and not local authorities, Towns may choose to consider alongside the protected characteristics.

¹ <https://www.gov.uk/guidance/equality-act-2010-guidance>

² Government has published guidance on the Family Test. Although this is not required from local authorities, the same considerations are often part of local authority decision making and policy targeting. It is not a statutory requirement, but there is an expectation that government departments will undertake it where it is relevant and proportionate to do so. Although Government Departments are expected to document the Family Test, they are not obliged to publish them.

DISCHARGING THE PUBLIC SECTOR EQUALITY DUTY

PSED is discharged in different manners, depending on whether a specific project/programme is being assessed or it is a wider programme/strategy.

- For a specific project or programme (such as a local plan, development proposal that might require planning permission or is a particular thing in a particular place) the PSED is normally demonstrated and discharged through an equalities impact assessment (EqIA). There is no mandatory or statutory requirement to complete an EqIA, nor for a record to be kept of how equalities considerations have been taken into account. However, both are considered good practice and provide a trail for audit, challenge and defence.
- For a programme, strategy or something that covers a wider area (even nation-wide) or wider array of projects it would be more usual to wrap the PSED into a regulatory impact assessment (RIA), considered alongside other strategic considerations. (It should be noted that government RIA guidance³ does talk about the impact on places, businesses and people but does not refer explicitly to protected characteristics, and as such does not fulfil the PSED.)

Towns Fund bids are likely to comprise a range of projects and may cover a substantial geographic area. They therefore 'fall between' an EqIA and an RIA, and it is suggested that both these scales/types of assessment are required.

To support Towns in discharging the PSED, a set of two inter-related templates are provided which together provide a simple framework for considering impact on the protected characteristics as well as the Family Test (if chosen to include in the assessment):

- a project-level assessment template; and
- a programme-level assessment template.

The templates reflect the principles of EqIA and RIA and provide an integrated method for assessment and recording. Notwithstanding the templates, local authorities are responsible for the proportionality and robustness of their assessment, and may need to go beyond the templates to reflect local circumstances and/or to undertake a more detailed assessment of projects of a higher intensity or complexity.

As well as simply discharging the PSED for its own sake, assessing how projects and the wider programme impact on different groups of people is a valuable exercise in making sure that the Towns Fund investment benefits all and is as successful as possible. Following the assessment, there may be a need for further actions, including changing aspects of the projects or even re-prioritising projects. The TFDP have developed a Project Re-Prioritisation Tool for Stage 2 of the Towns Fund, which nudges you to ensure you have considered relevant PSED implications on your projects during project confirmation stage. You can download that tool and watch a tutorial for how to use it by clicking this link:

<https://townsfund.org.uk/resources-collection/project-re-prioritisation-tool>.

³ <https://www.gov.uk/government/collections/impact-assessments-guidance-for-government-departments>

TERMS & CONDITIONS



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SAMPLE PROJECT-LEVEL ASSESSMENT TEMPLATE

A sample project-level assessment table is provided below, which follows EqIA principles to help to provide assurance that the duty has been appropriately discharged (and the outcomes recorded). Each box should be limited to around 250 words, and some may not be relevant (e.g. where there is no negative or mixed effect). The template can be completed for each project and submitted alongside the business case, as well as included in the summary document. Towns may make amendments to the template to reflect local circumstances or needs.

(Note, there is an alternative, long-form layout to this template in Appendix A, which you may find easier to complete. You might choose to use this version as a summary / comparison version.)

Name of project:	Energy Central Learning Hub (ECLH)
Project objectives: (describe the project's aim as it relates to protected characteristics)	N/A

