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Good practice

This report is for information

This document provides practical guidance to HEIs in terms of assessing the impact of their institutional policies. It offers a step-by-step guide to carrying out impact assessments and provides a tool with which HEI staff can not only meet the requirements of legislation but also promote and celebrate equality and diversity in their institution.

Conducting impact assessments for equal opportunities in higher education

A guide to good practice



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Foreword

HEFCE is fully committed to promoting equal opportunities in higher education, and to helping universities and colleges meet their duties under the Race Relations (Amendment) Act 2000.

A key challenge for institutions in enhancing equality and diversity lies in understanding the needs of staff, students, stakeholders and the wider community – and addressing those needs in their policies and practices.

We are keen to support the higher education sector in meeting that challenge. Following our guidance on monitoring for equality and diversity (HEFCE 2004/14), we have produced this guide on equality impact assessment for equality and diversity. It aims to show not only how impact assessments can be carried out in the higher education context, but also how such assessments can improve mechanisms for policy review and for embedding equality and diversity into all the institution's activities.

Although this guidance is primarily a toolkit for equality practitioners, we believe it will help higher education staff at all levels to understand the benefits of conducting impact assessments – and using the results to help people fulfil their potential and to maximise resources.

We have worked closely with the Equality Challenge Unit in preparing this guidance, and are grateful to those institutions that provided examples of good practice and helped to pilot this guide, many of which are included here. We also appreciate the contribution by critical readers of this publication, including trades unions and practitioner networks, whose input ensured that the guidance remains a practical and constructive tool for institutions.

Sir Howard Newby
Chief Executive
Higher Education Funding Council for England

Conducting impact assessments for equal opportunities in higher education

A guide to good practice

To	Heads of HEFCE-funded higher education institutions Heads of universities in Northern Ireland
Of interest to those responsible for	Equality and diversity management, Human resources management, Institutional strategic planning
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Executive summary

Purpose

1. This document provides practical guidance to higher education institutions (HEIs) in terms of assessing the impact of their institutional policies. It offers a step-by-step guide to carrying out impact assessments and provides a tool with which HEI staff can not only meet the requirements of legislation but also promote and celebrate equality and diversity in their institution.

Key points

2. The Race Relations (Amendment) Act 2000 places a requirement on all public authorities (including HEIs) to carry out impact assessments on the grounds of race. Although, by law, public authorities are currently required to undertake impact assessments only with respect to race equality, it is good practice to extend this to other equality areas such as gender, age, disability, religion or belief and sexual orientation. This guidance is therefore intended to be used as a template which, appropriately modified, can be used to conduct impact assessments in other equality areas.

3. This document is aimed at senior managers, heads of department, equality practitioners and all those with a responsibility for policy formation and policy delivery in higher education (HE). These are the people responsible for carrying out or contributing to impact assessments in HEIs. It is also recommended reading for anyone working in HE, as the concept of impact assessment has to be incorporated into everyday working practices.

4. Impact assessment is the thorough and systematic analysis of a policy or practice to determine whether it has a differential impact on a particular group. It can be seen as a quality control mechanism by which HEIs can evaluate their activities and best meet the needs of their stakeholders. This can lead to better value for money, increased productivity and maximisation of resources, leading to a more efficient and effective working and learning environment.

5. The challenges to an institution in implementing equality impact assessments are not underestimated, hence the guidance emphasises the concepts of **relevance** and **proportionality** as the principles that should be adopted when deciding whether to undertake full impact assessments. This process should be regarded in

the same way as any good management practice and resources for impact assessment directed to the policies, functions and practices which have the greatest relevance and impact on equality and diversity.

6. The impact assessment process follows a simple template. At an institutional level, all policies and practices of an institution are mapped out, and responsibilities are delegated to ensure thorough and systematic coverage of all institutional functions. The policies are then screened to determine equality relevance and ascertain priorities. Local and national data and consultations are used to ascertain if the policy or practice has an unjustified negative impact on any particular group. If a negative, or adverse, impact is found, then steps must be taken to eliminate it. This process has to be compiled in a report and publicised within the institution so that all staff and students are aware of any changes that have been made.

7. Impact assessments are not one-off exercises but should be incorporated into a three-year cycle of institutional review as recommended by the Commission for Racial Equality (CRE). Results of assessments should be monitored and made available for internal and external stakeholders.

8. At Annex A there is a visual demonstration of the relationship between the RR(A)'s general and specific duties, which should help readers to visualise the role that impact assessment has in implementing the Act. Annex B contains a template for a policy screening form, which can be used for any policy within an institution, at its initial stages of development. There are mini-checklists at the end of each section which sum up the action points from that chapter. These are compiled into an impact assessment checklist at Annex C, which can be used as a self assessment tool.

Action required

9. This document is for information and guidance.

Part 1 Context

Introduction

10. Impact assessment is the thorough and systematic analysis of a policy or practice to determine whether it has a differential impact on a particular group. It is a legal requirement under race equality legislation, but can be undertaken for all equality areas.

11. The need for guidance on impact assessment was identified as HEIs responded to the challenges of the Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 (RR(A)A 2000). In section 71(1) of the Act there is a requirement for all public authorities in carrying out its functions, to have due regard to the need:

- a. To eliminate unlawful racial discrimination; and
- b. To promote equality of opportunity; and
- c. To promote good relations between persons of different racial groups.

12. Together these requirements form the **general duty** to promote race equality.

13. This duty applies to all policies and practices of an HEI regardless of their nature, who developed them, where they have come from or who implements them. **All policies that have the potential to affect the duty need to be assessed.**

14. The general duty is a **positive duty**. It requires public authorities to pre-empt unlawful discrimination before it occurs. This takes the law a step further from the previous Race Relations Act 1976 by requiring bodies not to simply *avoid doing something*, such as avoiding unlawfully discriminating on racial grounds, but to be *proactive* in promoting race equality. This means that institutions must take steps to ensure that their policies and practices are fair and lawful from the outset.

15. Impact assessment is one of the specific duties of the RR(A)A 2000. The specific duties are mechanisms by which the general duty is met. The other specific duties are having a race equality policy, monitoring, publishing and, as part of the specific employment duties, giving due regard to training. The general and specific duties together are the basis for implementing a holistic approach to the delivery of race equality. Annex A shows in diagrammatic form how the specific duties fit into the general duty.

16. Failure to conduct impact assessments results in failure to meet the requirements of legislation, and could result in steps being taken against an institution by the Commission for Racial Equality, which has powers of enforcement under the RR(A)A.

17. As the legislative requirements are the same in Scotland and Wales, HEIs in Scotland and Wales can also use this guide. Northern Ireland has a different framework of equality legislation that embodies extensive impact assessment. While this document would be useful for HEIs in Northern Ireland to gain a broad understanding of the current requirements in the rest of the sector, it is recommended that institutions in Northern Ireland seek local advice from the Equality Commission for Northern Ireland.

18. The legislation includes protection for staff and students. Unless otherwise stated, any reference in the guidance to the legislative framework refers to both students and staff.

Who should use this document?

