

G54 – Equality and Diversity Procedure

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1.0 Introduction

ARK is committed to encouraging diversity and eliminating discrimination by providing equality of opportunity for all. Throughout ARK there will be a consistent approach in promoting equality and diversity across all areas of service delivery, including Housing, Care and Support, and the entire employment relationship from recruitment to termination and references.

This procedure supports ARK to eliminate discrimination by and towards members of the public, Board of Management Members, contractors and staff from other agencies. ARK opposes all forms of unlawful discrimination in relation to its activities

All employees are required to abide by this procedure, as well as ARK's Equality Policy G34.

2.0 Background

Tackling inequality is not something new. As the government continues to tackle discrimination and promote equality a number of new and updated pieces of legislation have come into force in recent years, most significantly the Equality Act 2010 (The Act). As a result it is vital that ARK has an Equality Policy, and supporting Equality and Diversity Procedure, to illustrate its compliance with legislation and also support the government's policy aim of promoting a culture of dignity and respect for all, and eliminating discrimination.

2.1 The 9 Protected Characteristics

The Equality Act 2010 relates to everyone, as all people will have one or more of the 9 'protected characteristics' which the act refers to. The protected characteristics, together with further information on their meaning within the Equality Act 2010 are:

Age

A person belonging to a particular age (for example 32 year olds) or range of ages (for example 18 to 30 year olds).

Disability

A person has a disability if she or he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities. Disability includes people with physical, learning and sensory disabilities, people with a long-term illness, and people with mental health problems.

Race

This refers to the protected characteristic of race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

Religion and Belief

Religion refers to any religion, including a lack of religion. Belief refers to any religious or philosophical belief and includes a lack of belief. Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

Sex (Gender)

A man or a woman, both males and females are protected under the Act.

Pregnancy and Maternity

Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

Sexual Orientation

Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes. The Act protects lesbian, gay, bisexual and heterosexual people.

Gender Reassignment

The process of transitioning from one gender to another.

Marriage and Civil Partnership

Marriage is a union between a man and a woman or between a same-sex couple.

Same-sex couples can also have their relationships legally recognised as 'civil partnerships'. Civil partners must not be treated less favourably than married couples (except where permitted by the Equality Act).

2.2 Ensuring Non-discrimination in ARK

Lack of equal opportunities is not only a serious moral issue but also has a significant impact on business performance. Studies have shown that high levels of motivation are achieved in an environment of respect and fairness. ARK will ensure that all employees, Board of Management members, tenants, people who use our services, contractors, members of the public and others with whom we work will be treated with fairness and respect and will not be unlawfully discriminated against on the grounds of the protected characteristics stated above.

ARK will also ensure that individuals are not discriminated against on the basis of other people's perceptions in relation to these protected characteristics and that individuals are not discriminated against due to an association with someone to whom a specific protected

characteristic would apply. ARK will ensure all employees are provided with equality of opportunity in the course of their employment.

3.0 Key Principles

This Equality and Diversity Procedure will:

3.1 Integration into Our Work

Ensure integration of equality and diversity practices into everything ARK does, and ensure that employees, tenants and people who use our services are treated with fairness and respect from each other and from members of the public, Board of Management members, contractors and staff.

3.2 Employment Practices

Require ARK to implement fair and just employment practices ensuring that no job applicant or employee will receive less favourable treatment on the grounds of the protected characteristics as stated above. ARK will also aim to ensure that individuals are not discriminated against on the basis of other people's perceptions in relation to these protected characteristics and that individuals are not discriminated against due to an association with someone to whom a specific protected characteristic would apply.

3.3 Allocation Practices

Require ARK to implement fair and just allocation practices ensuring that no application for housing and/or support receives less favourable treatments on the grounds of the protected characteristics as stated above. ARK will also aim to ensure that individuals are not discriminated against on the basis of other people's perceptions in relation to these protected characteristics and that individuals are not discriminated against due to an association with someone to whom a specific protected characteristic would apply.

3.4 Contractors

Require ARK to implement fair and just practices ensuring that all contractors applying to be entered onto relevant ARK Providers lists have their own Equal Opportunities policy statement and can demonstrate that they operate and adhere to their own equal opportunities principles at all times.

3.5 Promotion

Ensure people are recruited and employees promoted solely on the basis of their own merit, experience, ability and potential. This applies throughout the entire duration of employment as all decisions will be based on only relevant merits.

3.6 Culture of Dignity, Equality and Diversity

Provide an environment appropriate to the needs of those from all walks of life, and offer a culture that respects and values each other's differences and promotes dignity, equality and diversity.

4.0 The Public Sector Equality Duty

Within the Act is a section dedicated to the public sector, and the Public Sector Equality Duty. ARK receives a significant amount of funding from the public sector, and is therefore included in this definition, and the duty applies to ARK. Through our policy, procedure, Equality Impact Assessment (see below) and relevant training, we will ensure that equalities should be a key component of our work and not an afterthought.

4.1 The Public Sector Equality Duty Defined

The Public Sector Equality Duty places an obligation on ARK's Board of Management and all ARK employees to give due regard, or to consciously consider, the need to:

1. Eliminate discrimination, harassment and victimisation;
2. Advance equality of opportunity between those who have protected characteristics and those who don't; and
3. Foster good relations between those who have protected characteristics and those who don't.

The Public Sector Equality Duty does not prevent ARK from making difficult decisions, nor does it prevent ARK from making decisions which affect one group more than another

5.0 Equality Impact Assessments

The key tool which ARK will use to meet its obligations in terms of the Equality Policy and this procedure will be an Equality Impact Assessment (EIA).

