

TEST OF RELEVANCE: EQUALITY ANALYSIS (EA)



The screening process of using the Test of Relevance template aims to assist in determining whether a full Equality Analysis (EA) is required. The EA template and guidance plus information on the Equality Act and the Public Sector Equality Duty (PSED) can be found on Colnet at: <http://colnet/Departments/Pages/News/Equality-and-Diversity.aspx>

Introduction

The Public Sector Equality Duty (PSED) is set out in the Equality Act 2010 (s.149). This requires public authorities, in the exercise of their functions, to have ‘due regard’ to the need to:

- Eliminate discrimination, harassment and victimisation
- Advance equality of opportunity between people who share a protected characteristic and those who do not, and
- Foster good relations between people who share a protected characteristic and those who do not

The characteristics protected by the Equality Act 2010 are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership.
- Pregnancy and maternity
- Race
- Religion or belief
- Sex (gender)
- Sexual orientation

What is due regard?	How to demonstrate compliance
<ul style="list-style-type: none"> • It involves considering the aims of the duty in a way that is proportionate to the issue at hand • Ensuring that real consideration is given to the aims and the impact of policies with rigour and with an open mind in such a way that it influences the final decision • Due regard should be given before and during policy formation and when a decision is taken including cross cutting ones as the impact can be cumulative. <p>The general equality duty does not specify how public authorities should analyse the effect of their business activities on different groups of people. However, case law has established that equality analysis is an important way public authorities can demonstrate that they are meeting the requirements.</p> <p>Even in cases where it is considered that there are no implications of proposed policy and decision making on the PSED it is good practice to record the reasons why and to include these in reports to committees where decisions are being taken.</p> <p>It is also good practice to consider the duty in relation to current policies, services and procedures, even if there is no plan to change them.</p>	<p>Case law has established the following principles apply to the PSED:</p> <ul style="list-style-type: none"> • Knowledge – the need to be aware of the requirements of the Equality Duty with a conscious approach and state of mind. • Sufficient Information – must be made available to the decision maker • Timeliness – the Duty must be complied with before and at the time that a particular policy is under consideration or decision is taken not after it has been taken. • Real consideration – consideration must form an integral part of the decision-making process. It is not a matter of box-ticking; it must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision. • Sufficient information – the decision maker must consider what information he or she has and what further information may be needed in order to give proper consideration to the Equality Duty • No delegation - public bodies are responsible for ensuring that any third parties which exercise functions on their behalf are capable of complying with the Equality Duty, are required to comply with it, and that they do so in practice. It is a duty that cannot be delegated.

- **Review** – the duty is continuing applying when a policy is developed and decided upon, but also when it is implemented and reviewed.

However there is no requirement to:

- Produce equality analysis or an equality impact assessment
- Indiscriminately collect diversity data where equalities issues are not significant
- Publish lengthy documents to show compliance
- Treat everyone the same. Rather, it requires public bodies to think about people's different needs and how these can be met
- Make services homogeneous or to try to remove or ignore differences between people.

The key points about demonstrating compliance with the duty are to:

- Collate sufficient evidence to determine whether changes being considered will have a potential impact on different groups
- Ensure decision makers are aware of the analysis that has been undertaken and what conclusions have been reached on the possible implications
- Keep adequate records of the full decision making process

Test of Relevance screening

The Test of Relevance screening is a short exercise that involves looking at the overall proposal and deciding if it is relevant to the PSED.

Note: If the proposal is of a significant nature and it is apparent from the outset that a full equality analysis will be required, then it is not necessary to complete the Test of Relevance screening template and the full equality analysis and be completed.

The questions in the Test of Relevance Screening Template to help decide if the proposal is equality relevant and whether a detailed equality analysis is required. The key question is whether the proposal is likely to be relevant to any of the protected characteristics.

Quite often, the answer may not be so obvious and service-user or provider information will need to be considered to make a preliminary judgment. For example, in considering licensing arrangements, the location of the premises in question and the demographics of the area could affect whether section 149 considerations come into play.

There is no one size fits all approach but the screening process is designed to help fully consider the circumstances.

What to do

In general, the following questions all feed into whether an equality analysis is required:

- How many people is the proposal likely to affect?
- How significant is its impact?
- Does it relate to an area where there are known inequalities?

At this initial screening stage, the point is to try to assess obvious negative or positive impact.

On completion of the Test of Relevance screening, officers should:

- Ensure they have fully completed and the Director has signed off the Test of Relevance Screening Template.
- Store the screening template safely so that it can be retrieved if for example, Members request to see it, or there is a freedom of information request or there is a legal challenge.

If a negative/adverse impact has been identified (actual or potential) during completion of the screening tool, a full equality analysis must be undertaken.

If no negative / adverse impacts arising from the proposal it is not necessary to undertake a full equality analysis.

- If the outcome of the Test of Relevance Screening identifies no or minimal impact refer to it in the Implications section of the report and include reference to it in Background Papers when reporting to Committee or other decision making process.

1. Proposal / Project Title: Hampstead Heath Swimming – COVID-19 Secure Operational Arrangements – Winter Swimming Season.