19. This guidance is aimed at senior managers, heads of department, equality practitioners and all those with a responsibility for policy formation and policy delivery in HE. It is also recommended reading for anyone working in HE, as the concept of impact assessment should be incorporated into everyday working practices.

What is impact assessment?

20. Impact assessment in this context is a detailed and systematic analysis of the potential or actual effects of a **policy or practice, provision or criterion** to ascertain whether it has a differential impact on identifiable groups of people.

Definitions

A **policy** is any decision, principle, plan or set of procedures that influences and determines the way an institution carries out its business (externally or internally).

A **practice** is more informal than a policy and refers to a customary way of operation or behaviour, perhaps built up over a number of years. It can be identified through being routinely performed, locally, regardless of any official requirements in policy.

A **provision** is an action which serves to provide for, or meet the requirements or particular needs of people.

A **criterion** is the basis by which comparisons or judgements are made, often against particular reference points.

21. Assessment should take place not only of all **formal** policies and practices, but also **informal** ones because of the need to eliminate indirect discrimination. Impact assessment is an anticipatory process that allows institutions to predict possible barriers faced by **equality target groups**.

What is an equality target group?

An equality target group is one that is likely to face discrimination and disadvantage on the basis of its age, race, gender, sexual orientation, religion or belief, disability, or any other inappropriate distinctions, such as social class. It is necessary to be aware of the particular needs facing these groups and the means by which service delivery can meet their requirements.

It is important to be aware that people can belong to several equality target groups and should not be pigeon-holed in any way.

22. A judgement of **adverse impact** is made if the impact of a policy disadvantages one or more equality target groups. Steps then have to be taken to mitigate this adverse or negative impact.

Example of adverse impact

An HEI makes an impact assessment of its promotion policy and finds that fewer black and minority ethnic (BME) staff gain promotion compared to their white counterparts when qualifications and experience are taken into account. A judgement of adverse impact is made and investigations begin into the reasons for this, along with steps that need to be taken to rectify it.

23. A **report** should be compiled at the end of each impact assessment process by the policy owner (the person with responsibility for the policy and therefore for the impact assessment process) and disseminated throughout the institution, detailing:

- the reasons for the assessment taking place
- the results of consultation
- any changes to a policy as a result.

24. The reason for this is to raise awareness of the HEI's commitment to equality and diversity, to develop open and clear systems of assessment, and to ensure that staff and students are aware of changes to working practises within the institution.

25. The concepts of **proportionality** and **relevance** are essential for carrying out an impact assessment. In the first instance, impact assessments may appear to be a fairly resource-intensive exercise. However, if they are seen as a continuation of an institution's quality control mechanisms, they can be complementary to the work already conducted.

26. It is not anticipated that every policy and practice in an institution should be given equal time and resources when conducting impact assessments. Once a comprehensive mapping exercise of all the HEI's policies and practices has taken place, policies should be screened for equality relevance, and proportionate time and weight should be allocated.

27. As these assessments are a legislative requirement for race equality, **HEIs must ensure they have the resources to be able to carry out impact assessments adequately and thoroughly.**

When should impact assessment take place?

28. There are two key stages at which an impact assessment should take place:

- when a new policy is being considered
- when an existing policy is being reviewed.

29. As an integral part of policy making, impact assessment should be mainstreamed into an institution's procedures and should begin as soon as a relevant new policy or practice is considered. These include: any process of merger, the physical relocation of a unit or any significant number of staff, the signing of any major contract with any provider or supplier or purchaser, the decision to commence teaching in any new curriculum area, the decision to end teaching in any existing area or the decision to terminate any number of staff contracts.

30. Mechanisms should also be put in place for regular assessment and re-assessment of existing policies every three years.

Who is responsible for impact assessment?

31. As a means of embedding and mainstreaming impact assessment, all those involved in the formation and delivery of policies should be involved in the impact assessment process and work towards meeting the equality and diversity aims of an institution.

Responsibility for impact assessment

Responsibility for impact assessment lies with all those in charge of given policy. This might therefore require co-operative working between senior managers, heads of department, colleagues in human resources or central administration

Impact assessment should not be seen as the sole responsibility of equality officials in an institution, although they will be able to offer assistance to those responsible for formation and delivery.

The business imperative

32. Impact assessments are a means by which institutions can evaluate their activities to ensure that the people being served (be they staff, students or the wider community) are being catered for effectively and fairly. They enable institutions to get an idea of what works and what does not in the delivery of their functions, act as a means of quality control, and can be linked to other processes through which an institution reviews and evaluates its work.

33. Impact assessments can help strengthen HEIs' commitment to achieving equality of opportunity. Promoting good race relations and reducing discrimination between different groups has several significant advantages for an institution.

34. By promoting and recognising equality and diversity, an institution can:

- improve staff morale and trust
- reduce staff turnover
- broaden the talent base of an organisation
- stimulate a healthy and productive working environment
- improve an institution's corporate image with potential staff and students.

35. This has the effect of widening the pool of student applications and attracting the best candidates from a diverse selection of backgrounds. It also leads to better value for money, increased economic productivity and maximisation of resources, which results in a more efficient and effective workplace.

36. It also ensures that HEIs have a workforce and student base that is proud to incorporate, celebrate and promote diversity and that is reflected in the institution's culture and values.

37. Institutions that go beyond simple compliance with legislation and take an approach that actively seeks and encourages a diverse workforce and student base are most likely to reap these benefits.

The legal imperative

38. The purpose of impact assessments is to ensure that an institution's policies and practices are neither directly or indirectly discriminatory.

Types of discrimination

Direct discrimination

Treating an individual less favourably than others would be treated in the same or similar circumstances.

Indirect discrimination

When a provision, criterion or practice is applied equally to all individuals but has a disproportionate and unjustified adverse impact on a particular group.

39. The definition of direct discrimination is fairly straightforward. However the definition of indirect discrimination may need further clarification. Indirect discrimination can happen unwittingly through practices, provisions or criteria that have a disproportionate negative impact on a particular group.

40. A key difference between direct and indirect discrimination is that indirect discrimination can occur through informal practices as well as formal ones. Ultimately, this means there will be more circumstances in which claims of indirect discrimination can be brought. HEIs need to be aware of the potential discriminatory effects of informal practices and take them into account when assessing impact.

Example of indirect discrimination

Over the years, employees in an office have become accustomed to working long, additional hours. This may not be an official requirement or policy, but because everyone in the office does it, a new employee may feel pressured to do so as well. Problems can arise if the new employee is not able to work long hours owing to caring responsibilities and if this then had a negative impact on their chances of promotion. In this circumstance, the established, informal practice could be judged as indirectly discriminatory.

41. The exception to the above is discrimination on the grounds of colour or nationality where the informal definition of indirect discrimination is not applicable. For discrimination on the grounds of colour or nationality the definition of indirect discrimination is specific and formal. It is when a requirement or condition is applied to all individuals but has an adverse impact on a particular racial group.

