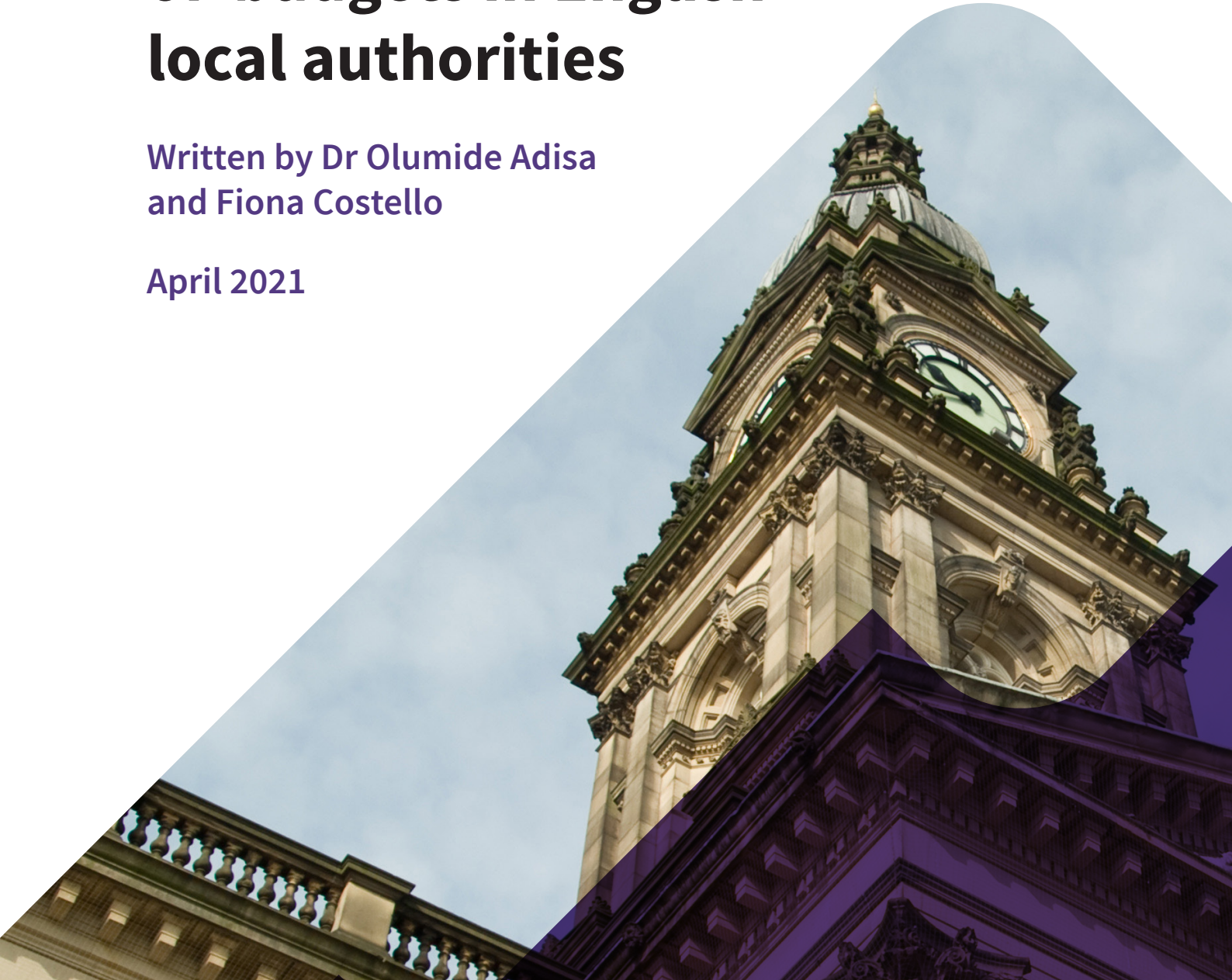


# Equality impact assessments and equality-responsiveness of budgets in English local authorities

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## Key points:

- The majority of local authorities are not routinely undertaking equality impact assessment in assessing the policy impacts of budgeting processes.
- There is a lack of conformity across England in terms of how equality impact assessments of budgetary decisions are made, which has implications for achieving equality objectives.
- EIAs can be a useful measure of how public bodies, including local authorities are meeting their obligations under the Public Sector Equality Duty contained in the 2010 Equality Act.
- The tendency to approach equality impact assessments as 'tick-box' exercises means that opportunities for promoting equality are missed.
- When done well, equality impact assessments have the potential to bring equality to the forefront of the debate and can enable action approaches for identifying and tackling multiple sources of inequalities.
- Cultural change is required to ensure that local authorities understand the value of equality impact assessments and implement these in a meaningful and robust way.

