

Equality Impact Assessments Briefing for a new government



Equality Impact Assessments and the Public Sector Equality Duty

A briefing from the UK Women's Budget Group – 2024

Summary

Why assess equality impact

- Women still face structural inequality throughout their lives. Gendered inequalities intersect with other structures of inequality including class, race and disability. This means that policy impacts differently on women and men, and on different groups of women and men.
- Equality Impact Assessments are a way to ensure that policy makers take account of these different impacts when developing policy.

What the law says

- The Public Sector Equality Duty (PSED) requires public bodies to have 'due regard' to equality in all aspects of their work. Equality Impact Assessments are a way to ensure public bodies have met their legal obligations under the PSED.

Principles of equality impact assessment

- Meaningful equality impact assessments should consider cumulative impact, intersectional impact, the impact on individuals as well as households, impact over a lifetime and the impact on unpaid care.
- They should be based on evidence and consultation with those most likely to be affected by policy.

Government practice to date

- Despite the obligations of the PSED, WBG has observed a pattern of poor quality impact assessments and, in some cases, a failure to carry out impact assessments at all.

Recommendations

- All public bodies, including government departments, should carry out and publish meaningful equality impact assessments.
- The Treasury should carry out and publish a cumulative impact assessment of the Budget every year and of periodic spending reviews.
- Staff responsible for these impact assessments should be trained in equality impact to ensure that assessments are meaningful.

Introduction

This briefing sets out why equality impact assessments are needed, what the law requires and current government practice. WBG's expertise is on the gender impact of economic policy so this is our main area of focus. However, impact assessments are needed across all areas of policy, and should take account of impact of policy on all disadvantaged groups.

Structural inequality

While there has been progress on some aspects of gender equality, women still experience structural inequality throughout their lives¹. Gendered inequalities intersect with other forms of inequality based on class, race, disability, and other factors so that some groups of women, particularly poor women, Black and Minority Ethnic (BME) women and disabled women face multiple disadvantage².

The expectations that society places on women and men, about what they can and should do, structure the roles and opportunities for both sexes. This means that policies impact differently on women and men.

Unpaid care

Gender roles and norms mean that women are more likely than men to have responsibility for unpaid work including childcare, care for older or disabled people and domestic work³. This reduces their time available for paid work and other activities. This means that the provision of some public services, that reduce the amount of unpaid work that women do, can have a major effect on women's opportunities and employment. It also means that when public services are cut it is more

likely to be women who increase their unpaid work to fill the gap and may have to give up employment or other opportunities to do so.

Wealth and poverty are gendered

The expectation that women are responsible for unpaid work, discrimination in the workplace, and the undervaluing of work traditionally done by women means that women on average earn less than men, have lower incomes over a lifetime, accumulate lower levels of wealth and are more likely to be living in poverty⁴.

This means that women are less likely to benefit from cuts to income tax than men, and cuts to taxes on business⁵ and more likely to benefit from public spending on public services or cash transfers/welfare benefits⁶.

Women's lower incomes and wealth relative to men mean that they particularly benefit from having good provision of public services. It also means that they are less likely to be able to afford private provision when public services are cut. User fees can be a greater problem for women and girls, who gain more from public services being free.

Income within households

Income may not be shared equally within households, meaning women and girls may not benefit as much as men when household income rises⁷. This means that policies that concentrate on improving household incomes may not benefit women as much as those that target women's incomes specifically.

Violence against women and girls

Violence and abuse of women and girls continues to be widespread and underreported. Domestic

¹ See for example: EHRC (2015) *Is Britain Fairer?*, <https://bit.ly/2oeKExI>

² WBG/Runnymede Trust (2017) *Intersecting Inequalities*, <https://bit.ly/2PFrb1N>

³ Women do on average 54 more minutes per day of unpaid work than men: ONS (2024) *Time Use in the UK*, <https://bit.ly/4edo9xz>