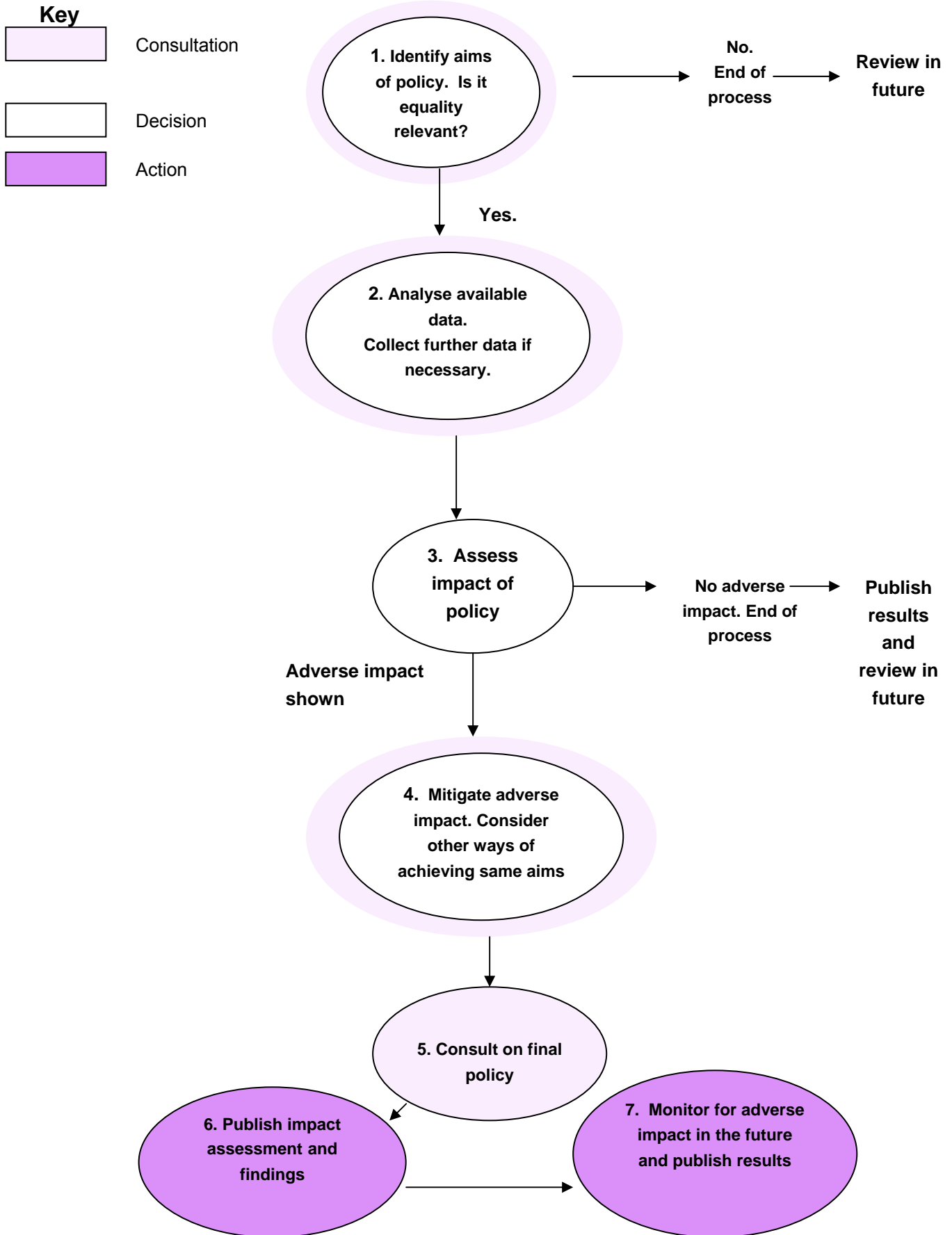
Part 2 Carrying out an impact assessment

The different stages

42. Impact assessments are inherently challenging, but carrying out the process need not be complicated or cumbersome. With sufficient data and consultation, assessing the likelihood of adverse impact can be fairly straightforward. Furthermore, once the principle of impact assessing an institution's policies is established, it can soon become part and parcel of an institution's work, enhancing existing review processes.

43. Figure 1 shows the stages of carrying out an impact assessment.

Figure 1 Seven stages to impact assessment success



Identifying policies and functions

44. Before beginning the impact assessment process, it is necessary to carry out a **mapping exercise** within the institution to identify all formal and informal policies and functions. This allows responsibility to be shared throughout the institution and ensures that all areas of its work are taken into account. This mapping exercise needs to be done both at an institutional level and at a departmental level to ensure mainstreaming of the impact assessment process.

Mapping exercise

A mapping exercise is a systematic method of collecting information on all the areas of work, responsibilities and other relevant functions of an institution.

45. The benefits of this approach are twofold:

- a. It provides a focus for institutions to identify all policies and functions and allocate responsibilities for impact assessment.
- b. It allows the HEI to look at impact assessment within its own operational context.

46. One example of a mapping exercise is that undertaken by the Northern Ireland Higher Education Equality Consortium, as outlined in its *Consultation Document on the Screening of Policies* (2003). This exercise divided institutional policy areas into the following ten main strands and sub-sections. Institutions may find this helpful when undertaking their own mapping exercises.

Strands of institutional policy

Academic planning and strategy

Teaching and Learning; Academic Services; Student Skills; Course Approval; Management and Regulatory Framework; E-learning; Short Courses; Professional Development; Language for teaching; Student recruitment and admissions; Examinations and Assessments; Appointment of Examiners; Annual Academic Planning; Widening Access and Participation; International Students; Student Complaints and Appeals; Scholarships and Awards; Student Prizes; Standard Prizes; Standard Assurance and Quality Management.

Research strategy

Research and Development; Selection and Monitoring of Staff as Researchers; Allocation of Support for Research; Prioritisation of Research Areas for Support and Development; Selection and Admission of Research Students; Administration of Research Funding.

Regional Strategy and Development

Regional Development and Regional Activities; Conflict of interest; Intellectual Property; Consultancy.

Information and ICT Services

Library Services and Collection Development; Information Access; Acceptable ICT use; Information Security; Data Protection.

Communications and Public Affairs

Publications and Printed Materials; Event Management; Community Outreach/Access; Advertising; Press Relations/Communications; Website Development.

Estates Services

Estates Services; Car Parking; Consultant Contractor Procurement; Key Staff/Students with Dependants

Housing Allocation; Room/Venue Bookings/Allocation; Physical Access for People with a Disability.

Student Services

Student Services; Accommodation Provision; Childcare Provision; Student Discipline; Misuse of Alcohol, Substances and Drugs; Students with a Disability; Clubs and Societies; Catering Services; Health Services; Student Support; Careers Advice; Counselling; Sports and Recreation; Students' Union/Association Representation.

Human Resources

Equal Opportunities; Harassment and Bullying; Facilities and Time-off Arrangements; Sabbatical Leave; Family Friendly Suite; Staff Recruitment and Selection; Visiting Professorships; Job Evaluation; Staff Pay and Reward; Annual Review; Occupational Sick Pay; Academic Promotions; Payment of Salaries and Wages; Discretionary Pay/Accelerated Increments; Health and Safety; Alcohol, Drugs or Substance Abuse; Staff Training and Development; Staff Appraisal; Employee Relations; Staff Grievances; Staff Discipline; Redeployment.