2. Brief summary (include main aims, proposed outcomes, recommendations / decisions sought):

This report sets out the short-term arrangements to adapt the Hampstead Heath swimming facilities for the 2020/21 Winter Swimming Season in response to COVID-19 pandemic, keeping as many people as possible appropriately distanced from those they do not live with. This is in line with the [Governments Guidance for providers of grassroots sport and gym/leisure facilities - Working safely during coronavirus \(COVID-19\) Guidance 9th July 2020](#) and <https://www.gov.uk/government/publications/coronavirus-covid-19-guidance-on-phased-return-of-sport-and-recreation/guidance-for-the-public-on-the-phased-return-of-outdoor-sport-and-recreation>

Managing Risk

- A. Risk Assessments and Safe Systems of Work have been updated to reflect the Government Guidance. COVID-19 Secure Operational Arrangements have been prepared for each of the swimming facilities.
- B. Taking account of the [RLSS Guidance](#), children over 8 will be able to swim at the Men's and Ladies' Bathing Ponds once the water temperature reaches 12 degrees and the swimming area is reduced, and when accompanied by an adult. Children over 8 will be able to swim at the Mixed Bathing Pond when accompanied by an adult. Children under 8 must be accompanied by an adult when swimming at the Lido.
- C. Payments will be made either via contactless payment at the Bathing Ponds (for ticket purchases), online (for Season ticket purchases) or via card payment (for day tickets, or Season Ticket purchases at the Lido). Cash payments for ticket purchases can also be made at the Bathing Ponds (no change provided) and the Lido.
- D. The Mixed Bathing Pond will remain open and Lifeguarded by the City of London Corporation until 25 October 2020, after which time the facility will be licenced to the Winter Swimming Club until the commencement of the 2021 Summer Swimming Season.

Manage capacity and overcrowding.

- E. To manage the number of swimmers at each facility, a carrying capacity has been established. Stewards will allow swimmers to enter the facility on a first come basis until the facility cap on number is reached. Entry will then be managed on a 1 in 1 out basis. Swimmers with an enabled Season Ticket will be able to tap in upon entry. Swimmers without a season ticket will be required to make a contactless or cash payment (no change provided at the Bathing Ponds) upon entering the facility, and to comply with NHS Test and Trace requirements the name and contact number of Swimmers will be collected by the Steward. Signage will be in place at the facility to inform Swimmers that this information is being collected. Swimmers may be accompanied by a Carer who will not be required to pay upon entry.

3. Considering the equality aims (eliminate unlawful discrimination; advance equality of opportunity; foster good relations), indicate for each protected group whether there may be a positive impact, negative (adverse) impact or no impact arising from the proposal:

Protected Characteristic (Equality Group) <input checked="" type="checkbox"/>	Positive Impact	Negative Impact	No Impact	Briefly explain your answer. Consider evidence, data and any consultation.
Age	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>To reduce the risk of drowning, children over 8 will be able to swim at the Men’s and Ladies’ Bathing Ponds once the water temperature reaches 12 degrees and the swimming area is reduced, and when accompanied by an adult. Children over 8 will be able to swim at the Mixed Bathing Ponds when accompanied by an adult. This decision is based on historical rescue evidence and takes account of RLSS Guidance. Children under 8 must be accompanied by an adult when swimming at the Lido.</p> <p>In line with the outcomes of the Swimming Review, the free morning swim for under 16’s and over 60’s will be introduced at the Bathing Ponds and re-introduced at the Lido.</p> <p>To address digital exclusion, a dedicated telephone number is in place to provide assistance for swimmers who are not digitally enabled, or who require additional assistance.</p> <p>These temporary changes have been discussed with the Swimming Associations and the Hampstead Heath Consultative Committee. These arrangements will be kept under review.</p>
Disability	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	A dedicated telephone number and email address have been set up to provide support and information to maintain access for all. Swimmers may be accompanied by a Carer who will not be required to pay upon entry.
Gender Reassignment	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The City of London Corporation adopted a Gender Identity Policy in June 2019, following public consultation.
Marriage and Civil Partnership	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Pregnancy and Maternity	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Race	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Religion or Belief	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The existing provisions of separate sex (including gender) Bathing Ponds are maintained.
Sex (i.e gender)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The existing provisions of separate sex (including gender) Bathing Ponds are maintained.

Sexual Orientation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> The existing provisions of separate sex (including gender) Bathing Ponds are maintained.
4. There are no negative/adverse impact(s) Please briefly explain and provide evidence to support this decision:	The Winter Swimming Season will commence on 21 September 2020. The proposals maintain provisions for separate sex (including gender) Bathing Ponds and provides free access for Carers to help maintain access for all. There is a negative impact for swimmers aged 8-16 at the Men's and Ladies' Bathing Pond, to mitigate safety risks, however, they will be permitted to swim once the water temperature reaches 12 degrees and the swimming area is reduced. These temporary arrangements and are being kept under review.		
5. Are there positive impacts of the proposal on any equality groups? Please briefly explain how these are in line with the equality aims:	<p>The Winter season swimming proposals allow the outcomes of the Swimming Review 2020 to be implemented as originally agreed by Members on 11 March 2020. This includes the Support Scheme arrangements.</p> <p>Season tickets will be reissued ahead of the Winter Season and can be used from 21 September 2020.</p> <p>The free morning swimming for under 16 and over 60's is being implemented.</p> <p>The age restrictions for swimming at the Men's and Ladies' Bathing Pond will be relaxed once the water temperature reaches 12 degrees and the swimming area is reduced.</p> <p>Swimmers may be accompanied by a Carer who will not be required to pay upon entry.</p>		
6. As a result of this screening, is a full EA necessary? (Please check appropriate box using <input type="checkbox"/>)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Briefly explain your answer: The introduction of the free morning swim for under 16's and over 60's will have a positive impact on age. The restrictions on swimmers aged 8-16 at the Men's and Lades' Bathing Ponds are in-line with RLSS Guidance aimed at reducing the risk of drowning and Lifeguard rescues, and are only in place until the winter swimming area is introduced. All other impacts are neutral; therefore, a full EA is not proposed.
7. Name of Lead Officer: Bob Warnock		Job title: Superintendent	Date of completion: 28 August 2020

Signed off by Department Director:		Name: Colin Buttery, Director of Open Spaces	Date: 28/8/20
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