Equality Impact Evaluation

The Government of Jersey is committed to improving diversity, equality and inclusion in its decision-making. Government policy can impact people in a variety of ways and some groups more than others. As a policymaker, it is important that you think through the impact your proposals could have on equalities and explain this in your policy submission. This guidance will help you do this in four clear steps.

1. Know the diversity characteristics

When thinking about who could be impacted by your policy, you should be aware of the variety of diversity characteristics that exist.

Characteristics recognised in law are known as **protected characteristics**. This means it is illegal to discriminate against them. There are 7 in Jersey:

- **Race:** Colour, nationality, national origin and ethnic origin.
- **Sex:** Female, male and intersex.
- **Sexual orientation:** Gay/lesbian, heterosexual, bisexual or any other sexual orientation.
- **Gender reassignment:** A person proposing to undergo, is undergoing or has undergone a process of changing their gender.
- **Pregnancy and maternity:** Women who have been or may become pregnant.
- **Age:** Applies to everyone though it is especially important to consider those who are underaged or elderly.
- **Disability:** Includes mental and physical disabilities. A practical guide about this characteristic can be found here.

More information about these characteristics and the discrimination law in Jersey can be found here.

There are also characteristics that are not recognised in law but still important to know of. These include:

- **Socioeconomic background/class:** An individual's income, education, occupation, living conditions and those of their parents. It is a key determinant of life chances.
- **Religion or belief:** Includes having any religion or no religion. Belief includes having any religious or philosophical belief or no belief.
- **Carer status:** This relates to the disability and age protected characteristics. It concerns individuals who care for disabled or elderly people.

An individual's identity can be made up of a combination of diversity characteristics. These can create different types of discrimination and privilege. This is known as **intersectionality**.

2. Consider which characteristics are relevant and why

Some diversity characteristics may be impacted more by your policy than others. You will need to identify which characteristics are relevant by considering what impact your policy could have on them. You can do this in a variety of ways:

- Government data on population characteristics can be used to identify the diversity characteristics people in Jersey have. The 2021 census contains the most up to date data except for religion – the most recent data collected on this was in the Opinions and Lifestyle Survey 2023 Report.pdf (gov.je)
- Work done previously may be helpful, especially if you are new to the policy area. Evidence about how people with diversity characteristics have been impacted by past policies could inform your policy.
- External research can provide insights into the diversity characteristics. The Jersey Community Relations Trust and Pw5C share research on equality matters locally. In the UK, the House of Commons Library, Equality and Human Rights Commission and Equality Trust publish a variety of research. It is important that you consider the reliability and objectivity of research to ensure it is of good quality. Check with statisticians to make sure they agree with any external research findings you want to refer to.
- Get professional advice from internal experts. Law Officers can provide legal advice on how policies could relate to diversity characteristics. Statisticians can provide advice on how you can use data to identify relevant diversity characteristics for your policy and how they may be impacted.
- Where appropriate, engage policy stakeholders. They may have useful insights about how people with diversity characteristics have been impacted by past policies and can provide views on what impact your policy could have. Engagement can range from a simple meeting with a key stakeholder to a detailed consultation. If you are running a public consultation, do this at the formative stage of developing your policy.
- Speak to diversity experts in government. The People Hub can signpost to advice on the diversity characteristics. Diversity staff networks may be able to offer views on policies based on lived experiences of having diversity characteristics.

Remember, equality impacts us all. Everyone has at least 4 of the protected characteristics (race, sex, sexual orientation and age). It is important that you do not make assumptions about who could be impacted by your policy. Speak with experts, do your research and use available data to build an evidence-based understanding.

Use these questions to help you think about impact:

Is there any evidence that those with different protected characteristics have different needs or issues in relation to your policy?
In some cases, your policy may have no measurable impact on different characteristics. This could be because you are only making a small change or the policy does not have an equalities angle.

How many people in a particular characteristic will your proposal likely impact?

Consider the overall population of that characteristic and subgroups. Will your policy impact everyone with that characteristic or just subsections? For example, if you are working on schools policy, consider the age groups of pupils that your policy would impact. Consider short (learning that year), medium (learning over the next few years) and long term (development into adulthood) impact.

What impact could your policy have on discrimination?

Discrimination can be **direct** or **indirect**. In Jersey law, direct discrimination occurs when one person treats another less favourably because of a protected characteristic. For example, refusing to serve someone at a customer service centre because of their race.