Finance and Procurement

Purchasing/Procurement; Best Value; Purchasing Accountability; Financial Regulations; Risk Management; Fraud; Finance; Student Funding; Payment of Student Fees; Research Fees; Pensions.

Other

Appointments to Council/Senate; Appointment to Honorary Academic Title.

Informal policies

47. Informal policies are covered by the new definitions of indirect discrimination. However, by their very nature, informal policies will not be written down and therefore a mapping exercise to identify all of them may not be possible. In these cases it is recommended that steps are taken to ensure that all staff have an understanding of their duties under equality legislation and of the institutional commitment to encouraging and celebrating equality and diversity. By mainstreaming the concept of equality and diversity, and by undertaking monitoring and consultations on the effects of practices and policies, staff will become more aware of equality and diversity issues and be able to apply them in everyday working situations, thus reducing the risk of discriminatory informal policies.

Checklist for identifying policies and functions

- Identify all formal and informal policies, practices, procedures and criteria within an institution through a mapping exercise

Identification of the aims of a policy: the screening process

48. Defining the **aims** of a policy is the first step in the impact assessment process. It allows a policy to be screened for equality relevance, determining whether an impact assessment is needed and what priority it should be given.

49. Questions that can be used to determine the aims of a policy include:

- What is the purpose of the policy?
- Are there concurrent objectives of the policy? If so what are they?

- Who created the policy?
- Who is responsible for implementing the policy?
- Who are the main stakeholders of the policy? (A stakeholder can be defined as anyone who is affected by what you are trying to do)
- Is there any evidence that different groups have different needs in relation to this policy?
- Can this policy meet or hinder the equality and diversity policies, values or objectives of the HEI?

Examples of determining the aims of a policy

Example 1: Payroll

- ***What is the purpose of the policy?***

To pay employees for hours worked.

- ***Are there concurrent objectives?***

Regular monthly payments through BACS.

- ***Who created the policy?***

Finance department.

- ***Who is responsible for implementing the policy?***

Finance department.

- ***Who is affected by the policy?***

All staff.

- ***Is there any evidence that different groups have different needs in relation to this policy?***

No.

- ***Does this policy have the potential to meet or hinder the equality and diversity policies, values or objectives of the HEI?***

As this policy is about the operation of payroll (not the setting of pay) it does not affect equality and diversity because the method of payment, the way it is administered and its aims could not be affected by the race, gender or sexuality of an individual. There also does not seem to be the potential to meeting the equality and diversity aims and values of the HEI. Therefore this policy would not require a full impact assessment.

Example 2: Placement of job advertisements

- ***What is the purpose of the policy?***

Placing adverts in a form where they could attract the best candidates.

- ***Are there concurrent objectives?***

Ensuring a representative workforce, ensuring those from equality target groups are able to apply.

- ***Who created the policy?***

The department or central office with responsibility for the advertisement.

- ***Who is responsible for implementing the policy?***

Human Resources.

- ***Who is affected by the policy?***

All potential applicants.

- ***Is there any evidence that different groups have different needs in relation to this policy?***

The accessibility of the advert could be important for those with a visual impairment.

- ***Does this policy have the potential to meet or hinder the equality and diversity policies, values or objectives of the HEI?***

The places where vacancies are advertised can affect equality and diversity aims. This is because there is the potential for encouraging applications from equality target groups through placing advertisements in specialist publications. A full list of specialist organisations which can be used in recruitment can be found on the Equality Challenge Unit (ECU) web-site www.ecu.ac.uk.

It is important to note that advertising widely and in specialist press is good practice for all posts, not just equality positions. Monitoring the effectiveness of the placements of adverts in specialist press would enable further evaluation of the process. It can be seen that this policy is a vehicle through which to further an institution's equality and diversity aims and would require an impact assessment.

Example 3: Student admissions

- ***What is the purpose of the policy?***

To select the best students.

- ***Are there concurrent objectives of the policy?***

To select fairly and on the basis of merit.

- ***Who created the policy?***

Student recruitment and admissions department.

- **Who is responsible for implementing the policy?**

Academic departments.

- **Who is affected by the policy?**

All potential students and current students.

- **Is there any evidence that different groups have different needs in relation to this policy?**

Certain groups may struggle with the application process due to a disability; an institution wanting to reflect a diverse student body may therefore want to place emphasis on specific groups.

- **Does this policy have the potential to meet or hinder the equality and diversity policies, values or objectives of the HEI?**

This policy has the potential to affect the make-up of the student body and therefore affects the equality and diversity aims of an institution. There are issues surrounding accessibility of entrance tests, interviews and the potential for action to be taken to increase numbers of any under-representation of groups. Therefore this policy would need to be impact assessed.

Prioritisation

50. After the initial screening of policies for equality relevance, the CRE recommends prioritising policies into high, medium and low risk categories.¹

Equality relevance	Policy
Low	Payroll
Medium	Job advertisements
High	Student admissions

51. The categorisation of risk enables institutions to prioritise policies in order of importance *and* equality relevance, thus determining the order in which to assess policies and the amount of resources that will need to be allocated to each policy.

Checklist for screening for equality

- Identify aims of policy (practice, procedure or criterion)
- Establish who is responsible for defining and implementing the policy
- Determine if there is scope for promoting equality of opportunity and good race relations within the policy
- Give policy high, medium or low priority with regards to adversely impacting on equality

¹ CRE *Guide for Public Authorities* 2002 available on the CRE web-site (www.cre.gov.uk/duty/index.html).

Consideration of available data

52. Impact assessment is not possible without adequate data. HEIs already have mechanisms in place to gather internal and external data which can be used in the impact assessment process. At some point the mechanisms used to gather data should themselves be assessed for impact to ensure that they are fair and suitable.

53. Internal and external data can be analysed for differential findings between equality groups. This assists in a judgement as to how each policy impacts or might impact on an equality group.

54. National data and research can be useful in identifying barriers, issues and areas where equality is likely to be a priority. For example:

- data collected by UCAS and the Higher Education Statistics Agency that relate to students and staff in HE
- research undertaken by the Equality Commissions
- research undertaken by HE trades unions
- commissioned research and reports such as the Commission for Black Staff in FE²
- census data
- labour force surveys.

55. Institutional data can also be used to identify local barriers. These include:

- ethnic monitoring data
- surveys and consultation
- complaints and grievances.

56. These sources enable institutions to evolve strategies to promote equality and diversity which take their local context into account.

Appropriate data

57. When collecting the data, it is vital to know exactly what information to look for. The following questions may assist in searching for appropriate data:

- What do we need to know about the effects of this policy?
- What steps need to be taken to ensure all perspectives are taken into account?
- What existing qualitative and quantitative data are available?
- Are additional data required?
- What kinds of data will most meaningfully inform our message of future practice in this area?

Collecting additional data

58. If there is not enough data to enable accurate judgement on impact to be made, it may be necessary to make arrangements to collect further information through mechanisms such as:

- consultations with staff who are affected by a particular policy
- surveys (face to face, telephone, web, postal)

² The final report from the Commission for Black Staff in FE can be downloaded from the Association of Colleges web-site (www.aoc.co.uk).

