



Report of the Cabinet Member for Culture and Equalities

Service Improvement and Finance Scrutiny Performance Panel
6th December 2022

Equality Impact Assessments: Audit Wales Report

Purpose:	To update the Scrutiny Panel on the Council's response to the Audit Wales report 'Equality Impact Assessments: more than a tick box exercise'.
Content:	An update on: 1. Audit Wales report: Equality Impact Assessments: more than a tick box exercise?
Councillors are being asked to:	Consider the information provided and give views
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1. Background

- 1.1 In September 2022 the Audit Wales published a report on its audit of the use of Equality Impact Assessments in Wales. The aim of the audit was to provide insight about the approach to EIAs undertaken across the public sector in Wales.
- 1.2 The audit wanted to highlight good practice and identify opportunities to improve. The report is titled [Equality Impact Assessments: more than a tick box exercise?](#)
- 1.3 Equality Impact Assessment (EIA) is an important part of the approach to tackling inequality in Wales. EIAs help public services meet their legal duties to avoid discrimination in the decisions they make and to promote equality of

opportunity and cohesion. Done well, EIAs are more than a means to show compliance. They support the growth of a mind-set and culture that put issues of equality at the heart of decision-making and policy development.

- 1.4 Last year in Swansea we revised our Equality Impact Assessment (EIA) process and developed an [Integrated Impact Assessment \(IIA\) process](#). The purpose of developing an Integrated Impact Assessment (IIA) process was to bring together a range of impact assessment duties into one single coherent framework, in order to reduce duplication and complexity.

2. Audit Wales: Key Areas for Improvement

- 2.1 Audit Wales's findings showed that public bodies in Wales tend to use their EIAs defensively. Too often, they seem like a tick box exercise to show that the body has thought about equality issues in case of challenge. While legal challenge is of course an important risk to manage, this approach means public bodies are not using EIAs to their full potential, especially in terms of promoting equality and cohesion

- 2.2 The Audit Identified the following key areas for improvement:

- 1) Greater clarity over which type of policies and practices must be impact assessed
- 2) Greater clarity about the arrangements for assessing the impact of collaborative policies and practices
- 3) Greater clarity about expectations to consider the PSED as part of an integrated impact assessment
- 4) Better and more timely identification of the practical impacts of decisions on people and how different protected characteristics intersect
- 5) More engagement and involvement of people with protected characteristics
- 6) Better monitoring of the actual impacts of policies and practices on people
- 7) A shift in the mindsets and cultures to move EIA away from being seen as an add-on 'tick box' exercise

- 2.2.1 We will look at each area of improvement in turn and outline the Council response:

Area 1: Greater clarity over which type of policies and practices must be impact assessed

Audit Wales findings: As drafted, the Welsh specific duties require public bodies to assess all new policies or practices, or those under review. However, the EHRC's non-statutory guidance recognises that 'policies and practices' is a broad category and says public bodies may need to prioritise. It introduces the concepts of 'proportionality' and 'relevance', which it says public bodies can apply through a process known as 'screening'

The EIAs or screening decisions that public bodies publish are usually those that go to their boards or cabinets. They therefore tend to be at the more strategic or impactful end of the scale. While we did not examine in detail practices at individual bodies, we think there is a risk that public bodies may be informally filtering out smaller scale policies and practices that do not require decisions from boards or cabinet, even though they may impact on people with protected characteristics

Council Response: Our IIA process includes an initial screening form and guidance for staff to use to assess the impact on equalities and a full report and guidance for staff to use when it is required. The Council's Access to Services Team co-ordinates dedicated IIA support by providing information, advice and quality assures all completed IIAs. There is comprehensive guidance available to officers on the IIA process. We have conducted a number of information sessions with CMT and Head of Services around the importance of commencing the IIA process as early as possible. At present, every public facing report that the Council produce must have at least an IIA screening.

Area 2: Greater clarity about the arrangements for assessing the impact of collaborative policies and practices

Audit Wales findings: There is scope to clarify how public bodies should do EIAs in an environment of increasing collaboration. The law places duties on individual public bodies. Since the legislation came into force, public bodies are increasingly developing plans and delivering services through collaborative arrangements. The Welsh Government updated the legislation to extend the PSED and Wales specific duties to Corporate Joint Committees in local government, but there are other collaborative arrangements not covered. These include Public Services Boards and Regional Partnership Boards as well as multiple service specific collaborations

Council Response: We would welcome clarity within this area, within our PSB and other partnership arrangements the leading organisation usually takes ownership of the IIA process. There are instances where partnerships are unsure whose process to use, which can cause confusion.

Area 3: Greater clarity about expectations to consider the PSED as part of an integrated impact assessment

Audit Wales findings: Increasingly, public bodies are integrating their EIAs with other impact assessments. While there is no legal requirement to integrate assessments, the Welsh Government's guidance on the Well-being of Future Generations (Wales) Act emphasises the opportunities for bodies to integrate their approach to different duties, including those under the Equality Act 2010. Many of the equality officers we spoke to said that integrating impact assessments led to a streamlined process and a more rounded approach to thinking about impacts. The key downside can be that the assessment is longer and can appear daunting. Our review of EIAs also

identified a risk that integrated impact assessments dilute the focus on the impacts of policies and practices on people with protected characteristics.

Public bodies are inconsistent in what they include in an integrated impact assessment. Mostly, they collate separate assessments in one document, rather than produce a truly integrated analysis of impacts. There is no specific guidance to support public bodies in conducting integrated impact assessments. Many equality officers would welcome clearer guidance from the Welsh Government about its expectations.