5.1 Definition of EIA

An EIA is a tool to assess the impact that a proposed activity will have on the different protected groups. An EIA should be carried out at the start of an activity. It is essential for us to monitor the development of an 'activity' to ensure that we are considering equality from the outset in ARK.

'Activity' is an umbrella term which could be used to describe introduction or review of policies or procedures, guidance, decisions or when significant changes (including budget considerations) are being made at the start of an activity.

5.2 Materials and Guidance

ARK has developed the following materials and guidance to support all relevant employees with completions of EIAs:

- Appendix 1- Definition of Key Terms;
- Appendix 2- ARK's EIA Tool;
- Appendix 3- Guidance on how to complete an EIA;
- Appendix 4- Examples of Positive, Negative, Neutral and Unknown Impacts; and
- Appendix 5- Evidence Gathering/ Judgement About Impacts Flow Chart.

6.0 When is an Equality Impact Assessment Required?

Each team and service must decide whether an EIA is required for a particular activity. An EIA will always be required when one or more of the following situations occurs:

- An activity is likely to impact on people with one or more protected characteristics;
- A large number of people who use one of ARK's services are affected;
- There is a change in the way a service is delivered e.g. the way sleepovers are delivered, or payments/ debts are collected, which may have a particular impact on those with protected characteristics;
- An ARK service is withdrawn;
- Conditions or eligibility criteria are imposed e.g. changes to housing eligibility criteria; and
- If there is no information available about whether or not an activity will have an impact, then an EIA is required in order to ensure that evidence will be gathered.

An EIA should be carried out even if the proposed activity has only potential positive impacts on people with protected characteristics.

7.0 When is an Equality Impact Assessment Not Required?

Of course it is not expected that you will prepare an EIA for every piece of work that your team/ service will carry out, as that would be far too onerous. The following are some examples of when an EIA will not be required. Each team and service must decide whether an EIA is required for a particular activity. An EIA will always be required when one or more of the following situations occurs:

- If an activity being taken forward does not have an impact on anyone with a protected characteristic then there will be no need for an EIA. However, we must be able to provide reasons for reaching such a conclusion and be able to produce clear evidence to support this if required;
- When a report is put forward to The Board of Management as a note or update, and there will be no differential impact as a result of the report, on people with protected characteristics. An EIA may not be required, unless an EIA was previously prepared and the impacts identified have since changed. In which case the EIA should be updated and submitted together with the update report;

- Where a proposal is at an early stage and the report is for information only, with a view e.g. to carrying out a consultation at a later stage;
- If an activity is the result of the implementation of legislation and the Scottish Government has already carried out appropriate Equality Impact Assessments. Exceptions include where the implementation has budgetary or staffing implications or where the legislation allows ARK some discretion at operational level; and
- Where a change is being made to management structure unless the change is likely to result in redundancies, or have a differential impact on anyone with protected characteristics.

There will be exceptions to all of the examples provided above and if there is any doubt about whether or not an EIA is required you should discuss this either with the relevant SLT Member or with a member of the Quality and Compliance Team. If it is decided that an EIA is not required, then this decision and its justification will still need to be recorded.

8.0 Recruitment and Selection

It is ARK's goal that all recruitment decisions will be based completely on the merits and abilities of candidates alone and no other criteria will be used. In order to achieve this, equality and diversity practices will be integrated into every stage of the recruitment and selection process.

A fair recruitment process will remove barriers where possible to the employment of people of different backgrounds. This will enable the organisation to recruit from the widest pool of talent, potentially raising the standard of their intake and therefore increasing the opportunity of a more diverse workforce, which reflects the community it is serving. A more diverse workforce should improve the organisation's service delivery, as it will include staff with more knowledge and experience about meeting the needs and aspirations of service users and potential service users.

To highlight ARK's commitment to promoting equality and diversity from the beginning of the employment relationship, all vacancies will be aimed at as wide a group as possible and any advertisement for a vacancy within ARK will state that an Equality Policy is in place. In addition, the advert will also display the signs of any equality bodies with whom ARK is affiliated. The information contained in the advert and all vacancy literature will be clear and accurate to attract the most appropriate candidates from all groups across society, to allow them to decide their own suitability for the vacancy and whether they wish to proceed with applying. For those that wish to apply, ARK will ensure that all applications will have clear instructions for completion and application forms will be free from personal questions that are not relevant to the vacancy and which may lead to discrimination.

ARK will ensure that its Equality Policy is available to all applicants and will ensure that it can be accessed by candidates through the ARK website.

In line with the Equality Act 2010 ARK will not require employees to submit any information in relation to their health prior to an offer of employment being made.

ARK has implemented Safer Recruitment Guidance from the Scottish Government, which will ensure that those involved in the recruitment process will not discriminate either knowingly or unknowingly by asking any questions which may lead to discrimination.

9.0 Terms and Conditions of Employment

As part of the employment relationship being covered under this Equality and Diversity procedure all contracts of employment will be issued in accordance with the job role and not the job holder. Employee's terms and conditions do not discriminate directly or indirectly between employees on the grounds of the protected characteristics as set out above. Employees will not receive less favourable terms and conditions for any reason.

10.0 Learning and Development

Equality and Diversity will apply throughout all training activities and resources. Training and development opportunities will be given to all employees according to their job role through their line manager. It is crucial that all employees are able to participate and enjoy any training opportunities or activities without discrimination or fear of harassment. Every attempt will be made to ensure that learning materials provide a positive image of reinforcing equality of opportunity.