- interviews (group, individual)
- external reviews, for example consultants' reports
- pilot projects
- review of formal and informal complaints.

59. Mechanisms for collecting additional data for impact assessment can be mainstreamed into systems already present within the HEI, such as including a question on the HEI's culture of equality and diversity in all exit questionnaires.

60. It is only through examination of a wide range of relevant data and research that a judgement on differential impact can be made. Statistics can only give so much information in assessment and, in any case, would not identify issues such as how a particular group *feels* they are being treated. Furthermore, they are not helpful in ascertaining the broader positive duty of whether a policy has the scope for promoting good race relations/equality of opportunity. It is therefore important for HEIs to include **qualitative data** in addition to **quantitative data** in order to gain a more rounded picture of a policy's impact.

61. Qualitative data are especially important when extending impact assessment to areas such as sexual orientation or disability, where there are particular issues of sensitivity surrounding disclosure. Institutions need to build an atmosphere of trust and confidence so that staff and students feel comfortable discussing such issues. In these circumstances it is recommended that anonymised staff and student attitude surveys be used to gather information, with the reasons for collecting information being clearly explained and the confidentiality of responses guaranteed.

62. An example of gathering information and analysing data for impact assessments can be found below.

Impact assessing an institution's catering policy

The university service area responsible for catering will need information on:

- How many people eat the institution's food
- Which people eat university food
- Whether these people have any particular needs
- Whether their needs are being met
- Whether members of equality target groups in the HEI are satisfied with the catering arrangements
- Why people from equality target groups choose *not* to eat the institution's food

The HEI had up-to-date qualitative data from those who use the canteen but no information from the people who did not, or from equality target groups within the institution.

Looking at external qualitative data from national religious and faith organisations regarding necessary catering adjustments, the catering services department of the HEI decided to convene focus groups with certain target groups, black and minority ethnic (BME) staff, and religious and faith groups to gain understanding of their needs. It also compiled a questionnaire which was sent out to a random sample of staff and student members of the HEI to discover their opinion of the catering facilities. The respondents were also given opportunities to make additional suggestions and comments.

The responses received indicated that dyslexic staff and students found the menus were difficult to read due to their design and layout, and that this was an issue of concern for those who regularly visited the cafeteria. Feedback also highlighted the lack of kosher options available, which many Jewish staff and students cited

as the reason why they did not use the facilities.

The HEI acted upon these findings by redesigning its menu and including more kosher options in the canteen with a greater variety of kosher meals available. It publicised this in the students' union, student paper, university staff newsletter, on the intranet and in posters around the canteen.

Understanding data

63. One of the most important factors when coming to a sound decision about differential impact is to ensure that data are interpreted correctly. Using a wide but credible variety of data sources is essential to ensure accurate understanding and interpretation.

64. In Northern Ireland, where impact assessments have been a legislative requirement on all equality strands since 1998, the Equality Commission for Northern Ireland recommends taking into consideration the **reliability** and **validity** of data.³

65. **Reliability** refers to having consistency of information – getting the same results on repeated occasions from a variety of data sources. For example, if local anonymous student surveys, HEI focus groups and external national data all show that lesbian, gay and bisexual (LGB) students can feel intimidated in students' union social events, the consistency of the message indicates that it is reliable.

66. **Validity** is about ensuring that the data being used are analysed in the correct way and ascertains what they are supposed to measure. The example below demonstrates the need to analyse correctly.

Example of the need for careful analysis

An English HEI has institutional data on numbers of students achieving 2:1s in their final degree assessment. This reveals that 7 per cent of students achieving 2:1s are from BME backgrounds.

Using this statistic in isolation would suggest that this is in line with national statistics, as the BME population in the UK is approximately 7 per cent of the total. However, 25 per cent of this particular institution is made up of BME students. Thus 7 per cent achieving 2:1s is a significant underachievement which warrants further investigation.

67. Further guidance on data collection and monitoring can be found in the ECU/HEFCE publication 'Equality and diversity monitoring in higher education institutions' (HEFCE 2004/14), which can be viewed and downloaded from www.hefce.ac.uk under Publications.

³ Equality Commission for Northern Ireland, Practical Guidance on Equality Impact Assessment (2002).

Checklist for consideration of data

- Determine what you need to know about the policy to gauge if it has an adverse impact on any groups
- Examine national and local data sources and collect additional data if necessary
- Use a mix of qualitative and quantitative data from a wide range of sources
- Ensure research is reliable and valid

Consultation

68. Consultation is a key part of the impact assessment process as it enables institutions to ascertain how their policies and practices are affecting individuals. It also engages people in the decision-making process and raises awareness of the work that the HEI is doing to meet the general duty. This, in turn, can raise staff confidence in the institution's commitment to tackling inequality.

69. It is therefore recommended not only to have a specific period set aside for consultation after a policy has been revised, but to consult throughout the impact assessment process: from deciding whether a policy is race equality relevant, through collecting data, to determining where best to publish the results. This will ensure a more responsive and consequently successful impact assessment process.

Organisation of consultations

70. Responsibility for organising consultations is determined by the nature of the policy or practice and where it originated. For local policies or practices, responsibility for impact assessment lies with the policy owner and they would also therefore be responsible for any consultations. For institution-wide policies, a protocol should be developed to allocate responsibility between departments or in whatever other way might be appropriate for the policy in question. In either case, the processes will be aided by the development of a database containing information on internal and external stakeholders and information sources, in addition to details of any representative groups in an HEI.

How much to consult?

71. It is recommended that the concepts of **proportionality** and **relevance** are used when deciding how much to consult on a policy. This means that the amount of consultation undertaken should be in proportion to the equality relevance of the particular policy. Reference back to the initial prioritisation of race equality relevance into high, medium or low will assist in determining how much to consult.

Who to consult?

72. Who needs to be consulted depends on the aims of the policy and who it affects. Those most likely to be affected are the most important to consult, but it is in any case useful to include consultation with:

- **relevant internal stakeholders:** staff, students
- **relevant external stakeholders** (for policies which have a clear external impact): local businesses, community and voluntary sector organisations, religion and faith groups
- **equality target groups:** those most likely to face discrimination. Specific provisions should be made to ensure that representations from these groups are made possible and encouraged. This could include BME or LGB representative groups in an institution

- **trades unions:** all have equality sections nationally that can offer advice. They can be an invaluable help locally as they have a strong commitment to equality and diversity and can encourage members to take part in consultations.

How to consult

73. Consultations need to be well organised, run to a set timescale and have clear objectives. It is advisable to employ a variety of methods to ensure that the different needs of those being consulted are met, enable tailor-made approaches to gathering specific information and reduce the likelihood of 'consultation fatigue'.

74. Possible methods for consultation are similar to the ones described for collecting qualitative data and include:

- focus groups
- surveys
- pilot projects
- interviews
- requests for feedback.

75. The main principle when choosing consultation methods is to **use the method that elicits the information you need from the groups you want to reach**. For example, consultation on an institution-wide policy on bullying and harassment would work better through an anonymous staff survey than by running a pilot project. This is because the latter would not enable information to be gathered about the *perceptions* of staff. Furthermore, the frequency of formal bullying and harassment cases may not be high enough for a pilot project to be run effectively.

