

Equality Impact Assessment

Introduction

The purpose of an Equality Impact Assessment (EQIA) is to help Enfield Council make sure it does not discriminate against service users, residents and staff, and that we promote equality, where possible. Completing the assessment is a way to make sure everyone involved in a decision or activity thinks carefully about the likely impact of their work and that we take appropriate action in response to this analysis.

The EQIA provides a way to systematically assess and record the likely equality impact of an activity, policy, strategy, budget change or any other decision.

The assessment helps us to focus on the impact on people who share one of the different nine protected characteristics as defined by the Equality Act 2010 and the impact on people of as well on people who are disadvantaged due to socio-economic factors. The assessment involves anticipating the consequences of the activity or decision on different groups of people and making sure that:

- unlawful discrimination is eliminated
- opportunities for advancing equal opportunities are maximised
- opportunities for fostering good relations are maximised.

The EQIA is carried out by completing this form. To complete it you will need to:

- use local or national research which relates to how the activity/ policy/ strategy/ budget change or decision being made may impact on different people in different ways based on their protected characteristic or socio-economic status;
- where possible, analyse any equality data we have on the people in Enfield who will be affected eg equality data on service users and/or equality data on the Enfield population;
- refer to the engagement and/ or consultation you have carried out with stakeholders, including the community and/or voluntary and community sector groups, and consider what this engagement showed us about the likely impact of the activity/ policy/ strategy/ budget change or decision on different groups.

The results of the EQIA should be used to inform the proposal/ recommended decision, leading to changes being made as a result of the assessment where required. Any ongoing/ future mitigating actions required should set out in the action plan at the end of the form.

The completed EQIA should be included as an appendix to relevant EMT/ Delegated Authority/ Cabinet/ Council reports regarding the service activity/ policy/ strategy/ budget change/ decision. Decision-makers should be confident that a robust EQIA has taken place, that any necessary mitigating action has been taken and that there are robust arrangements in place to ensure any necessary ongoing actions are delivered.

Section 1 – Equality Analysis Details

Title of service activity / policy/ strategy/ budget change/ decision that you are assessing	Framework for Financial Penalties under the Housing Act 2004 (as amended by the Housing and Planning Act 2016) and the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
Team/ Department	Regulatory Services / Place
Lead officer(s) name(s) and contact details	Martin Rattigan Martin.rattigan@enfield.gov.uk
Project sponsor	Sue McDaid
Date of EQIA completion	29 July 2020

Section 2 – Summary of Proposal

Please give a brief summary of the proposed service change / policy/ strategy/ budget change/project plan/ key decision

Please summarise briefly:

What is the proposed decision or change?
What are the reasons for the decision or change?
What outcomes are you hoping to achieve from this change?
Who will be impacted by the project or change - staff, service users, or the wider community?

A Financial penalty may be used as an alternative to prosecution under Housing Act 2004. The council is required to have a policy for determining the appropriate level of financial penalty; when to prosecute, and when to issue a financial penalty on a case by case basis. The Council must have regard to statutory guidance ([Civil penalties under the Housing and Planning Act 2016 - Guidance for Local Housing Authorities](#)) in the exercise of its functions in respect of financial penalties. The actual amount levied in any particular case should reflect the severity of the offence, as well as taking account of the landlord's previous record of offending. This policy of process sets out the principles that the Council will apply in exercising its powers under the Housing Act 2004 (as amended) to impose a financial penalty on a landlord or agent who fails to comply or breaches one or more of the housing offences specified in the Housing Act 2004.

The Electrical Safety Standards in the Private Rented Sector (England) Regulations

2020 came into force on 1 June 2020. The Regulations allow the Council to issue financial penalties against landlords who fail to undertake the necessary inspections and repairs in relation to the electrical safety standards in private rented accommodation. As above, it is for the Council to determine the size of the financial penalty imposed, and the penalty must not exceed £30,000. More than one penalty can be imposed in the event of a continuing failure. Any financial penalty is in addition to the costs that the Council is entitled to recover in relation to the remedial action it has carried out.

To determine the appropriate sanction; whether to serve a financial penalty or to prosecute will depend on the type and severity of the offence. In the first instance, the Council will consider financial penalties for all landlords that are in breach of one or more of the housing offences. A financial penalty of up to £30,000 may be imposed where a serious offence has been committed and the Council believes that the most disruptive sanction to impose on a landlord or managing agent is a financial penalty rather than prosecution. Generally, the maximum financial penalties will be reserved for the very worst offenders and the actual amount levied in any particular case will reflect the severity of the offence and take account of the landlord's previous record of offending.

There is a standard procedure for imposing a financial penalty is set out in the Housing Act 2004. Where the council decides to impose a financial penalty, the Council must serve a notice of its proposal, 'notice of intent' to impose a financial penalty. The notice of intent must set out:

- the amount of the proposed financial penalty;
- the reasons for proposing to impose the penalty; and
- information about the right of the landlord to make representations.