11.0 Redundancy and Selection

Redundancy selection will be made according to the statutory requirements and in line with ARK's Redundancy Policy. Criteria will be discussed with the recognised Union and or nominated representatives. The criteria will be set out and will be objectively fair and consistent. This will ensure that employees selected for redundancy are selected according to the chosen selection criteria and not in any discriminatory way either indirectly or directly.

12.0 Service Delivery- Housing and Support

Allocations and service delivery will be monitored to ensure that discrimination does not take place. The Housing Services Department will work to ensure that:

- All groups have equal access to all of ARK's housing;
- General membership and Board of Management is as representative as possible of all sections of the community in our area of work;
- They consult with current and prospective tenants to provide appropriate housing and a suitable environment, being sensitive to religious and cultural needs, family responsibilities, needs of those with disabilities and those with language difficulties;

- Tenants will be provided with full, clear and accurate information about their particular tenancy in compliance with the law and good practice guidelines;
- Tenancy agreements will not contain any unduly restrictive or unnecessary conditions;
- No communication barriers are put in place or maintained;
- ARK works towards providing materials in suitable formats e.g. computer disc, Braille, video, tapes, community languages etc;
- All ARK application forms will be jargon free and help will be given where appropriate in completing forms etc;
- ARK will facilitate and provide where appropriate advocacy and translation facilities;
- ARK will seek to ensure that all new developments are barrier free and meet agreed minimum standards to allow tenants to reduce their dependence on others and maximise choice in their daily life, and will where appropriate, make adjustments / adaptations within existing properties, to ensure that they meet these criteria;
- ARK will ensure that properties are kept in good repair and that installations are in proper working order, however where cause for complaint arises, attention will be paid to tenants' complaints concerning disrepair and service provision, including seeking to ensure that tenants are able to report their complaints in their own language;
- Tenants will receive the same quality of service but ARK will be mindful of more vulnerable groups who may be given priority; and
- Rent arrears will be dealt with fairly and sensitively. ARK will have policies and procedures highlighting the importance of arrears prevention and action for control and recovery.

12.1 Housing Specific Standards

Where nomination agreements exist with Local Authorities nominations will be accepted according to ARK's policies. ARK will monitor the nominations arrangement for accessibility to all.

All selection and allocation procedures will be dealt with in a non-discriminatory manner and will be dealt with fairly and quickly on the basis of greatest need taking account of housing, social and medical factors.

12.2 Support Specific Standards

Within the housing allocation framework, applicants will be allocated a place on the basis of appropriate assessments with supporting finance, an ARK assessment and supported tenant consultation.

Criteria used in making decisions relating to supported tenant selection will be determined by the needs of the individual and the recommendations of the above. Criteria will be monitored to ensure that it is justifiable and appropriate to the individual and to ARK.

Good life plans will be developed and implemented for all supported tenants and day services' clients based on individual need, using an appropriate framework.

As an employer, ARK will comply with the Code of Practice for Employers of Social Service Workers as directed by the Scottish Social Services Council.

As an employer, ARK will ensure that all relevant employees work to and comply with the Code of Practice for Social Service Workers as directed by the Scottish Social Services Council.

13.0 Contractor Compliance

All contractors applying to be entered onto relevant ARK Contractors' lists must comply with relevant health and safety, employment and equal opportunities legislation.

ARK will implement fair and just practices ensuring that all contractors applying to be entered onto ARK's relevant providers' lists have their own Equal Opportunities policy statement and can demonstrate that they operate and adhere to their own equal opportunities principles at all times.

Any harassment or discrimination by contractors will lead to investigation. Persistent misdemeanours or breaches of policy will lead to a contractor's removal from the relevant list(s).

14.0 Discrimination Involving ARK Employees or Board Members

Where an employee feels they have been discriminated against, they should consider raising the issue in accordance with ARK's Grievance Policy- HR19.

Where a member of ARK's Board of Management feels they have been discriminated against, they should consider raising the issue in accordance with ARK's Grievance Policy- HR19, if the alleged discriminatory behaviour was by an ARK employee. If the alleged discriminatory behaviour was by another member of the Board of Management, they should consider raising the issue in accordance with the Code of Conduct for Board of Management Members- G02.

This procedure is complemented by ARK's Dignity and Respect at Work Policy – HR16. For further details please refer to the policy.

15.0 Discrimination Involving Members of the Public, Contractors or Staff from Other Agencies

The right to be treated equally with dignity and respect extends to members of the public, outside contractors, and other agencies whilst at work. Anyone in these groups can complain to ARK if they feel that they have been discriminated against, in accordance with

ARK's Complaints Policy- G12, and the complaint will be investigated by ARK and appropriate action will be taken.

In cases where the alleged discrimination involves contractors or staff from other agencies, in the event that following investigation the complaint is upheld, the relevant ARK manager will contact the appropriate senior person within the company/ organisation concerned to advise them that this type of behaviour is unacceptable and that if it is repeated then the individual concerned may be refused entry to organisation premises, or other appropriate action may be taken in accordance with ARK's Unacceptable Actions Policy- G32.

16.0 Implementation and Review

16.1 Implementation

Every person is responsible for the procedure's day-to-day implementation. ARK will ensure that all new employees and Board of Management members will receive induction on the Equality Policy and this procedure. The policy and procedure will be widely promoted and integrated into all policies and procedures within ARK. Copies of the policy will also be freely available and displayed on the ARK website and in ARK's offices.