How to encourage participation and offset consultation fatigue

76. Participation in consultations can sometimes be hindered by scepticism on the part of those being consulted, who may feel that nothing will change as a result of their comments. To reduce the risk of this, HEIs should publish and promote the findings of consultations (appropriately anonymised) and adapt their policies in light of the findings.

77. Liaising with equality target groups and trades unions prior to consultations will promote engagement with the policy process and ensure that those consulted feel ownership over and have input into institutional functions. This in turn should raise participation rates and reduce time spent on consultation later.

78. Consultation fatigue can occur if people feel they are being consulted about too many things too often. It is highly probable that over-consultation will occur in the first year of an institution carrying out impact assessments but, as the process becomes more embedded in institutional functions, it will become a more efficient and quicker process. Furthermore, as those consulted witness changes being effected as a result of the impact assessment process, there is a high probability that they will see that their respective contributions are being valued by the HEI and so be more willing to come forward in the future.

79. Consultation fatigue can be reduced by ensuring the following:

- there is not an excessive number of mailings
- the same people are not being consulted on a regular basis
- people are asked what policies they are interested in being consulted on
- the consultation procedures are clear and simple to follow
- the document being consulted on is clear and simple to follow

- a variety of consultation mechanisms is employed
- the results of consultation are acted upon and communicated.

Ensuring the consultation method is accessible

80. Good practice for accessible consultation should be implemented, such as taking into account the practical issues surrounding:

- suitability of venue
- timings of consultations
- facilitation of face-to-face discussion
- the language, format, availability and accessibility of materials used in the consultation.

Maintaining an informal setting can help people feel at ease, making them more likely to contribute openly and honestly to consultations.

81. The results of consultations should be published and disseminated with the report of the impact assessment, using appropriate media such as internal staff newsletters, intranet, student newspaper, e-mails and posters.

Checklist for consultations

- Ensure a representative sample of people being consulted with specific measures for equality target groups
- Use a variety of accessible methods for consultation
- Take into account issues of proportionality and relevance

Assessing impact

82. Having gathered information from local and national sources and administered consultations, the next step is to assess whether the policy has, or is likely to have, a differential impact on relevant equality target groups. Differential impact can be positive or negative, direct or indirect, and indicates that the policy affects a given group or groups in a different way to the majority. For the impact assessment process in equality areas, the key aspect to look for is any evidence of adverse or negative impact, as this could be where discrimination is occurring.

83. Ways in which **adverse** impact can be identified include looking for:

- a lower participation rate of equality target groups compared to others
- certain groups having lower success rates in particular processes
- whether eligibility criteria appear to disadvantage certain groups
- whether access to services and benefits is reduced or denied in comparison with other groups
- whether a group faces increased difficulty or indignity as a result of a policy
- whether a policy reduces benefits disproportionately for one group.

84. Following a finding of differential impact, an investigation has to be made to determine the legality of the policy. Naturally, policies that directly or indirectly discriminate must be changed. Even if the policy is not unlawful, however, consideration must be given to what to do in light of the adverse impact identified.

Justifications

85. There may be cases where differential impact is justifiable. In these circumstances it must be made explicit why this is the case; for example, it is to address the needs of a particular group through **positive action**.

Positive action

86. Positive action refers to a variety of measures designed to counteract the effects of discrimination and eliminate stereotyping by encouraging members of equality target groups to take full and equal advantage of opportunities in jobs, education and training. Positive action is lawful.

87. Examples include targeted advertising and outreach work, and courses to develop the careers of those from under-represented groups who are already employed by an organisation.

Example of positive action

An institution has a large engineering department with 85 per cent of the students being male. To encourage a gender balance in its department, the university undertakes positive action by visiting numerous local schools and colleges to run events and workshops on *Women in Engineering* for female sixth-form students to encourage female students to apply for the courses.

Positive discrimination

88. Positive discrimination is treating someone from an equality target group more favourably than someone not in the group, regardless of whether they have the relevant skills and qualifications. This is unlawful.

Example of positive discrimination

An institution decides to promote a black staff member to a senior manager position because the HEI thinks it does not have enough black members of staff at a senior level, even though this individual does not have the relevant experience. This would be unlawful as it is an instance of positive discrimination.

89. Other instances when adverse impact can be justified are for business efficiency reasons, health and safety, and national security.

90. When assessing policies and practices specifically for race equality, it is important to note that the assessment process is not only about identifying possible discrimination/adverse impact but is also about **promoting good race relations** and **promoting equality of opportunity** as set out in the RR(A)A 2000. This concept should be incorporated into the assessment process by ensuring that, whenever a policy is being assessed, consideration is given to how the policy could incorporate the **positive duty**.

Example of how to incorporate the positive duty

Every year an HEI and its students' union send a welcome pack to every student accepting a place at the institution, outlining the services and facilities available at the institution. Recognising that this **customary practice** has the **potential to incorporate the positive duty**, in the following year along with its regular information the students' union sends out information on its 'gay friendly' policy and its anti-racism policy. It

also highlights the HEI's commitment to equality and diversity, and makes clear statements about the unacceptable types of behaviour prohibited at the institution (such as racism, sexism and homophobia) and lists the representative committees for black students, women and disabled students which people can get involved in or turn to for help.

Checklist for assessing impact

- Determine if the policy has an adverse impact on equality and diversity on basis of information gathered
- Determine if the policy is directly or indirectly discriminatory and, if so, whether it is justifiable
- Determine whether the policy promotes, or has the potential to promote, good race relations and equality of opportunity

Eliminating or reducing any adverse impact found

91. The results of an impact assessment may conclude that there is no adverse impact created by the policy assessed. In these circumstances, a brief report of the assessment undertaken should be drafted and made available to stakeholders.

92. If adverse impact is found, however, steps need to be taken to eliminate it. Eliminating or reducing the adverse impact requires taking action to deal with the findings of an impact assessment. An institution must intervene to remove adverse impact, without creating negative impacts on any other groups.

93. There are various ways in which the adverse impact of a policy can be mitigated. There can be:

- changes made to the policy itself
- changes made to the method of its implementation
- the policy can be replaced and an alternative one used which meets the same aims.

94. When developing alternatives or searching for mitigating solutions, it is useful to refer back to the initial screening results and check the initial aims of the policy to ascertain how it could be amended but still meet its objectives.

95. Questions that assist this process include the following:

- What are the **causes** of the adverse impact?
- Are there any **alternative measures** which would achieve the aims of the policy without adverse impact?
- Are there any **interventions** which could help achieve the aims of the policy without adverse impact?
- Are there any **additional measures** which can be adopted that would further equality of opportunity in the context of this policy or function?
- Will any changes affect **resources and accountability** for the policy?

96. Methods of intervention, such as training options and mainstreaming equality and diversity approaches within existing management/corporate activities, should be considered as ways of mitigating adverse impact.

The use of marketing and public relations to raise the profile of an issue could also work to further this end.⁴ This is particularly relevant to the positive duty, as institutions must promote and be seen to be promoting good relations.

97. At paragraph 22 the example was given of a HEI finding its promotion policy had an adverse impact on BME staff. The questions provided in paragraph 95 provide a template with which to reduce the adverse impact found.