⁴ WBG (2018) *The Female Face of Poverty*, <https://bit.ly/2PiYEyI>

⁵ WBG (2024) *Taxation and Gender*, <https://bit.ly/3Xm6jCu>

⁶ WBG (2023) *Social Security and Gender*, <https://bit.ly/3VDfE7q>

⁷ Fran Bennett and Holly Sutherland (2011) *The importance of independent income: understanding the role of non-means-tested earnings replacement benefit*, Barnett Papers in Social Research, University of Oxford, <https://bit.ly/2pbOdFI>

violence and abuse often includes financial abuse⁸. This means that funding for specialist services for women who have experienced violence is vital to promoting gender equality. Cuts to such services can leave women without help to overcome trauma. For those currently experiencing violence, loss of services such as refuges can be life threatening⁹. It also means that women's access to independent income is important; policies that reduce it can increase women's vulnerability to financial and other forms of abuse¹⁰.

Women's representation

Women continue to be under-represented in public life and decision making¹¹. This means that government policies may not take women's needs and priorities into account. This lack of attention to women and girls' needs can lead to policies that fail to meet the needs of women or increase gender inequalities.

Equality Impact Assessment as a tool for change

One of the main ways in which policy makers can ensure equality is taken into account when policy is made is to carry out an equality impact assessment, and take action to amend the policy if necessary before it is implemented. Because inequalities based on gender intersect with other forms of inequality it is important that equality impact assessments take an intersectional approach.

One form of Equality Impact Assessment is Gender responsive budgeting (GRB). This focusses on the impact of government budgets (and other economic policies) on inequalities between women and men in order to promote policies that will lead to greater equality¹².

⁸ WBG (2019) Violence Against Women and Girls, <https://bit.ly/45o27Us>

⁹ WBG (2018) Life Changing and Life Saving: funding for the women's sector <https://bit.ly/2PxV6YH>

¹⁰ Marilyn Howard (2019) Benefits or barriers? Making social security work for survivors of violence and abuse across the UK's four nations, WBG, <https://bit.ly/2WENTiC>

What the law says

The Public Sector Equality Duty

Under the Public Sector Equality Duty, (PSED), contained in the 2010 Equality Act, all public authorities, including government departments, are obliged to have 'due regard' to the need to eliminate unlawful discrimination, advance equality of opportunity, and foster good relations between those who have a characteristic protected under the Act and those who do not. These protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED has two parts. The general duty requires a public authority to give 'due regard' to equality in its decision-making. Specific duties are not stand-alone but support the general duty. They vary across Britain. In England there are two specific duties, to:

- Publish information to demonstrate compliance with the general equality duty annually. This should include information about employees and people affected by the body's policies and practices who share a protected characteristic. Public bodies with less than 150 staff do not have to publish information on their employees.
- Prepare and publish one or more equality objective that the body thinks it should achieve.

Scotland and Wales have more extensive specific duties, including requirements to assess equality impacts of a new or revised policy or practice¹³. The Equality Act does not apply in Northern Ireland.

¹¹ Fawcett (2018) Sex and Power, <https://bit.ly/2JnNh5t>

¹² WBG (2018) Women Count: a casebook for gender responsive budgeting groups, <https://bit.ly/2BGhLO3>

¹³ WBG (2017) The Public Sector Equality Duty: Evidence to Fawcett's Sex Discrimination Law Review, <https://bit.ly/344wpuV>

Principles for 'due regard' to equality

A number of court cases have established a series of principles about what 'due regard' means in practice. These include:

- The decision maker must be aware of the duty.
- The duty applies before a decision is taken. It is not enough to consider equality after a decision has been made.
- The duty is on-going. It does not just apply when policy is made, but also when it is implemented.
- The duty must be exercised in substance, with rigor and with an open mind in such a way that it influences the final decision. It is not enough to 'tick boxes'.
- The duty cannot be delegated. A public body is responsible for making sure that any organisation that carries out work on its behalf has due regard to equality in carrying out that work.
- It is advisable for public bodies to keep records of how they have had due regard to equality when making decisions. If records are not kept it will be harder for a public body to demonstrate that they have had due regard.
- Public bodies must gather and consider sufficient evidence to enable them to assess the impact of a proposed policy on equality. This may include consultation with those likely to be affected by a policy or practice.
- The degree to which a public body should consider equality will vary depending on the likely equality impact of a policy.