Appropriate training and guidance will be available to promote equality and diversity among existing staff.

This procedure applies to everyone in ARK and all have a responsibility to be alert to discriminatory behaviours and practices when they occur. Unacceptable behaviour and practices must not occur, however if or when a situation arises, it will be dealt with immediately, as inaction is not an option. Breaches of the Equality and Diversity Policy will be regarded as misconduct and will lead to disciplinary action, which may include dismissal.

Responsibility for monitoring the application of this procedure will rest with the Senior Leadership Team of ARK.

16.2 Review

The procedure will be reviewed regularly as necessary, and in any event not less than every three years. Relevant terms of ARK's Equality Policy, and this procedure, will also apply to all Policies and Procedures written by and in place in ARK.

Appendix 1 – Definitions of Key Terms

Diversity

Diversity is about valuing individual differences. ARK is committed to valuing and managing people's differences to enable all employees to contribute and realise their full potential. ARK recognises that people with different backgrounds, skills, attitudes and experiences can bring fresh ideas and perceptions that will benefit ARK as well as promote respect for all clients.

Equality

Is making sure people are treated fairly and given fair chances. Equality is not about treating everyone in the same way, but recognises that their needs are met in different ways. Equality focuses on those areas covered by the law, namely the protected characteristics as stated in Section 3.2.

Disability

A person is disabled if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. There is a duty on employers to make reasonable adjustments to help staff overcome disadvantage resulting from impairment. There is a protection from discrimination arising from disability. It is discrimination to treat a disabled person unfavourably because of something connected with their disability, for example a tendency to make spelling mistakes arising from dyslexia. This type of discrimination is unlawful where the employer or other person acting for the employer knows, or could reasonably be expected to know, that the person has a disability. This type of discrimination is only justifiable if an employer can show that it is a proportionate means of achieving a legitimate aim.

Failure to make Reasonable Adjustments

Reasonable adjustments remove or minimise disadvantages experienced by disabled people. Employers such as ARK must make reasonable adjustments to ensure disabled people are not disadvantaged in the workplace. They should also make sure policies and practices do not put disabled people at a disadvantage. If arrangements disadvantage an individual because of a disability and reasonable adjustments are not made to overcome the disadvantage, this could be considered to be a failure to make reasonable adjustments.

Direct Discrimination

Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have (see 'Discrimination by Association' below) or because they associate with someone who has a protected characteristic (see 'Indirect Discrimination' below).

Indirect Discrimination

Indirect discrimination can occur when you have a condition, rule, policy or practice that applies to everyone but particularly disadvantages people who share a protected characteristic. Indirect discrimination can be justified if you can show that you acted reasonably i.e. that it is “a proportionate means of achieving a legitimate aim”. A legitimate aim might be any lawful business decision but if there is a discriminatory effect, the sole aim of reducing costs is likely to be unlawful. Being proportionate means being fair and reasonable, including showing that “less discriminatory” alternatives to any decision made have been examined.

Discrimination by Association

This is direct discrimination against someone because they associate with another person who possesses a protected characteristic. An example of discrimination by association might be a non-disabled employee who is discriminated against because of action he/she needs to take to care for a disabled dependant. Discrimination by association applies to the following protected characteristics: age, disability, gender reassignment race, religion or belief, sex and sexual orientation.

Discrimination by Perception

Discrimination by perception is direct discrimination against a person because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic. Discrimination by perception applies to the following protected characteristics: age, disability, gender reassignment, race, religion or belief, sex and sexual orientation.

Harassment

Harassment is “unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual”. Harassment applies to all protected characteristics except for pregnancy and maternity and marriage and civil partnership.

Third Party Harassment

Organisations may become potentially liable for harassment of employees by other people (third parties) who are not employees such as customers or clients. Third party harassment applies to the following protected characteristics: sex, age, disability, gender reassignment, race, religion or belief and sexual orientation.

Victimisation

Victimisation occurs when a person is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act; or because they are suspected of doing so. A person is not protected from victimisation if they have maliciously made or supported an untrue complaint.

Positive Action

Positive action can be taken if it is considered that employees or job applicants who share a particular protected characteristic suffer a disadvantage connected to that characteristic or if their participation in an activity is disproportionately low. For example addressing imbalances in the workforce, by encouraging members of under represented groups to apply for jobs. Positive action may be applicable in setting equality targets to encourage people from a particular group or groups to apply for a vacancy in ARK in comparison to the local community where they are under represented.

Appendix 2 – ARK Equality Impact Form

EQUALITY IMPACT ASSESSMENT

Stage 1: Title and aims of the activity (“activity” is an umbrella term covering policies, procedures, guidance and decisions).	
Service/ Team	
Title of the activity etc.	
Type of Activity	
Aims of the activity	
Author(s) & Title(s)	

Stage 2: List the evidence that has been used in this assessment.	
Internal data (customer satisfaction surveys; equality monitoring data; customer complaints).	
Internal consultation with staff and other services affected.	
External consultation (partner organisations, community groups etc).	
External data (census, available statistics).	

Other (general information as appropriate).	
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Stage 3: Evidence Gaps.

Are there any gaps in the information you currently hold?	
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Stage 4: Measures to fill the evidence gaps.

What measures will be taken to fill the information gaps before the activity is implemented? These should be included in the action plan at the back of this form.	Measures:	Timescale:

Stage 5: Are there potential impacts on protected groups? Please complete for each protected group by inserting “yes” in the applicable box/boxes below.