Investigating adverse impact within an institution's promotions policy

- **What are the causes of the adverse impact?**

Consultations carried out by the HEI suggested a variety of reasons for the adverse impact. These included: direct discrimination in the form of racism, lack of confidence of BME staff in putting themselves forward for promotion, very few role models for BME staff to aspire to and feelings of inadequacy by BME staff, leading to a failure to perform well at interviews.

- **Are there any alternative measures that would achieve the aims of the policy without adverse impact?**

The promotions policy is to judge candidates on experience to date, evidence of work at a high standard and good performance at interview – all measures that would find the best candidate without discriminating against or in favour of any groups. Therefore it seems that it would not be appropriate to change the policy.

- **Are there any interventions which could help achieve the aims of the policy without adverse impact?**

Training could be made available to all staff for how on perform well at interviews, a BME staff mentor scheme could be introduced to support junior BME members of staff.

- **Are there any additional measures which can be adopted that would further equality of opportunity in the context of this policy or function?**

Regular anti-racism training for all staff.

- **Will any changes affect resources and accountability for the policy?**

Resources for the additional training would be needed. Accountability for the policy would remain as previously determined.

98. Having decided upon a response to adverse impact, it is necessary to consider the likely impact of the proposed mitigating measures or alternative policies. This involves an initial screening and application of the relevant data as before, in order to ensure that, by alleviating adverse impact for one group, an adverse impact is not created for another group.

99. Clear evidence of the assessment process and reasons for the mitigating factors chosen should be compiled for the assessment report. Consideration of alternatives must be evident in the assessment report and justification provided for any that are not accepted.

⁴ For more information on using the PR function of a HEI to promote equality and diversity see the HEFCE/ECU publication 'Good Talking: The HE Communicators Equality and Diversity Toolkit' (available from www.ecu.ac.uk).

Checklist for eliminating or reducing adverse impact

- Investigate why there was adverse impact
- Find measures that can reduce or eliminate the adverse impact
- Provide clear reasons for changing policy and what you hope to achieve by any changes
- Assess the proposed changes for any adverse impact

Publication of impact assessment and findings

100. Under the specific duties of the legislation, institutions have to publish their race equality policy. The **duty to publish** also applies to the results of impact assessments, monitoring and consultations undertaken.

101. The purpose of the publishing duty is to emphasise institutional commitment to equality and diversity and to draw attention to the work the HEI is doing in this area. By being seen to embrace equality and diversity, the HEI can improve its profile and embed the concepts of equality and diversity as a mark of success. This is particularly important when mainstreaming equality in all departments, as it shows that having a proactive and committed approach to equality and diversity is something to be championed.

Impact assessment report

102. A report should be produced summarising the impact assessment process for each policy assessment. It should give a detailed account of the impact assessment process, outline the decision-making process and consideration of alternative and mitigating policies, and give the reasons for any changes to the policy. It is important to have a record of the justification for why a policy was or was not amended in case a challenge is made at a later date. The following points could be included in the report:

- aims of the policy
- assessment of the policy based on data (include assessment of reliability and validity of data used)
- mitigation of any adverse impact
- results of consultation
- amendments to the policy and reasons for the ones chosen
- timetable for next review.

Publishing arrangements

103. Simply placing a link to the impact assessment report on the HEI's intranet is not sufficient to ensure that staff and students in the institution will be made aware of the process that is going on, as not all will have access to the internet. The publishing requirement is an area in which there is scope to promote the positive duty and it should be treated as such, using a variety of methods to raise the profile of the work being done on equality and diversity.

104. Factors of **relevance** and **proportionality** should be taken into account when deciding where and how much to publicise.

105. Those affected by the policy or practice should be made aware:

- that the process has occurred
- the reason for it

- the result of it
- when the policy will be reviewed.

106. This encourages support for the concept of impact assessment and assists in raising the participation rate in consultations, since it gives evidence of impact assessment becoming further mainstreamed in institutional activity.

107. Working with local trades unions (including the students' union) throughout the impact assessment process is useful as an end in itself, and can be used as a method of publicising an impact assessment report and communicating the affects of any changes of policy.

108. To ensure accessibility and ease workloads, a simple outline of the report can be publicised, with more detailed reports being available for people who request them. Reports should be available in a variety of accessible formats, and pointers to them could be included in staff/student newsletters, students' union, in the HEI's annual reports, and in best value performance plans.

Publication of impact assessment checklist

- Compile impact assessment report and final decisions
- Determine how much publicity is needed
- Decide where and how to publicise

Monitoring for adverse impact in the future

109. Impact assessment is not a one-off process but should become part of the cycle of institutional quality control to ensure HEIs meet the needs of their stakeholders and fulfil legislative requirements.

110. Mechanisms should therefore be in place for regular re-assessment of existing policies every three years. Responsibilities should be allocated to ensure each policy gets reviewed at regular intervals and on a set timescale. As an integral part of policy making, impact assessment should also begin as soon as a relevant new policy or practice is considered.

Annex A

How the specific duties fit into the general duty

The Race Relations (Amendment) Act 2000 creates a **positive duty** under Section 71(1) in working towards the **general duty**, both in a conceptual and practical sense.