A person who is given a 'notice of intent' may make written representations to the Council about the intention to impose a civil penalty within 28 days from when the notice was given.

After the end of the period for representations, the council officer will decide whether to impose a penalty and, if so, the amount of the penalty. If the council decides to impose a financial penalty, it must give the person a notice 'final notice' requiring that the penalty is paid within 28 days. The final notice will set out:

- the amount of the financial penalty
- the reasons for imposing the penalty
- information about how to pay the penalty
- the period for payment
- information about the rights of appeal and,
- consequences of failure to comply with the penalty.

A person who receives a final notice may appeal to the First-Tier Housing Tribunal against the decision to impose a penalty and the amount of the penalty. The Tribunal has the power to confirm, vary or cancel the financial penalty that the Council has issued.

Section 3 – Equality Analysis

This section asks you to consider the potential differential impact of the proposed decision or change on different protected characteristics, and what mitigating actions should be taken to avoid or counteract any negative impact.

According to the Equality Act 2010, protected characteristics are aspects of a person's identity that make them who they are. The law defines 9 protected characteristics:

1. Age
2. Disability
3. Gender reassignment.
4. Marriage and civil partnership.
5. Pregnancy and maternity.
6. Race
7. Religion or belief.
8. Sex
9. Sexual orientation.

At Enfield Council, we also consider socio-economic status as an additional characteristic.

“Differential impact” means that people of a particular protected characteristic (eg people of a particular age, people with a disability, people of a particular gender, or people from a particular race and religion) will be significantly more affected by the change than other groups. Please consider both potential positive and negative impacts, and, where possible, provide evidence to explain why this group might be particularly affected. If there is no differential impact for that group, briefly explain why this is not applicable.

Please consider how the proposed change will affect staff, service users or members of the wider community who share one of the following protected characteristics.

Age

This can refer to people of a specific age e.g. 18-year olds, or age range e.g. 0-18 year olds.

Will the proposed change to service/policy/budget have a **differential impact [positive or negative]** on people of a specific age or age group (e.g. older or younger people)?

Please provide evidence to explain why this group may be particularly affected.

A landlord who has limited income may be relying on a property let for say retirement income purposes a financial penalty could have a negative impact on their earnings. The guiding principle here should be to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed. Use of a financial penalty may save the landlord legal costs as it is being used as an alternative to a prosecution.

Mitigating actions to be taken

If a landlord issued with a financial penalty demonstrates clear hardship in paying the penalty and is eager to comply, we will consider the payment of the penalty in instalments.

Disability

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

This could include:

Physical impairment, hearing impairment, visual impairment, learning difficulties, long-standing illness or health condition, mental illness, substance abuse or other impairments.

Will the proposed change to service/policy/budget have a **differential impact [positive or negative]** on people with disabilities?

Please provide evidence to explain why this group may be particularly affected.

Use of a financial penalty should have a positive impact over the alternative of going to court as it will reduce stress levels for the offender.

Mitigating actions to be taken

We will be advising landlords of our intention to apply a financial penalty and he/she can make representations and appeal our decision.

We will take into account any representations about disability and how this genuinely impacts on their ability to pay the penalty, and act on this.

Gender Reassignment

This refers to people who are proposing to undergo, are undergoing, or have undergone a process (or part of a process) to reassign their sex by changing physiological or other attributes of sex.

Will this change to service/policy/budget have a **differential impact [positive or negative]** on transgender people?

Please provide evidence to explain why this group may be particularly affected.

Due to the limitations in the available evidence we are unable to rule out the potential for any differential impact. The policy will not unlawfully discriminate but any indirect discrimination can be justified by the reason for the policy, to improve conditions in the private rented sector where we know that some groups are disproportionately represented.

Mitigating actions to be taken

We will monitor and act on any representations made by persons subject to a financial penalty who raise this protected characteristic.

Marriage and Civil Partnership

Marriage and civil partnerships are different ways of legally recognising relationships. The formation of a civil partnership must remain secular, where-as a marriage can be conducted through either religious or civil ceremonies. In the U.K both marriages and civil partnerships can be same sex or mixed sex. Civil partners must be treated the same as married couples on a wide range of legal matters.

Will this change to service/policy/budget have a **differential impact [positive or negative]** on people in a marriage or civil partnership?

Please provide evidence to explain why this group may be particularly affected

Legal requirements set out who we can serve notices on and is not impacted by relationship status, therefore there should be no impact.

Mitigating actions to be taken

No action required.

Pregnancy and maternity

Pregnancy refers to 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.

Will this change to service/policy/budget have a **differential impact [positive or**

negative] on pregnancy and maternity?

Please provide evidence to explain why this group may be particularly affected

Due to the limitations in the available evidence we are unable to rule out the potential for any differential impact. The policy will not unlawfully discriminate but any indirect discrimination can be justified by the reason for the policy, to improve conditions in the private rented sector where we know that some groups are disproportionately represented.