Consideration	Protected Characteristics (Part 1)				
	Age	Disability	Gender reassignment	Marriage and civil partnerships	Pregnancy and maternity
Baseline situation <i>(describe only where different to the national average, or where otherwise relevant)</i>	CONTEXT STATEMENT The Energy Central Learning Hub (ECLH) will not be a direct provider of programmes in most circumstances. Almost all accredited learning in the post-16 phase will be delivered by school, FE or HE partners. All of those partners are subject to statutory and/or funding conditions associated with the promotion of equality of opportunity. All will be subject to OFSTED inspection as far as their organisational commitment in this area is concerned. In relation to the STEM programme, the ECLH will be working directly with learning organisations who have the same statutory duty placed on them in respect of promoting equality of opportunity and addressing and removing discrimination in any form for the learners and staff within them.				
Assessment text <i>(summary of how the proposed project affects the protected characteristic)</i>	There are some minimum age requirements for the public funding of FE and WBL programmes	Reasonable adjustment for disability will be applied across all programmes but the physical demands of some work environments mean that some may not be accessible to all.	Can engage without disadvantage	Can engage without disadvantage	Individualised work based risk assessment may be required on a programme by programme basis.
Is the effect positive/negative/mixed? <i>(add an explanation)</i>	+VE / M / -VE Positive. Age restrictions relate to national policy for FE. STEM provision from the centre will encompass all ages from Y4-Y13	+VE / M / -VE Mixed. The Centre will be specified for disabled access at all levels. There will be specialist changing areas for learners with significant additional needs. Some activities will be inaccessible to learners with severe learning difficulties or disabilities	+VE / M / -VE Positive – there are no structural impediments to participation for this protected characteristic	+VE / M / -VE Positive – there are no structural impediments to participation for this protected characteristic	+VE / M / -VE Positive - no disadvantage is anticipated over that experienced by any other participant who may be pregnant or on maternity.
If the effect is negative or mixed:					
Is the effect significant? <i>(add an explanation)</i>	Y / N	Y / N The effect will be significant in a small minority of cases	Y / N	Y / N	Y / N
What embedded mitigation does the project contain?		Negotiation with the partner organisation will ensure that all possible risk mitigations are in place and as broad a range of activity as possible is maintained.			
What residual significant effects remain?		A small number of physical activities (e.g. climbing a turbine) may not be possible			
Is there an in-combination effect across multiple protected characteristics (across both Part 1 and Part 2 of the assessment table)?					

Consideration	Protected Characteristics (Part 1)				
	Age	Disability	Gender reassignment	Marriage and civil partnerships	Pregnancy and maternity
<i>(e.g. the proposed project has minor effects across several protected characteristics which, when considered together, have a more significant impact)</i>					
What action is required? Who will be accountable for it? <i>(this could include further mitigation measures or re-prioritisation of projects)</i>					

Consideration	Protected Characteristics (Part 2)				
	Race	Religion or belief	Sex	Sexual orientation	'Family Test' (if used)
Baseline situation <i>(describe only where different to the national average, or where otherwise relevant)</i>	CONTEXT STATEMENT The Energy Central Learning Hub (ECLH) will not be a direct provider of programmes in most circumstances. Almost all accredited learning in the post-16 phase will be delivered by school, FE or HE partners. All of those partners are subject to statutory and/or funding conditions associated with the promotion of equality of opportunity. All will be subject to OFSTED inspection as far as their organisational commitment in this area is concerned. In relation to the STEM programme, the ECLH will be working directly with learning organisations who have the same statutory duty placed on them in respect of promoting equality of opportunity and addressing and removing discrimination in any form for the learners and staff within them.				
Assessment text <i>(summary of how the proposed project affects the protected characteristic)</i>	Can engage without disadvantage	Can engage without disadvantage	Can engage without disadvantage	Can engage without disadvantage	
Is the effect positive/negative/mixed? <i>(add an explanation)</i>	+VE / M / -VE Positive - It is recognised that the sector is under-represented in terms of minority ethnic employees and strategies to engage and support progression of BAME learners into STEM subjects generally, and sector employment in particular, will be employed in ECLH operations. Care will be taken in all digital and physical communications to reflect a diverse population in the images used to promote the centre.	+VE / M / -VE Positive – there are no structural impediments to participation for this protected characteristic	+VE / M / -VE Positive - It is recognised that the sector is under-represented in terms of female employees and strategies to engage and support progression of girls and women into STEM subjects generally, and sector employment in particular, will be employed in ECLH operations. Care will be taken in all digital and physical communications to reflect a diverse population in the images used to promote the centre.	+VE / M / -VE Positive – there are no structural impediments to participation for this protected characteristic	+VE / M / -VE
If the effect is negative or mixed:					
Is the effect significant? <i>(add an explanation)</i>	Y / N	Y / N	Y / N	Y / N	Y / N
What embedded mitigation does the project contain?					
What residual significant effects remain?					

