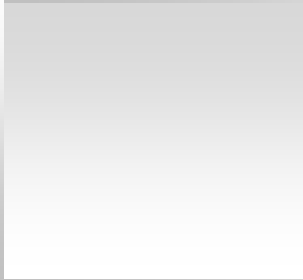
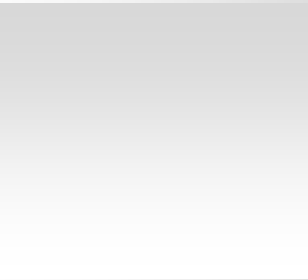


# Screening New Policies:

preventing systemic discrimination  
in new and revised policies

# 3



## Substantive Equality in Services

- addressing and preventing systemic discrimination

# Purpose of doing an impact assessment

The Equal Opportunity Commission (EOC) has been working with State Government departments to assess the impact of existing policies and initiatives under the Policy Framework for Substantive Equality for several years. As a proactive approach to service delivery the EOC has drafted this resource for all organisations, public and private, in order to assess the impact of all new policies and major initiatives. This applies to all policies and major initiatives in either their initial planning stages or when undergoing a revision. The intention is for Impact Assessments to become a routine part of everyday business for all organisations in Western Australia.

Under the *Equal Opportunity Act 1984* (WA) (EO Act), all organisations have a legal responsibility to ensure non-discrimination in a range of areas including the way services are delivered. The *Public Sector Management Act 1994* s7 reinforces these responsibilities for public sector agencies.

An 'Impact Assessment' is a practical way to ensure there is not systemic discrimination in the delivery of services to Western Australia's diverse community, in particular to Aboriginal and Torres Strait Islander, ethnic and other social minority groups protected by the EO Act. The characteristics covered are age, breastfeeding, family responsibilities, family status, gender history, impairment, marital status, political conviction, pregnancy, race, religious conviction, sex or sexual orientation.

An Impact Assessment of a policy or initiative that is new or being revised, promotes equality and awareness of the rights of diverse service users. Doing an Impact Assessment is a way to think about the impact of policies, practices and procedures on all Western Australians before these policies are rolled out.

## Impact assessments and substantive equality

This Impact Assessment tool will assist organisations to look at the outcomes of policies and work to achieve *Substantive Equality*. Substantive Equality is about everyone's right to equal *outcomes*, regardless of their characteristics<sup>1</sup> under the EO Act. Working towards Substantive Equality often means that where there are specific needs of certain groups in the community, those needs are met by adjusting policies, procedures and practices.

Note: Where policies are referred to in this document, this includes services to the public. They may also be initiatives, or one-off programs. (See Glossary p 16)

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<sup>1</sup> 'Characteristics' are those grounds providing protection under the EO Act 1984.