	Positive	Negative	Neutral	Unknown
Age – Younger				
Age – Older				
Disability				
Race – (includes Gypsy Travellers)				
Religion or Belief				
Gender – male/female				
Pregnancy and maternity				
Sexual orientation – (includes Lesbian/ Gay/Bisexual)				
Gender reassignment – (includes Transgender)				
Marriage and Civil Partnership				

Stage 6: What are the positive and negative impacts?		
Impacts.	Positive (describe the impact for each of the protected characteristics affected)	Negative (describe the impact for each of the protected characteristics affected)
Please detail the potential positive and/or negative impacts on those with protected characteristics you have highlighted above. Detail the impacts and describe those affected.		

Stage 7: Have any of the affected groups been consulted?	
If yes, please give details of how this was done and what the results were. If no, how have you ensured that you can make an informed decision about mitigating steps?	

Stage 8: What mitigating steps will be taken to remove or reduce negative impacts?		
	Mitigating Steps	Timescale
These should be included in any action plan at the back of this form.		

Stage 9: What steps can be taken to promote good relations between various groups?

These should be included in the action plan.	
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Stage 10: How does the policy/activity create opportunities for advancing equality of opportunity?

Stage 11: What equality monitoring arrangements will be put in place?	
These should be included in any action plan (for example customer satisfaction questionnaires).	

Stage 12: What is the outcome of the Assessment?		
Please complete the appropriate box/boxes	1	No negative impacts have been identified –please explain.
	2	Negative Impacts have been identified, these can be mitigated - please explain. * Please fill in Stage 13 if this option is chosen.
	3	The activity will have negative impacts which cannot be mitigated fully – please explain. * Please fill in Stage 13 if this option is chosen

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* Stage 13: Set out the justification that the activity can and should go ahead despite the negative impact.

Stage 14: Sign off and authorisation.				
Sign off and authorisation.	1) Service/ Team			
	2) Title of Policy/Activity	(if appropriate)		
	3) Authors: I/We have completed the equality impact assessment for this policy/ activity.	Name:	Name:	
		Position:	Position:	
		Date:	Date:	
		Signature:	Signature:	
		Name:	Name:	
Position:		Position:		
	Date:	Date:		
	Signature:	Signature:		
4) Authorisation by Director or Head of Service	Name:	Name:		
	Position:	Position:		
	Date:	Date:		
5) If the EIA relates to a matter that has to go before the Board or a Sub-Committee, this form, and any supporting assessment documents, should be submitted alongside the relevant paper.			Date:	
6) EIA author sends a copy of the finalised form to ARK's Quality and Compliance Team			Date:	

Appendix 3- How to complete an EIA

Here are the various stages of ARK's EIA, which will be considered in more detail below:

Stage 1: Title and aims of the activity.

Stage 2: List the evidence that has been used in this Assessment.

Stage 3: Evidence Gaps.

Stage 4: Measures to fill the evidence gaps.

Stage 5: Are there potential impacts on protected groups?

Stage 6: What are the positive and negative impacts?

Stage 7: Have any of the affected groups been consulted?

Stage 8: What mitigating steps will be taken to remove or reduce negative impacts?

Stage 9: What steps can be taken to promote good relations between various groups?

Stage 10: How does the policy/ activity create opportunities for advancing equality of opportunity?

Stage 11: What equality monitoring arrangements will be put in place?

Stage 12: What is the outcome of the Assessment?

Stage 13: Set out the justification that the activity can and should go ahead despite the negative impact.

Stage 14: Sign off and authorisation.

Action Plan

Stage 1: Title and aims of the activity

The first section of the EIA is one of the most important as this is where you will set the scene of the current situation and outline your plans for the proposed activity.

AUTHOR

Make sure that the EIA is carried out by someone who is familiar with the Service and the people who use the service. A sound understanding of the Service will assist you in assessing how the proposed activity will impact upon people with protected characteristics.

AIMS

Your aims will be the first thing that people see when they read the EIA so take some time to ensure that they are very clearly stated in sufficient detail. This will help the reader to put the activity into context.

AIMS CHECKLIST

1. Briefly describe the current situation.
2. Detail the purpose of the activity.
3. Outline how you will achieve it.
4. Set out the proposed timescale.
5. Briefly summarise the anticipated positive and negative comments.

Stage 2: List the evidence that has been used in this Assessment

Evidence is one of the most important sections of the EIA- this is how you will explain how you made your decision about the proposed activity.

RANGE

A wide range of evidence will help show that you have consciously considered your obligations under the Public Sector Equality Duty. That is the need to eliminate discrimination, advance equality of opportunity and foster good relations between people of the same and differing protected characteristics.

GATHER

You will need to gather all of the information which you have used whilst making your decision. This information will then act as your evidence base which will support the view that ARK has discharged its obligations under the Public Sector Equality Duty.

STRUGGLING TO FIND DATA?

Don't be put off by a lack of data within your team or service. There are a range of sources available online which can help to provide you with information for your EIA. For example, the Scottish Government's Evidence Finder is a very useful source of equality data and holds information relating to all of the protected characteristics.

REMEMBER

It may be relevant to include evidence at Stage 7 in relation to consultation act Assessment which includes additional information.

Stage 3: Evidence Gaps

WHAT IS AN EVIDENCE GAP? Look back at stage 2 and evaluate the gaps in relation to the data that you hold.

GOT AN EVIDENCE GAP?

It is possible that there will be areas where you will find a wide range of data and others where data is not so easy to find. Don't let this put you off.

RECORD IT

Any lack of data will become known as your 'evidence gaps' and should be clearly listed in the EIA.