Consideration	Protected Characteristics (Part 2)				
	Race	Religion or belief	Sex	Sexual orientation	'Family Test' (if used)
Is there an in-combination effect across multiple protected characteristics (across both Part 1 and Part 2 of the assessment table)? <i>(e.g. the proposed project has minor effects across several protected characteristics which, when considered together, have a more significant impact)</i>					
What action is required? Who will be accountable for it? <i>(this could include further mitigation measures or re-prioritisation of projects)</i>					

SAMPLE PROGRAMME-LEVEL ASSESSMENT TEMPLATE

Following project-level assessment, a programme-level assessment should be undertaken which considers effects on the protected characteristics across the whole portfolio of projects. A sample programme-level assessment table is provided below, to be submitted alongside the business case and included in the summary document. It is suggested that the overall assessment should be around 500 words across the assessment, although this will depend on the issues arising. As above, Towns may make amendments to the template to reflect local circumstances etc.

[Town name] Programme Level Public Sector Equality Duty (PSED) Assessment	
Consideration	Response
Summary of the main findings of project-level assessments undertaken:	
Is there an additional cumulative impact at the programme level? <i>(e.g. whether the combined impact of more than one project on protected characteristic(s) has a different or more significant effect than when considered on a project-by-project basis)</i>	

[Town name] Programme Level Public Sector Equality Duty (PSED) Assessment

Consideration

Response

Are there any other impacts of the Towns Fund programme which are not included elsewhere in the PSED assessment?

What actions (if any) have arisen from the assessment?

FURTHER INFORMATION AND GUIDANCE

- [Quick Start Guide to the Public Sector Equality Duty](#)⁴
- [Equality and Human Rights Commission Guide to Meeting the PSED in Policy and Decision-Making](#)⁵
- [Equality and Human Rights Commission Technical Guidance on Assessment](#)⁶.

⁴ <https://www.gov.uk/government/publications/public-sector-quick-start-guide-to-the-public-sector-equality-duty>

⁵ https://www.equalityhumanrights.com/sites/default/files/meeting_the_duty_in_policy_and_decision-making.pdf

⁶ https://www.equalityhumanrights.com/sites/default/files/technical_guidance_on_the_psed_england.pdf

APPENDIX A: SAMPLE PROJECT-LEVEL ASSESSMENT TEMPLATE – LONG FORM

This is an alternative, longer-form version of the project-level assessment template provided above. Each response should be limited to around 250 words, and some may not be relevant (e.g. where there is no negative or mixed effect).

The template can be completed for each project and submitted alongside the business case, as well as included in the summary document. Towns may make amendments to the template to reflect local circumstances or needs.

Name of project:	
Project objectives: (describe the project's aim as it relates to protected characteristics)	<i>[Note: N/A if no protected characteristics are directly targeted.]</i>

Age

Consideration	Response
Baseline situation <i>(describe only where different to the national average, or where otherwise relevant)</i>	
Assessment text <i>(summary of how the proposed project affects the protected characteristic)</i>	
Is the effect positive/negative/mixed? <i>(add an explanation)</i>	+VE / M / -VE
If the effect is negative or mixed:	
Is the effect significant? <i>(add an explanation)</i>	Y / N
What embedded mitigation does the project contain?	
What residual significant effects remain?	
What action is required? Who will be accountable for it? <i>(this could include further mitigation measures or re-prioritisation of projects)</i>	

Disability

Consideration	Response
Baseline situation <i>(describe only where different to the national average, or where otherwise relevant)</i>	
Assessment text <i>(summary of how the proposed project affects the protected characteristic)</i>	
Is the effect positive/negative/mixed? <i>(add an explanation)</i>	+VE / M / -VE
If the effect is negative or mixed:	
Is the effect significant? <i>(add an explanation)</i>	Y / N
What embedded mitigation does the project contain?	
What residual significant effects remain?	
What action is required? Who will be accountable for it? <i>(this could include further mitigation measures or re-prioritisation of projects)</i>	

Gender reassignment

Consideration	Response
Baseline situation <i>(describe only where different to the national average, or where otherwise relevant)</i>	
Assessment text <i>(summary of how the proposed project affects the protected characteristic)</i>	
Is the effect positive/negative/mixed? <i>(add an explanation)</i>	+VE / M / -VE
If the effect is negative or mixed:	
	Y / N

Consideration	Response
Is the effect significant? <i>(add an explanation)</i>	
What embedded mitigation does the project contain?	
What residual significant effects remain?	
What action is required? Who will be accountable for it? <i>(this could include further mitigation measures or re-prioritisation of projects)</i>	

Marriage and civil partnership (note, this is a protected characteristic only in regard to eliminating discrimination)