# When to carry out an impact assessment

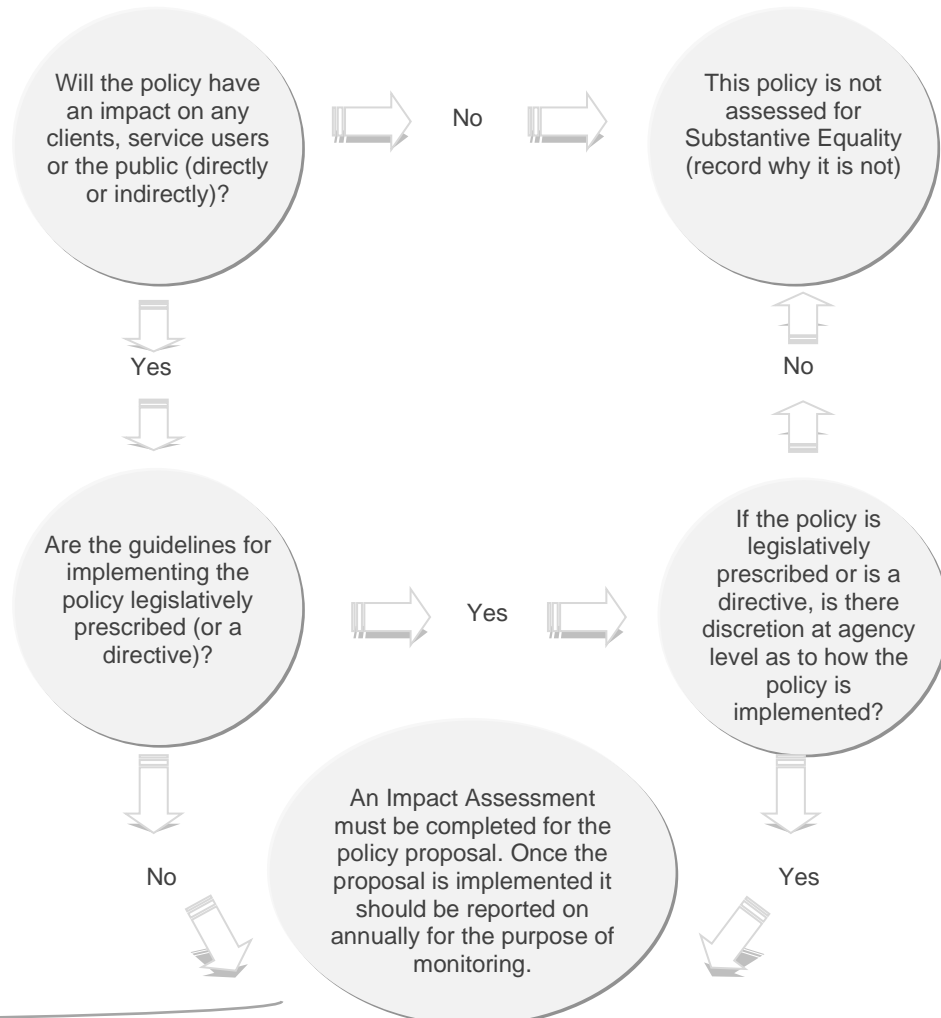
Policies, services and projects that require an Impact Assessment are identified by organisations during the planning process. These should be policies and projects:

- In their initial planning stages
- Undergoing revision
- Where prescribed by a written law or directive, and the agency has a role in how the policy is implemented.

If there is doubt as to whether a policy requires an Impact Assessment, the Officer should contact the Equal Opportunity Commission on 9216 3900 or [eoc@eoc.wa.gov.au](mailto:eoc@eoc.wa.gov.au).

Most policy, project or planning tasks lead to changes that will in the end benefit or impact on members of the community. Even training programs, information systems, administrative or resource decisions may impact at the frontline, and ultimately on the community.

## Figure one: does the proposal need to undergo an impact assessment?



## **If you don't think the policy needs to be assessed, it is still important to document the reason – see Attachment 3.**

Impact assessments are required for:

- All policies and project plans directly relating to the provision of services to the public.
- Any policy or project plan where there is already some evidence or cause for concern that the function, policy or plan may affect some Aboriginal, Torres Strait Islander, ethnic or social minority groups proportionally more than others
- Any policy or project plan that potentially disadvantages, creates or increases barriers to access or potentially result in over (or under) targeting on certain minority groups, based on their characteristics.

Impact assessments may still be required, in the following circumstances:

- The policy applies to everyone - Determining that the policy applies to everyone, does not mean that everyone will benefit or be impacted in the same way. SAME treatment or SAME service does not mean equal outcomes. Substantive equality is about equality of outcomes. Therefore an impact assessment should be undertaken as the default.
- Specifically targeted programs - Determining that the policy of initiative is designed specifically for an Aboriginal, Torres Strait Islander, or other social minority group may not mean that all members of the group will benefit or be impacted equally. These policies may still need to be reviewed to ensure the service delivery is responsive to meet the diverse client needs within targeted groups.
- Administrative policies – these may not appear to be relevant to substantive equality; however, changes to information systems, administration procedures, training programs, resource decisions and changes to forms may indirectly impact and should also be considered.

Where business imperative appears to override, still check:

- There may be times when we are directed or recognise that a policy/strategy must be implemented as is, even though it may/will have a greater impact on a particular group. What is important is that the decision to go ahead is made with knowledge of the issue and possible impacts, and the risks are considered acceptable by management. To manage any risk, an equity impact assessment will still assist in recognising the potential impacts and issues. The impact assessment may provide an opportunity for early engagement with the communities that will be impacted.