MEND THE GAP

Whilst having evidence gaps is not desirable, it does not mean that you're unable to comply with legal obligations or that you will be prevented from going ahead with your proposal. On the contrary – listing an evidence gap demonstrates a sound understanding of the effects of your proposal. Your team or service can then work to put measures in place which will help to bridge your evidence gap in future (For more details, see Stage 4). Measures taken to fill information gaps should be included in the Action Plan at the back of the EIA. Please also refer to the 'Evidence Gathering and Making a Judgement about Impacts Flow Chart' at the end of this guidance.

Stage 4: Measures to fill the evidence gaps

CASE STUDY

If you cannot obtain data from other sources, you can conduct your own research. This can be carried out through the use of a survey or a consultation and will allow you to canvass the views of people who use services. This could help you to obtain a clearer understanding of the views and experiences of people with protected characteristics.

CAN'T MEND THE GAP?

If you have worked through the Evidence Gathering and Making a Judgement about Impacts flowchart (see Appendix 5) and have come to the conclusion that the evidence gap cannot be mended it is important to record your reasons for coming to this conclusion in the EIA, and the EIA will still require to be completed.

REMEMBER

Any action included within stage 4 should also be referred to in the Action Plan at the end of the EIA.

Stage 5: Are there potential impacts on protected groups?

NEXT STEPS?

Once all of the evidence has been gathered, you will need to evaluate it in order to make a reasoned judgement about the potential impacts on people with protected characteristics. It is important to consider advancing equality of opportunity and promoting good relations as well as eliminating discrimination.

SO HOW WILL YOU KNOW?

The most likely outcomes will be positive, negative or neutral (see Appendix 4).

If you are struggling with determining the impact, you can refer to the Evidence Gathering and Making a Judgement about Impacts flowchart (Appendix 5).

Stage 6: What are the positive and negative impacts?

Stage 6 of the EIA form directly follows on from stage 5. It is essential that you highlight within Stage 6 the positive and/or negative impacts for each of the protected characteristics that you have identified at Stage 5.

For more information on potential positive and negative impacts please Appendix 4.

Stage 7: Have any of the affected groups been consulted?

DEFINITION

A consultation is all about the dialogue which takes place between the decision makers and the affected people/groups before action is taken. Carrying out a consultation may be necessary when you don't have sufficient information to determine the impact of a proposed activity.

WHY DO WE NEED TO HAVE A CONSULTATION?

1. It can provide the basis for us to take a reasoned and rational decision having fully considered the impact on people who use our services.
2. Beyond being merely a fact finding exercise, it enables the consultees to influence the decision-making process.

REMEMBER

It is important that you keep a sense of proportion - the extent of the consultation depends on the exercise.

KEY REQUIREMENTS OF A CONSULTATION

- Be clear - let people know what you are proposing and why.
- Give sufficient time for responses to be made and considered.
- Take the responses of the consultation into account when making the final decision.
- Ensure it is a fair process.

HOW TO USE CONSULTATION RESULTS?

Ensure that you extract the key findings from the consultation.

CONSIDER THIS

Consultation is an important legal exercise. If teams and services do not adequately include and inform the affected individuals of the proposed action, then ARK could potentially be taken to Court and have the decision set aside.

Stage 8: What mitigating steps will be taken to remove or reduce negative impacts?

DEFINITION

To mitigate means to lessen or reduce an undesirable impact of an action.

REMEMBER

Whilst having negative impacts will not necessarily prevent you from carrying out your proposed activity, you will need to demonstrate that you have taken steps to minimise any adverse impacts on people with a protected characteristic.

As you are completing an EIA it may become clear that there is a way to make the policy better or fairer to a wider group of people or there may be something that can be done to counteract a disadvantage suffered by people with a protected characteristic.

KEEP IN MIND

The EIA form requires you to explore alternative means of achieving the same aim. These alternative means should reduce the negative impact on people with protected characteristic.

MITIGATION IN PRACTICE

If for example, the proposed activity being assessed is a reduction or ending of a service, then it wouldn't be possible to completely remove this negative impact, but it may be possible to lessen the negative effects through mitigation. Possible mitigation could include the team or service taking steps to identify similar services which are offered by other providers, in order to remedy the lack of service being offered by ARK.

REMEMBER

Any action included within Stage 8 should also be referred to in the Action Plan at the end of the EIA.

Stage 9: What steps can be taken to promote good relations between various groups?

When you come to this stage, consider the following questions. Does the activity include scope to:

- Create partnerships between different stakeholder groups?

- Target under represented groups to participate where they otherwise would not?
- Include an initiative within the proposal that demonstrates positive change in building relationships between different stakeholder groups, or within sectors of the community?

If the answers to any of the above questions are 'yes', then please include the relevant information at Stage 9.

REMEMBER

Any action included within Stage 9 should also be referred to in the Action Plan at the end of the EIA.

Stage 10: How does the policy/ activity create opportunities for advancing equality of opportunity?

DEFINITION

Equality of opportunity means that there should be an even playing field. So as a service provider we should be making sure that, wherever possible, everyone is afforded the same chances and opportunities to participate regardless of their protected characteristics.

When you come to this stage, consider the following questions. Does the activity include scope to:

- Remove or minimise the disadvantages suffered by people due to their protected characteristics protected characteristics? Or
- Meet the needs of people with protected characteristics? Or
- Encourage people with protected characteristics to participate in public life or in other activities where their participation is low?

Consider if the proposal addresses under representation of particular protected groups. Is your team or service taking any additional action to ensure that ARK's services are more equally accessible? If so, include the relevant information at Stage 10.