Consideration	Response
Baseline situation <i>(describe only where different to the national average, or where otherwise relevant)</i>	
Assessment text <i>(summary of how the proposed project affects the protected characteristic)</i>	
Is the effect positive/negative/mixed? <i>(add an explanation)</i>	+VE / M / -VE
If the effect is negative or mixed:	
Is the effect significant? <i>(add an explanation)</i>	Y / N
What embedded mitigation does the project contain?	
What residual significant effects remain?	
What action is required? Who will be accountable for it? <i>(this could include further mitigation measures or re-prioritisation of projects)</i>	

Pregnancy and maternity

Consideration	Response
Baseline situation <i>(describe only where different to the national average, or where otherwise relevant)</i>	
Assessment text <i>(summary of how the proposed project affects the protected characteristic)</i>	
Is the effect positive/negative/mixed? <i>(add an explanation)</i>	+VE / M / -VE
If the effect is negative or mixed:	
Is the effect significant? <i>(add an explanation)</i>	Y / N
What embedded mitigation does the project contain?	
What residual significant effects remain?	
What action is required? Who will be accountable for it? <i>(this could include further mitigation measures or re-prioritisation of projects)</i>	

Race

Consideration	Response
Baseline situation <i>(describe only where different to the national average, or where otherwise relevant)</i>	
Assessment text <i>(summary of how the proposed project affects the protected characteristic)</i>	
Is the effect positive/negative/mixed? <i>(add an explanation)</i>	+VE / M / -VE
If the effect is negative or mixed:	
	Y / N

Consideration	Response
Is the effect significant? <i>(add an explanation)</i>	
What embedded mitigation does the project contain?	
What residual significant effects remain?	
What action is required? Who will be accountable for it? <i>(this could include further mitigation measures or re-prioritisation of projects)</i>	

Region or belief

Consideration	Response
Baseline situation <i>(describe only where different to the national average, or where otherwise relevant)</i>	
Assessment text <i>(summary of how the proposed project affects the protected characteristic)</i>	
Is the effect positive/negative/mixed? <i>(add an explanation)</i>	+VE / M / -VE
If the effect is negative or mixed:	
Is the effect significant? <i>(add an explanation)</i>	Y / N
What embedded mitigation does the project contain?	
What residual significant effects remain?	
What action is required? Who will be accountable for it? <i>(this could include further mitigation measures or re-prioritisation of projects)</i>	

Sex

Consideration	Response
Baseline situation <i>(describe only where different to the national average, or where otherwise relevant)</i>	
Assessment text <i>(summary of how the proposed project affects the protected characteristic)</i>	
Is the effect positive/negative/mixed? <i>(add an explanation)</i>	+VE / M / -VE
If the effect is negative or mixed:	
Is the effect significant? <i>(add an explanation)</i>	Y / N
What embedded mitigation does the project contain?	
What residual significant effects remain?	
What action is required? Who will be accountable for it? <i>(this could include further mitigation measures or re-prioritisation of projects)</i>	

Sexual orientation

Consideration	Response
Baseline situation <i>(describe only where different to the national average, or where otherwise relevant)</i>	
Assessment text <i>(summary of how the proposed project affects the protected characteristic)</i>	
Is the effect positive/negative/mixed? <i>(add an explanation)</i>	+VE / M / -VE
If the effect is negative or mixed:	
	Y / N

Consideration	Response
Is the effect significant? <i>(add an explanation)</i>	
What embedded mitigation does the project contain?	
What residual significant effects remain?	
What action is required? Who will be accountable for it? <i>(this could include further mitigation measures or re-prioritisation of projects)</i>	

Family Test (if used)

Consideration	Response
Baseline situation <i>(describe only where different to the national average, or where otherwise relevant)</i>	
Assessment text <i>(summary of how the proposed project affects the protected characteristic)</i>	
Is the effect positive/negative/mixed? <i>(add an explanation)</i>	+VE / M / -VE
If the effect is negative or mixed:	
Is the effect significant? <i>(add an explanation)</i>	Y / N
What embedded mitigation does the project contain?	
What residual significant effects remain?	
What action is required? Who will be accountable for it? <i>(this could include further mitigation measures or re-prioritisation of projects)</i>	

In-combination effects

Consideration	Response
Is there an in-combination effect across multiple protected characteristics? <i>(e.g. the proposed project has minor effects across several protected characteristics which, when considered together, have a more significant impact)</i>	
What action is required? Who will be accountable for it? <i>(this could include further mitigation measures or re-prioritisation of projects)</i>	