## Introduction

Under the Public Sector Equality Duty, contained in the 2010 Equality Act, all public bodies in England, Scotland and Wales have to have 'due regard' to the impact of their policies on eliminating discrimination and harassment, promoting equality and fostering good relations through the lens of the nine protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.<sup>1</sup>

Equality Impact Assessments (EIAs) are a tool by which public bodies can do this by providing a means of systematically gathering and analysing evidence on the equalities impact of a decision.<sup>2</sup>

This briefing analyses the use of EIAs within local government budget processes. It draws on a research project 'Equality-responsiveness of budgets in English local authorities' undertaken by Dr Olumide Adisa and Fiona Costello. The findings of this research suggest that for Equality Impact Assessments to be a 'tool for change', they need to be used effectively and

consistently in order to uncover policy impacts on different groups of women and men.

## Women and local government

Local Government structure in England operates under either a one tier, unitary authority, or a two-tier system with county and district councils. With a two-tier system, responsibilities for local services are split between both. There are 343 local authorities in England.

Local government services are particularly important to women because local authorities are responsible for providing or funding many of the services crucial to the daily lives and wellbeing of women and those they care for – children, families and vulnerable adults.<sup>3</sup> Women are also the majority of those employed in local authorities.<sup>4</sup>

## Assessing equality impact assessment use at the local level

Traditionally, public budgets are statements of government financial plans which are often couched

<sup>1</sup> Government Equalities Office (2013) Equality Act 2010: Guidance <https://bit.ly/3IL22DR>

<sup>2</sup> WBG (October 2019) Equality Impact Assessments: Briefing from the UK Women's Budget Group on equality impact assessments and the Public Sector Equality Duty <https://bit.ly/3f8sAO3>

<sup>3</sup> WBG (October 2020) Local Government and gender. A pre-budget briefing from the Women's Budget Group <https://bit.ly/3tMtnbo>

<sup>4</sup> Ibid.

in ‘gender-neutral’ or ‘gender-blind’ terms but which often mask important differential impacts on diverse groups of people. This bias in government budgeting processes has been a key concern of feminist economists and feminist institutions, particularly in identifying and highlighting areas where women have been marginalised as economic actors.

## Research methodology

Freedom of Information (FOI) requests were sent by email to 351 local authorities in January 2019 to collect data that would give an indication as to whether they had taken gender-equality impacts into consideration when making budgetary decisions in the period from 2018–2019.

The FOI replies were collected from January 2019 to October 2019 to cover budgetary decisions made in the 2018–2019 period. Out of the (then) 351 targeted local authorities, 76 did not respond to the FOI request and 275 did—a surprising finding given that it is a legal requirement for an FOI request to be responded to within 20 working days.

Three information requests were made in the FOI comprising of: Revenue budget and council tax reports for 2018 and 2019; Budget proposals for 2019; and Equality impact assessments/Analysis of proposed changes to the budget.

## Key research findings

The use of EIAs by local authorities was at best patchy. Our research found that:

- Only 87 local authorities had carried out equality impact assessments or mentioned that they had given due regard to equal opportunities.
- Unitary authorities, London borough councils, and metropolitan boroughs were more likely to undertake equality impact assessments in the budget setting procedures than district and county councils. The incidence of equality impact assessments are as follows: 47% for unitary authorities and 43% for London borough councils, and metropolitan at 39%; as against 15% of district councils and 18% of county councils.

- Where EIAs were undertaken, these touched only very lightly on gender impacts. Sex as a protected characteristic did not feature significantly within the assessed decision impacts based on the documentation provided.
- Not all local authorities could define the degree to which they are giving due regard to equalities in making proposed changes to budgets which have implications for the disposable income of individuals and households.
- A few of the local authorities mentioned that no EIA was undertaken per se but that it was discussed in the minutes of the meeting which documents the setting of budget decisions recommended by the committee to the council, which are publicly available elsewhere on their websites.

## Implications of the findings

Although EIAs are a tool for local authorities to demonstrate they have met their obligations under the PSED, there is no statutory requirement to carry out an EIA in England provided they have given ‘due regard’ to equalities impacts.<sup>5</sup> Further, in 2012, David Cameron declared he was ‘calling time on Equality Impact Assessments’.<sup>6</sup> The evidence on differing incidences of EIAs is therefore not too surprising.

Yet the case law on what constitutes ‘due regard’ is well-established and, while an EIA is not explicitly required, the criteria set out in successive court judgements resembles the main elements of an EIA. Specifically, the six ‘Brown principles’ set out in R (Brown) v Secretary of State for Work and Pensions [2008] EWHC 3158 are relevant here. These establish that ‘due regard’ is an ongoing condition that must be ‘approached in substance, with rigour and with an open mind’. Further, they require that the process of establishing that ‘due regard’ has been given is documented and evidenced.

Contrary to the Brown principles, our research suggests that, when conducted, EIAs are largely still ‘tick-box’ exercises. Often, the stated impact following the EIA was not very detailed and, in some cases, no strategy was outlined to circumvent that impact – it was simply listed as an impact. Further, each protected characteristic in relation to the Equality Act

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<sup>5</sup> Pyper, D (2020) The Public Sector Equality Duty and Equality Impact Assessments <https://bit.ly/2OSazsB>

<sup>6</sup> Ibid.