KEEP IN MIND

Stages 9 and 10 give your team or service the chance to promote the positive impacts of your proposal and this opportunity will be particularly relevant if the decision regarding your proposed activity is to be made by ARK's Board of Management.

Stage 11: What equality monitoring arrangements will be put in place?

ARK has legal obligations in respect of equality even after the activity has been implemented.

MONITORING

An EIA is not just an end in itself. Teams and services are required to implement monitoring arrangements which will ensure equalities continue to be considered after the activity has been implemented. You will need to provide details of any monitoring tools identified.

TOOLS

It is up to each team/ service to decide what particular monitoring tools will be most appropriate for each activity. However monitoring tools which are commonly used include customer satisfaction surveys, and evaluation forms.

PROTECTION

The use of the correct monitoring tool will ensure teams and services are demonstrating due regard to the Public Sector Equality Duty throughout the lifespan of the activity. This will form an essential protection against the risk of legal challenge, as it will demonstrate that your team/ service is reacting to equality issues as they arise.

Stage 12: What is the outcome of the Assessment?

From the process so far, and evidence gathered, you should now be aware of any potential negative impacts. You should complete the appropriate box/boxes for each of the negative impacts identified.

REMEMBER

There needs to be a balance between the needs of the team/ service (e.g. improving the efficiency of a service, or adapting to resourcing/staffing issues) and the needs and rights of people who may be adversely affected by the proposal. The team/ service will have to weigh up these competing factors and give its reasons for wishing to proceed with the proposal. It must also explain why there is no other way to achieve the same outcome as that envisaged by the proposal in a more equality-compliant way.

DID YOU KNOW

Just because an activity has a negative impact which cannot be mitigated does not automatically mean that the activity can't go ahead.

Stage 13: Set out the justification that the activity can and should go ahead despite the negative impact

Please note that Stage 13 will only need to be completed if you have filled in box 2 or 3 from Stage 12.

- It is vital that a full and well-reasoned justification is given if a proposal is to go ahead despite the negative impact.

- The justification will need to be recorded in order to show at a later stage that ARK did have due regard to its equality duty, but decided to implement the proposal anyway because equality considerations were outweighed by other factors.
- Ultimately you must ensure that the impact on the affected people who use ARK's services was deemed to be proportionate.

Stage 14: Sign Off and Authorisation

CHECKLIST- Have you:

- Stated your Service and Team?
- Listed the title of the Policy/ Activity
- Provided the author(s) details including signature and date of signature
- Received authorisation and signature from your Director or Head of Service and date of signature

Action Plan

Various stages of the EIA form require you to refer to the Action Plan at the end of the form- (stages 4, 8, 9 & 11).

As we have discussed, the EIA requires teams and services to consider equalities throughout the duration of the proposed activities lifespan. The purpose of the Action Plan is for Services to demonstrate how they will meet their Equality commitments after the proposal has been implemented.

Appendix 4 – Examples of Positive, Negative, Neutral and Unknown Impacts

Positive Impacts

The proposal makes it easier for people with a protected characteristic to find out about the service.

Example (Disability) – If ARK takes the decision to develop and distribute accessible publicity materials, to inform potential users of ARK’s service about what ARK can offer, this will have a positive impact in supporting those with a protected characteristic to find out more about the range of care and support and housing options available to them.

The proposal makes it easier for people with a protected characteristic to use the service.

Example (Disability) – The decision to provide newsletters in easy read and CD format allows more people who use ARK’s services to participate in ARK’s activities by being informed about recent and upcoming events.

Example (Disability) – The installation of a ramp to an ARK office for the purpose of providing access for wheelchair users allows that group to access the office for meetings etc in the same way as everyone else.

Example (Disability) – The venue of a regular Speak Out meeting has been changed. The previous venue did not have adequate facilities for wheelchair users.

Negative Impacts

It is recognised that during the process of carrying out an EIA, some proposals will reveal negative impacts for people with protected characteristics. As has been mentioned, negative impacts will not always mean that a proposal cannot go ahead, so it is very important that teams and services are not reluctant to disclose them. Clearly stating the negative outcomes will demonstrate that you understand the impact of your proposed activity.

The proposal will make it more difficult for people with a protected characteristic to find out about and use the service.

Example (Race/ Disability) – For tenants who don’t speak English as their first language, a service is offered to translate documents so that everyone can access information in a way that they understand. If there were a proposal to make cuts to the budget and reduce or remove this service, this proposal has the potential to isolate and create barriers in accessing services for the protected characteristics of Race and Disability.

The proposal will affect eligibility criteria for the service which may discriminate against people with a protected characteristic.

Example (Disability) – Suppose that access to a service is dependent on eligibility criteria imposed by the local authority, and due to a change in local authority policy many people in receipt of this service are having it removed. This means that there would be a negative impact on people with a disability.

A higher proportion of people with a protected characteristic will be affected by the proposal than those without the protected characteristic.

Example (Disability) – ARK proposes to redevelop a site with a mix of supported and mainstream tenants. The majority of tenants are supported, and consequently this proposal would have a negative impact for disability.

For services with a greater uptake by a group with a particular protected characteristic, that group will be more affected by the proposals than they would be by changes to other services with a more equal take up. For example:

Example (Age, Younger) – There is a proposal to no longer facilitate a monthly social group. It is noted that this will have a higher impact on younger people, as this group is predominantly accessed by younger people who use the service.