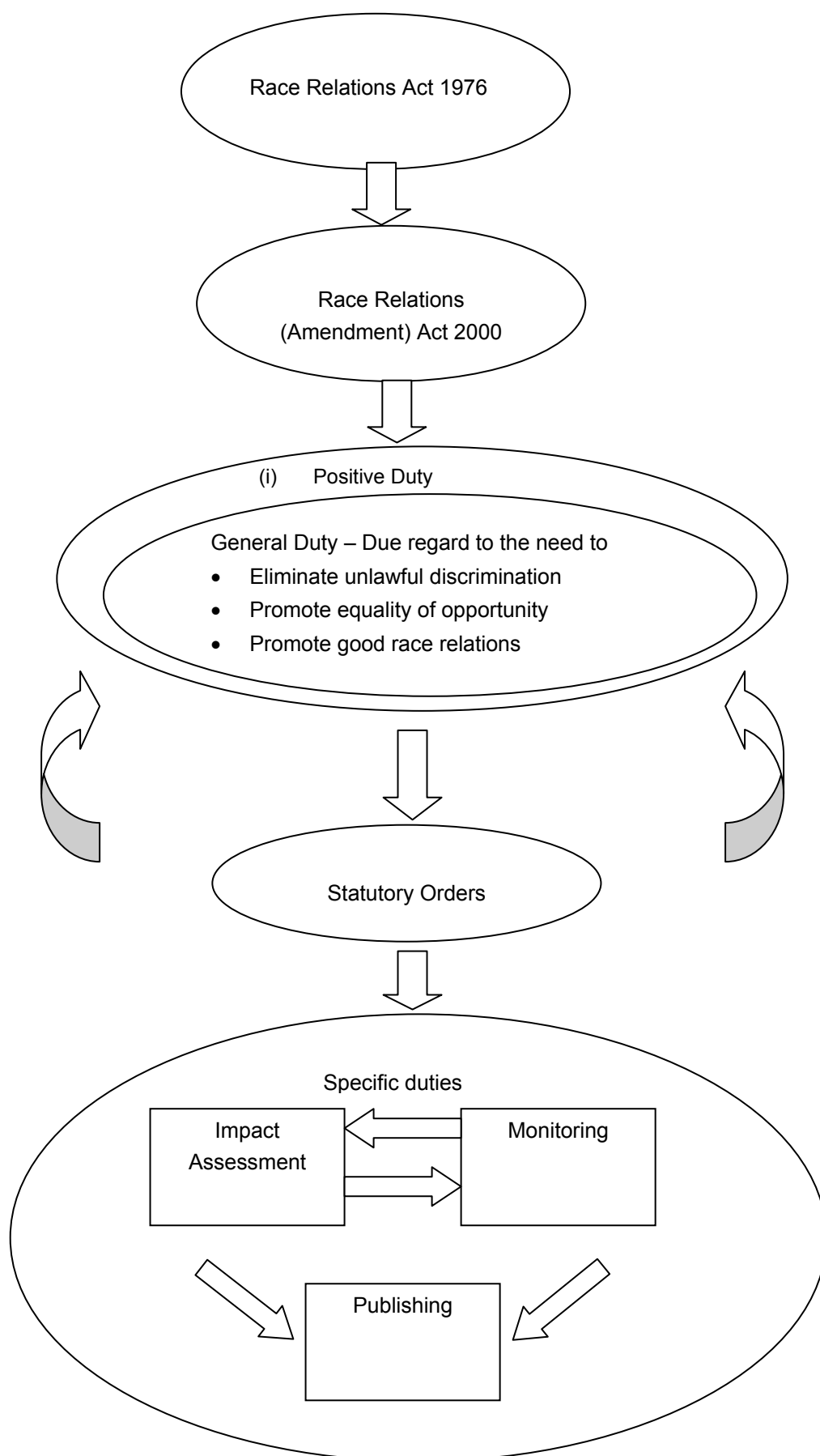
In this context, the **specific duties** should be seen in the following way:

Enablers – The specific duties provide a means by which HEIs can ensure that the requirements of the general duty are being met, thereby facilitating positive change.

Checking progress – The specific duties also provide institutions with the opportunity to chart progress in the area of race equality, and to rectify any measures that may not meet requirements.

Complementary – The nature of the specific duties is such that they can form part of the HEI's review process, thereby ensuring that it is meeting all delivery requirements.

Interrelated – The specific duties should always be considered together, so that monitoring feeds into impact assessment.



Annex B Policy screening form

This form can be used to screen policies and can be amended depending on the work being undertaken at the institution.

It is based on the University of Ulster policy screening form, where valuable work has been undertaken in this area.

1. What is the policy? (Name/description of the policy)

2. What is the aim, objective or purpose of the policy?

3. Who defines or defined the policy and who implements it?

4. Is the policy applied uniformly throughout the university? Yes No

If 'no' what are the consequences in terms of the screening process?

5. Who are the stakeholders in relation to this policy (for example, the Funding Councils, UCAS)?

6. What data are available to facilitate the screening of this policy?

7. Is there any evidence of higher or lower participation or uptake by the following characteristics?

	Yes	No	Not known
Age			
Disability			
Gender			
Marital Status			
Racial group			
Religious belief			
Sexual orientation			

Note: A broad interpretation should be taken of the word 'evidence'. It should include anecdotal evidence and evidence derived from qualitative or quantitative analysis where available.

Please comment:

8. Is there any evidence that different groups have different needs, experiences, issues and priorities in relation to this policy?

	Yes	No	Not known
Age			
Disability			
Gender			
Marital Status			
Racial group			
Religious belief			
Sexual orientation			

Note: A broad interpretation should be taken of the word 'evidence'. It should include anecdotal evidence and evidence derived from qualitative or quantitative analysis where available

Please comment:

9. Have previous consultations with relevant groups, organisations or individuals indicated that policies of this type create problems specific to them?

	Yes	No	Not known
Age			
Disability			
Gender			
Marital Status			
Racial group			
Religious belief			
Sexual orientation			

Please comment:

10. Is there an opportunity to promote equality of opportunity or community relations more effectively by altering the policy, or by working with others? Yes No

Please elaborate:

11. In the context of question 9 are there any relevant groups which you believe should be consulted?

Please specify:

12. What data are required in the future to ensure effective monitoring?

13. Please indicate whether a full impact assessment is recommended. Yes No

Please elaborate:

14. Any other comments on the policy and/or screening exercise?

Timetable for impact assessment

Policy _____

1. On a scale of high, medium or low assess the policy in terms of priorities for impact assessment.

High	
Medium	
Low	

Please indicate when you think this policy should be reviewed next:

Year _____

2. Is the Policy affected by a strategic planning document, for example Agenda for Action, Institutional Plan, Strategic Development Plan? Yes No

Please elaborate:

3. Is the policy affected by the timetable established by other relevant public authorities or organisations in relation to common functions? Yes No

Please elaborate:

4. Are there any particular resource implications incurred by the policy?

Preliminary screening by:

Date:

Annex C

Impact assessment checklist

Identifying policies and functions

- Identify all formal and informal policies, practices, procedures and criteria within an institution through a mapping exercise

Identification of the aims of a policy: the screening process

- Identify aims of policy (practice, procedure or criterion)
- Establish who is responsible for defining and implementing the policy
- Determine if there is scope for promoting equality of opportunity and good race relations within the policy
- Give policy high, medium or low priority with regards to adversely impacting on equality

Consideration of data

- Determine what you need to know about the policy to gauge if it has an adverse impact on any groups
- Examine national and local data sources and collect additional data if necessary
- Use a mix of qualitative and quantitative data from a wide range of sources
- Ensure research is reliable and valid

Consultation

- Ensure a representative sample of people being consulted with specific measures for equality target groups
- Use a variety of accessible methods for consultation
- Take into account issues of proportionality and relevance

Assessing impact

- Determine if the policy has an adverse impact on good race relations and equality of opportunity and equality and diversity on basis of information gathered
- Determine if the policy is directly or indirectly discriminatory and, if so, whether it is justifiable

- Determine whether the policy promotes, or has the potential to promote, good race relations and equality of opportunity

Eliminating or reducing adverse impacts

- Investigate why there was adverse impact
- Find measures that can reduce or eliminate the adverse impact
- Provide clear reasons for changing policy and what you hope to achieve by any changes
- Assess the proposed changes for any adverse impact

Publication of impact assessment

- Compile impact assessment report and final decisions
- Determine how much publicity is needed
- Decide where and how to publicise

Impact assessment in the future

- Ensure mechanisms in place for regular impact assessment
- Allocate responsibilities and put together a timescale for re-assessment

Annex D

List of abbreviations

BME	Black and minority ethnic
CRE	Commission for Racial Equality
ECU	Equality Challenge Unit
HE	Higher education
HEFCE	Higher Education Funding Council for England
HEI	Higher education institution
ICT	Information and communication technologies
LGB	Lesbian, gay and bisexual
RR(A)A	Race Relations (Amendment) Act
UCAS	Universities & Colleges Admissions Service