2010 tended to be dissected in a very individual stand-alone way and there was no understanding of the cumulative and/or intersectional impacts of the decisions (e.g. the impact on ‘women with a disability’ as opposed to on ‘women’ or ‘people with a disability’).

Our findings suggest that there is a differing ‘appetite’ for equality analyses at the local level, and by extension, for gender analyses of budget formulation policies. The researchers take the view that it may be easier to encourage those local authorities that are already undertaking equality impact assessments to improve their practice.

While more evidence is required to further understand whether the differing appetite for equality analysis of policy impacts is solely a capacity issue, or one borne out of poor policy design, there is scope to build capacity at the local level in undertaking meaningful equality impact assessments. Moreover, reframing equality impact assessments as a tool for assessing equality-responsiveness provides fertile ground for undertaking critical policy discussions to halt the pattern of poorly executed EIAs by government agencies and, as shown in this briefing, not undertaking equality impact assessments at all. To this end, we also call on central government to pay more attention to sex disaggregation and intersecting inequalities<sup>7</sup> in their assessments.

### How EIAs and giving ‘due regard’ can make a difference

The findings of our research are corroborated by other studies that have looked at the implementation of the PSED by local authorities.<sup>8</sup> These also find that implementation has been patchy, with a tendency for bureaucratic, ‘tick-box’ approaches as opposed to meaningful engagement with the substance of the duty. There is an urgent need, therefore, to ensure that local authorities see giving ‘due regard’ to equalities impacts as not simply a legal requirement but as a means of improving the quality of decision-making and, in so doing, improving outcomes for their communities.

To this end, case studies of successful implementation of EIAs and the PSED are vital. Box 1 highlights case

studies from work undertaken by UNISON. These illustrate the successful implementation of the PSED in relation to gender as well as a number of other protected characteristics.

#### Box 1: How the PSED can make a difference

##### Equality officers working with external groups

The equality team in a local authority helped to foster the building of stronger relationships between women’s organisations, trade unions, and other key stakeholders with officers and councillors. This was achieved by supporting networks that represent groups with protected characteristics. As a result of these relationships and evidence drawn from these networks, the impact of policies on different women could be better understood within the decision-making process.

##### Budget setting and equalities

A senior manager at a local authority made sure that the equality team was involved throughout the budget setting process, right from the initial conversations. This meant that equality impacts could be considered from an early stage when there is still the opportunity to mitigate impacts.

##### Cumulative impact assessment

A local authority started to undertake cumulative impact assessments after a women’s network, supported by trade unions, carried out their own local impact assessment of cuts to benefits and services. Making visible, in this way, the impacts on protected groups can mean that decisions are better able to consider equalities.

##### Challenging a decision

UNISON successfully challenged a county council’s decision to cut overtime rates for certain staff by showing that women workers would lose a higher percentage of their earnings than men, and that a larger proportion of Black workers (nearly half) would be affected than white workers (12%).

<sup>7</sup> WBG and The Runnymede Trust (2018) *Intersecting Inequalities* <https://bit.ly/2PFrb1N>

<sup>8</sup> EHRC (2018) *Reviewing the aims and effectiveness of the Public Sector Equality Duty (PSED) in Great Britain* <https://bit.ly/315MkcD>; Stephenson, M (2016)

Mainstreaming equality in an age of austerity: what impact has the public sector equality duty had on work to promote gender equality by English local authorities? <https://bit.ly/3cbHbX3>



## Recommendations

It is disappointing that, with the Equality Act now more than a decade old, implementation of its key duties is still patchy among local authorities. This means that opportunities for promoting equality are most likely being missed. To encourage more widespread, and crucially more meaningful engagement, we make the following recommendations:

- EIAs ought to be explored more fully and robustly as a pragmatic solution to understanding how policy impacts of public budgets affect men and women differently. While EIAs are not a legal requirement, the Courts have upheld the requirement to systematically evidence impacts on protected groups and it is difficult to see how this can be done without an EIA or something very similar. Contradictory messaging on EIAs by public figures and courts have made it more difficult for public bodies to understand the duty.
- Build knowledge and capacity through funding and resources to encourage the execution of high-quality EIAs by local government.
- Mainstream equality champions within local government departments and diverse women's voices in budgeting decision-making matters. Encourage the involvement of networks of local organisations representing women and other protected groups in local government processes and with key officers and councillors in local authorities.
- Ensure that the EHRC has sufficient resources to fulfil its promotion and enforcement role; there should be 'carrot' and 'stick' approach to ensuring compliance with the duty.
- Monitor the use of EIAs by government departments to ensure that those undertaking public budgetary procedures are taking into account the structural inequalities facing different groups of women, including in an intersectional way.

### **UK Women's Budget Group, April 2021**

The Women's Budget Group is an independent network of academics, civil society organisations, trade unionists and activists who analyse the gendered impact of economic policy. For more information about our work see [wbg.org.uk](http://wbg.org.uk)

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