Mitigating actions to be taken

We will monitor and act on any representations made by persons subject to a financial penalty who raise this protected characteristic.

If the landlord is on maternity leave and demonstrates genuine financial difficulties, we will consider the payment of the penalty in instalments.

Race

This refers to a group of people defined by their race, colour, and nationality (including citizenship), ethnic or national origins.

Will this change to service/policy/budget have a **differential impact [positive or negative]** on people of a certain race?

Please provide evidence to explain why this group may be particularly affected

Due to the limitations in the available evidence we are unable to rule out the potential for any differential impact. The policy will not unlawfully discriminate but any indirect discrimination can be justified by the reason for the policy, to improve conditions in the private rented sector where we know that some groups are disproportionately represented.

Mitigating actions to be taken

If a landlord issued with a financial penalty demonstrates clear hardship in paying the penalty and is eager to comply, we will consider the payment of the penalty in instalments.

Religion and belief

Religion refers to a person's faith (e.g. Buddhism, Islam, Christianity, Judaism, Sikhism, Hinduism). 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.

Will this change to service/policy/budget have a **differential impact [positive or negative]** on people who follow a religion or belief, including lack of belief?

Please provide evidence to explain why this group may be particularly affected.

Due to the limitations in the available evidence we are unable to rule out the potential for any differential impact. The policy will not unlawfully discriminate but any indirect discrimination can be justified by the reason for the policy, to improve conditions in the private rented sector where we know that some groups are disproportionately represented.

Mitigating actions to be taken

We will monitor and act on any representations made by persons subject to a financial penalty who raise this protected characteristic.

Sex

Sex refers to whether you are a man or woman.

Will this change to service/policy/budget have a **differential impact [positive or negative]** on men or women?

Please provide evidence to explain why this group may be particularly affected.

Due to the limitations in the available evidence we are unable to rule out the potential for any differential impact. The policy will not unlawfully discriminate but any indirect discrimination can be justified by the reason for the policy, to improve conditions in the private rented sector where we know that some groups are disproportionately represented.

Mitigating actions to be taken

We will monitor and act on any representations made by persons subject to a financial penalty who raise this protected characteristic.

Sexual Orientation

This refers to whether a person is sexually attracted to people of the same sex or a different sex to themselves. Please consider the impact on people who identify as

heterosexual, bisexual, gay, lesbian, non-binary or asexual.

Will this change to service/policy/budget have a **differential impact [positive or negative]** on people with a particular sexual orientation?

Please provide evidence to explain why this group may be particularly affected.

Due to the limitations in the available evidence we are unable to rule out the potential for any differential impact. The policy will not unlawfully discriminate but any indirect discrimination can be justified by the reason for the policy, to improve conditions in the private rented sector where we know that some groups are disproportionately represented.

Mitigating actions to be taken

We will monitor and act on any representations made by persons subject to a financial penalty who raise this protected characteristic.

Socio-economic deprivation

This refers to people who are disadvantaged due to socio-economic factors e.g. unemployment, low income, low academic qualifications or living in a deprived area, social housing or unstable housing.

Will this change to service/policy/budget have a **differential impact [positive or negative]** on people who are socio-economically disadvantaged?

Please provide evidence to explain why this group may be particularly affected.

Due to the limitations in the available evidence we are unable to rule out the potential for any differential impact. The policy will not unlawfully discriminate but any indirect discrimination can be justified by the reason for the policy, to improve conditions in the private rented sector where we know that some groups are disproportionately represented.

Mitigating actions to be taken.

We will monitor and act on any representations made by persons subject to a financial penalty who raise this protected characteristic.

If a landlord issued with a financial penalty demonstrates clear hardship in paying the penalty and is eager to comply, we will consider the payment of the penalty in instalments.

Section 4 – Monitoring and Review

How do you intend to monitor and review the effects of this proposal?

Who will be responsible for assessing the effects of this proposal?

Tina Fasi (Head of Service) will monitor the use of the financial penalties for effectiveness. For each case we will monitor the equality profile of people if possible who are subject to a financial penalty, this will be recorded in the case files for each one issued.

We may not be able to gain an accurate equality profile as some landlords are represented by agents.

Section 5 – Action Plan for Mitigating Actions.

Identified Issue	Action Required	Lead officer	Timescale/By When	Costs	Review Date/Comments
Lack of cash flow to pay a fine	Use of payment instalments in demonstrable genuine cases	Tina Fasi	Ongoing	N/A	Already have system for payment of Fixed Penalty Notices used by Regulatory Services
Due to the lack of available evidence for most of the protected characteristics we are unable to rule out the potential for any differential impact.	Need to monitor the equality profile of people who are subject to a financial penalty if possible or when a protected characteristic is raised and act on it.	Tina Fasi	End of year one review.		