Indirect discrimination happens when an unjustifiable 'provision, criterion or practice', although applied to everyone, causes a particular disadvantage to people who share a protected characteristic. For example, a customer service centre's policy of providing advice in person only, not by phone or email, may put people with a disability at a disadvantage if they can't leave their homes to travel to the centre.

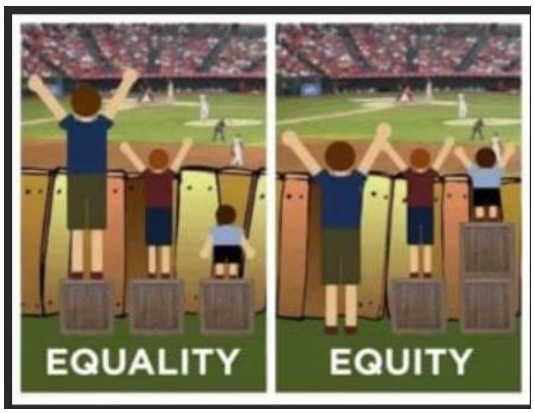
Your policy must not directly discriminate against someone, but there are circumstances where it may be appropriate to indirectly discriminate. Indirect discrimination is lawful if the provision, criterion or practice is a justifiably 'proportionate means of achieving a legitimate aim'. For example, means testing a public service to target resources or positive action such as gender equal boards could be legitimate indirect discrimination.

The greater the disadvantage caused to the equality group in question, the more compelling the reason for the provision, criterion or practice must be. One important factor to consider is whether the same aim can be achieved in a less discriminatory way. For further advice on what is justifiable, speak to the Law Officers Department.

What impact could your policy have on equality of opportunity?

Equal opportunity is about helping everyone to have a fair chance to succeed in life. Where possible, a policy should seek to advance equality of opportunity between those who share a diversity characteristic and those who do not.
Consider whether your policy:

- Removes or minimises disadvantage suffered by equality groups.
- Takes steps to meet the needs of equality groups.
- Encourages equality groups to participate in public life or any other activity where participation is disproportionately low.



Positive action may be required to foster equality of opportunity in certain situations. For example, a disabled person may require more favourable treatment so they can access a service.

When thinking about equal opportunity, it is important to consider socioeconomic background. Social and economic disadvantage significantly impacts life outcomes. For example, data from the UK shows that by the age of three, poorer children are estimated to be, on average, nine months behind children from more wealthy backgrounds in their education.

What impact will your policy have on relations with any equality groups?

Building and maintaining positive relations with equality groups is important to the Government of Jersey. You should consider how you will communicate your policy, how this will be viewed by those with relevant diversity characteristics and what impact that could have on the Government's reputation. Speak to the communications team for advice.

3. Identify actions you can take to mitigate or enhance impacts

Once you have identified which characteristics are relevant to your policy, you should consider what actions you could take to have a positive impact on them.

This includes mitigating against an impact that could cause indirect discrimination or harm equality of opportunity. It could also mean enhancing an impact that would reduce indirect discrimination or advance equality of opportunity.

Think about the goal of your policy – what does your Minister want to achieve? What trade-offs or changes may they be willing to accept to better the impact your policy will have on equality groups?

Some policies will be easier to change than others. If you are working on regulations, consider what the real-world implications could be and whether they could violate discrimination law. Take legal advice on whether any changes need to be made to how a regulation works to prevent discrimination.

If you are working on an operational policy (to reform or create a public service), consider the following questions:

- Could you provide a lower standard of service to meet the needs of more users?
- Could you offer a service on different terms to avoid negative impacts or enhance positive impacts?

4. Explain how you have considered equality impact in your submission

If your policy has a notable impact on relevant characteristics, you need to explain this to the Minister.

In your ministerial submission, you should explain what the impact could be using the evidence you have collected in step 2. Mention key points in the *[Rights / Impact]* part of the 'relevant considerations' section of the submission and put any additional evidence that would be helpful to know in the 'annex' section.

If you have identified potential mitigations/enhancements from step 3, you can explain them in the *[Rights / Impact]* part of the 'relevant considerations' section. If they could have significant implications to how your policy works, then you should mention them in the 'background'. This is especially true if you are offering your Minister options for a policy – it

should be clear for them to see how the actions you are proposing will impact different options (financial/resource costs, timeframes, legal considerations, how it will be communicated etc.).