- Where a public body identifies the risk of negative impact it should consider how to eliminate or mitigate against that risk.
- Lack of resources does not excuse a failure to comply with the duty¹⁴.

Equality Impact Assessments

Although there is no specific obligation in England to carry out an Equality Impact Assessment, they are widely relied upon by public bodies to demonstrate that they have met their legal obligations under the PSED¹⁵.

Principles of equality impact assessment

Consider cumulative impact

A cumulative analysis means looking at the combined impact of a number of measures. The effect of some individual measures may be small, but taken together the cumulative impact may be substantial.

Look at impacts on individuals as well as households

Interests within households may differ, so policies that benefit a household's decision-maker may not benefit all household members. It is important to recognise that policy may affect decision-making power within households.

Take a life-time perspective wherever possible

Policies' long-term effects may outweigh current impacts – for example policies that make it easier for women to stay doing unpaid care may have negative impacts on women's lifetime earnings and pensions in old age.

¹⁴ The EHRC has produced technical guidance on the Public-Sector Equality Duty which gives more information about what 'due regard' means. There is separate guidance for England, Scotland and Wales. See

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance#h1>

¹⁵ House of Commons Library (2019) The Public Sector Equality Duty and Equality Impact Assessments, <https://bit.ly/2p9u2lg>

Take account of effects on unpaid care economy

It is important to recognise that the fiscal benefits of encouraging women into employment are not 'free' but may have an impact on unpaid care.

Take an intersectional approach

Different structures of inequality intersect so that it is important to look at differences within particular groups of women and men, for example differences by race, income and disability. Impact assessments that consider each 'protected characteristic' in isolation (looking at race, gender, disability and so on separately) can ignore these intersectional impacts.

Quantify gender differences in effects where possible.

This means drawing on statistical data to show how policy would impact women and men differently. Where no data is available it is important not to assume that this means that there is no impact.

Consult affected groups

Qualitative research, including consultation with affected groups can highlight unexpected equality impacts and show how the combined effect of different changes can impact on women's lives.

Government practice to date

Despite the obligations of the PSED, WBG has observed a pattern of poor quality impact assessments and, in some cases, a failure to carry out impact assessments at all¹⁶. Criticisms of impact assessments carried out by the

Department of Work and Pensions, for example, include that they are simplistic, contain limited detailed evidence; are surprisingly political, build arguments on controversial (non-evidenced) assumptions and fail to understand equality impact¹⁷.

Budgets and financial statements produced by the Treasury since 2011 have failed to include meaningful equality impact assessments despite recommendations from both the Treasury select committee¹⁸ and the Women and Equalities select committee¹⁹. WBG has raised this repeatedly in our budget analysis²⁰.

Conclusions and Recommendations

The Women's Budget Group recommends that all public bodies, including government departments should carry out and publish equality impact assessments based on the principles set out above.

The Treasury should carry out and publish a cumulative impact assessment of the Budget every year and of periodic spending reviews.

Staff responsible for these impact assessments should be trained in equality impact to ensure that assessments are meaningful.

UK Women's Budget Group, June 2024

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¹⁶ WBG (2018) Submission to the Women and Equalities Select Committee Inquiry into Enforcement of the Equality Act, (<https://bit.ly/2Oo62vk>)

¹⁷ WBG (2019) 'Gender-neutral': Universal Credit Equality Impact Assessments (<https://bit.ly/2S1Koer>)

¹⁸ Treasury Select Committee (2019) *Budget 2018* (<https://bit.ly/2SPyWac>)

¹⁹ UK Parliament (2016) 'More transparency needed from HM Treasury on equality analysis' (<https://bit.ly/2GJ0iYY>)

²⁰ WBG analysis of budgets and financial statements are available at: <https://www.wbg.org.uk/research-analysis/topics/budgets-and-fiscal-events/>

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