If the proposal concerns public premises which should be accessible, and there are not suitable facilities available to people with certain protected characteristics.

Example (Disability) – A proposal to move an ARK office to a building which does not have disabled access. No ramp or lift would create an impediment for people who have limited mobility when accessing these premises.

Neutral Impacts

The negative impact of the proposal will be counteracted by additional support elsewhere.

Example (Disability) – Due to a change in resources, ARK requires to withdraw a service. This will cause a negative impact to the protected characteristic of Disability. ARK recognises this during the decision making process and takes steps to ensure that alternative arrangements have been put in place to guarantee that the service will be provided by another provider.

The method of delivering the service changes, but there is no change to the level of service being delivered.

Example (Disability) – ARK proposes closing a care home where the building is no longer fit for purpose, in order to develop a new building which will better meet the needs of those people using this service.

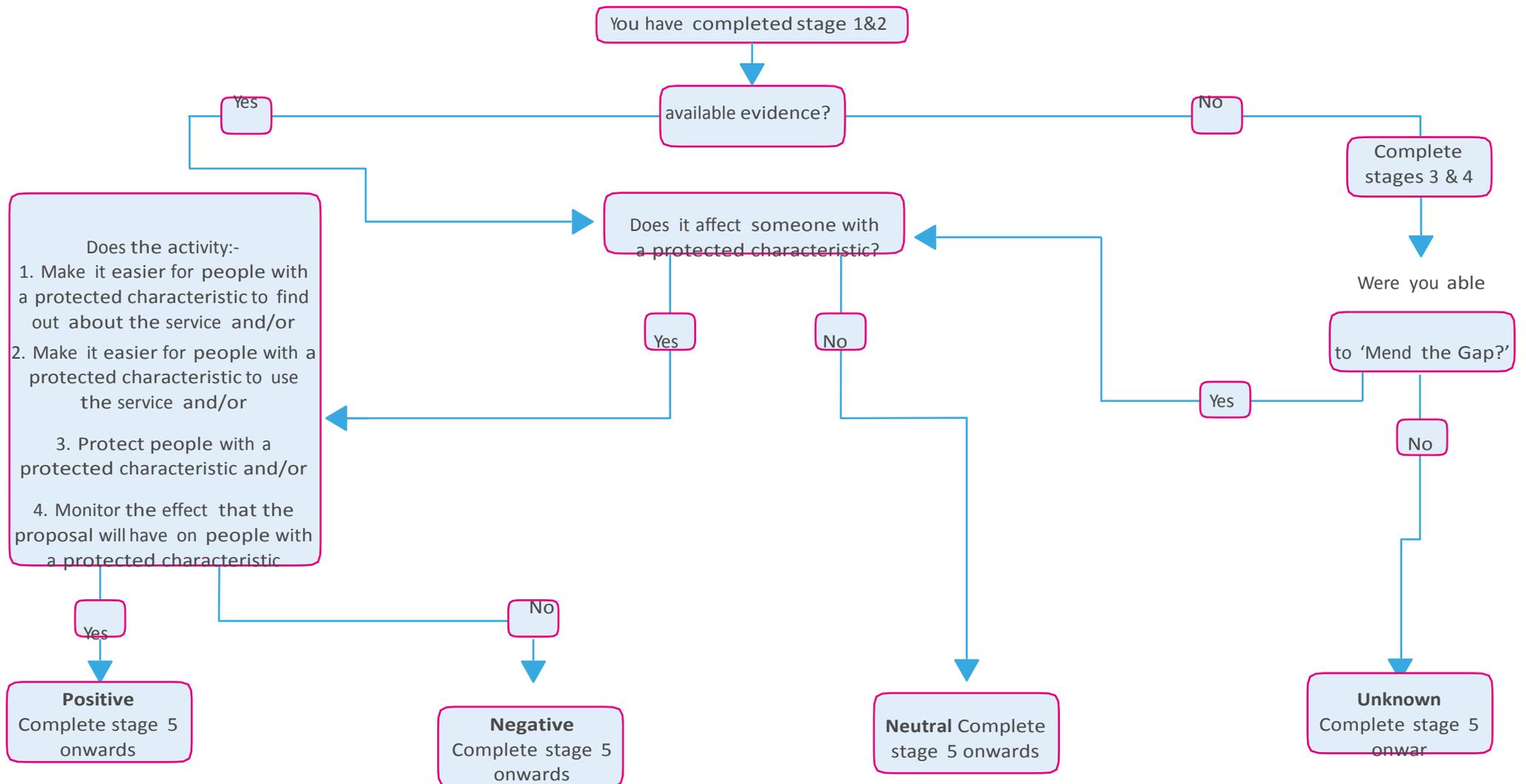
Example (Disability) – There is a change to the structure of an internal service; however this will bear no consequence to the service delivered by the Service to external service users.

Unknown Impacts

It is also possible that the outcome can be unknown. However, it is advised that you avoid the use of 'unknown' wherever possible as this will not evidence a sufficient audit trail in the event of a legal challenge.

In the few cases where there will be a genuine evidence gap, this will be permissible when appropriately recorded at Stage 4 of ARK's EIA. Please note that it will be necessary for you to undertake special measures to remedy this gap. The required measures taken to fill information gaps should be included in Stage 11 and the Action Plan at the end of the EIA.

Appendix 5 – Flow Chart Evidence Gathering and Making a Judgement about Impacts



Some activities have broad aims and as such, there is the possibility that there can be more than one impact. If you suspect that your activity may have multiple impacts then please consider **each aspect** of the activity using this flow chart.