Council Response: We have developed an Integrated Impact Assessment (IIA) process. Our Integrated Impact Assessment was designed to meet the requirements of existing and new Welsh legislation such as the Public Sector Equality Duty, the Well Being of Future Generations Act (2015) and the new Socio-economic duty (2021). Our IIA process also takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers and the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language. We have received positive feedback from officers on our new IIA process.

Area 4: Better and more timely identification of the practical impacts of decisions on people and how different protected characteristics intersect

WAO findings: In general, public bodies tend to identify negative impacts that they need to mitigate where possible. They are less likely to identify potential ways that the policy or practice could positively promote equality of opportunity and cohesion, even though this is a requirement of the PSED. Few public bodies have fully grasped the complexity of identifying likely impacts of policies and practices. None of the EIAs we looked at considered what is known as ‘intersectionality’; the way that different protected characteristics combine.

Many public bodies are thinking about how to identify the cumulative impacts of multiple decisions but few are doing so. Most do not have supporting systems that would enable those conducting EIAs to access the information needed about other decisions.

Most public bodies’ formal processes and guidance say they will start thinking about impacts very early in the policy development process. However, many of the equality officers recognised that in practice EIAs often start late in the process, sometimes very shortly before a decision is due to be taken. This reduces the scope to shape the policy or practice and to mitigate impacts

Council Response: Within our IIA process we look at both positive and negative impacts and ensure that we are meeting our duty to positively promote Equality and Diversity. Our process also considers intersectionality unlike those looked at within the audit. Cumulative impacts are considered within the process, however as highlighted by Audit Wales, we like others,

do not have the systems or resources in place to address this fully. There needs to be more guidance and support on how public bodies deal with both intersectionality and Cumulative Impact from the Equality and Human Rights Commission and Welsh Government

A recent Audit Wales report - **Time for Change' – Poverty in Wales**, states that:

“Swansea Council has a comprehensive integrated impact assessment that not only considers in detail the likely impact of a policy decision on the various statutory responsibilities but also includes sections covering:

- involvement activity setting out those the service has engaged with in determining its strategic policy such as partners, service users and those it is co-producing with
- an assessment of the cumulative impact/mitigation to ensure the policy is considered in the round showing how it links across services provided across the council;
- how the council service will monitor and evaluate impact to be able to make changes swiftly; and d an action plan setting out the activities the Council will take as a result of the Integrated Impact Assessment. “

Area 5: More engagement and involvement of people with protected characteristics

Audit Wales findings:

We found that where public bodies seek views these often form part of a broader open consultation rather than focussing on specific groups with protected characteristics. Some third sector organisations said that listening to people with protected characteristics was the action that would most improve EIAs

Council Response: Our IIA process has ensured that involvement and engagement activity is integral to assessing impact. Officers are guided to identify those the initiative will have the most impact on and engagement activity planned affectively. This is supported by our Consultation and Engagement Strategy, a revised version is currently out for pubic consultation.

Area 6: Better monitoring of the actual impacts of policies and practices on people

Audit Wales findings:

Public bodies need to do more to monitor the impact of policies or decisions on protected groups. Equality officers at individual public bodies identified very few examples of public bodies monitoring the actual impacts of a policy or decision once implemented. Those examples put forward generally reflected broader monitoring of a policy's objectives rather than whether the impacts identified in the EIA materialised or whether there were other unanticipated impacts.

Council Response: Each IIA sets out how the council service will monitor and evaluate impact to be able to make changes swiftly; and an action plan setting out the activities the Council will take as a result of the Integrated Impact Assessment. As Audit Wales have identified, we like others, do not have the systems or resource in place to track these actions and ensure activity has taken place. Further guidance and support is needed in this area from EHRC and Welsh Government.

Area 7: A shift in the mindsets and cultures to move EIA away from being seen as an add-on ‘tick box’ exercise

Audit Wales findings:

Audit Wales found that there had not been a sufficient change in the mindset and culture in public services to put issues of equality at the heart of policy making. The mindset revealed by the EIA was often defensive: using EIAs to prove the body had paid due regard to equality in case of political or legal challenge. Often, the EIA seems like an additional ‘tick box’ exercise to be complied with rather than a tool to promote equality.

Council Response: We have tried to ensure that our IIA process provides opportunities to highlight positive impacts, clear opportunities for mitigations and is used to inform the decisions we make. We are also very clear, in our guidance and approach, that there is a legal duty to pay due regard to the Equality Act 2010. Our corporate reporting process ensures that the IIAs are considered within the decision making process.

3. Conclusions

- 3.1 As a council we have a robust and comprehensive IIA process in place. There are some areas where improvements could be made, subject to resource or digital solutions.
- 3.2 Its clear from Audit Wales report that other organisations have similar issues to us here in Swansea.
- 3.3 We are continually reviewing our IIA process for any opportunities to improve. We will consider any further guidance or legislation that comes from Welsh Government or EHRC as a result of this Audit.

4. Integrated Assessment Implications

- 4.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.
- Deliver better outcomes for those people who experience socio-economic disadvantage
- Consider opportunities for people to use the Welsh language
- Treat the Welsh language no less favourably than English.
- Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

4.2 The Well-being of Future Generations (Wales) Act 2015 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.

4.3 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also considers other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.

4.4 An IIA Screening Form has been completed with the agreed outcome that a full IIA report was not required for the following reasons:

- This is a report to share information. The summary of impacts is low. No mitigation is required.

5. Financial Implications

5.1 There are no financial implications associated with this report.

6. Legal Implications

6.1 There are no legal implications associated with this report.

Background papers: None

Appendices:

Appendix A – IIA Screening Form