### **Key tip 1:**

Consider whether a policy, practice or procedure may impact adversely on clients with characteristics protected under the EO Act which are; age, breastfeeding, family responsibilities, family status, gender history, impairment, marital status, political conviction, pregnancy, race, religious conviction, sex or sexual orientation or a combination of these.

### **Key tip 2:**

It is advised to complete the Impact Assessment alongside or within the process steps of other key initiatives in order to avoid any duplication/overlap. Better to build it into everyday processes.

# Substantive equality impact assessment tool

Name of policy/project plan/initiative:

Date:

Conducted by:

1. Briefly describe the Policy and outline its major objectives:

Tip for Q1: Remember, a 'policy' includes services to the public. They may also be initiatives, or one-off programs for a designated group.

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## Identify who this policy will impact

2. Who will be affected by this policy (who are your clients, service users or members of the public that will be affected)? Social minority groups are part of the affected population?

Tip for Q2: Distinguish between different groups. Also recognise diversity within any minority group. e.g. within the disability area there is a wide range of groups covering particular impairments-sensory, mobility, intellectual,

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3. Will any people with characteristics protected by the grounds of the *Equal Opportunity Act 1984* (WA) be impacted by the policy?

Tip for Q3: See Key Tip 1 above for a list of characteristics protected under the *Equal Opportunity Act 1984* (WA).

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## Data

Reviewing existing data (information and monitoring) is the most effective way of assessing whether certain groups are over or under represented. If you do not have any monitoring data this might be an outcome in itself. For example in areas where there is little or no information, in these cases, it is recommended to note the lack of data and move on to the next part of the Assessment Tool. The lack of data should not be a reason to halt the Impact Assessment or not complete the Assessment Tool but action should be planned to acquire that information.

4. Have you requested data from your information systems and what has it revealed?

Tip for Q4: You will become aware of what data is collected or needs to be collected if there is no data. Data will help to identify gaps in service delivery.

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5. Is the data disaggregated (broken down) by ethnic identity such as Aboriginal or Torres Strait Islander?

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6. Can the data for one group be analysed against other variables such as gender, or regional status?

Tip for Q6: See Key Tip 1 above for information on other variables protected under the *Equal Opportunity Act 1984* (WA).

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## Impact analysis

7. Have you found any research related to the impacts the policy may have?

Tip for Q7: Include details of any research undertaken on how the rights of service users social minority groups may be addressed.

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8. Has research identified any potential adverse impacts social minority groups?

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9. Will the policy and subsequent services be delivered by contract to external bodies? If yes, what measures are included to ensure the contractor delivers the service to produce fair and equal outcomes for social minority groups?

Tip for Q9: Look to four places:

1. Clauses and contracts
2. KPIs
3. Monitoring
4. Data

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## Consultation

10. What methods have been used to consult with service users, peak bodies or other organisations that may be affected by the policy?

Tip for Q10: You may use information from consultations conducted by the department for a similar policy or for another purpose with similar objectives.

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11. Has consultation raised any concerns about barriers that might impact on social minority groups' ability to benefit from this policy?

Tip for Q11: You can summarise the results of your consultation in attachment one.

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## Findings

12. How does the policy promote equal outcomes for social minority groups (Substantive Equality)?

Tip for Q12: Identify best practice: this question may be used to inform Q13.

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13. Reflecting on information recorded in the above questions, is it likely the policy may have adverse consequences on social minorities and if so, which groups and how?

Tip for Q13: Will implementation be affected by language barriers between the organisation and service users? Are there disparities in the geographical area where the proposal will be implemented?

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14. Based on information above, how will your organisation address any adverse consequences identified in Q11?

Tip for Q14: Also detail how these strategies may be perceived by groups affected by the proposal. This should take into account any barriers in consultations and impacts on the rights of service users.

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**Optional: Use attachment one on the next page to summarise the Impact Assessment.**

## The final policy

The final policy should address potential adverse impacts (systemic discrimination) identified during the Impact Assessment, before it is implemented. If the policy is considered best practice, you are encouraged to include how it can be documented and translated for other areas within your organisation and for the wider public.

15. How will this policy be monitored to ensure that it meets the intended objectives for all social minority groups?

Tip for Q16: How will timelines and monitoring be used to ensure the appropriate changes can be made and tracked before and during implementation?

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16. Optional tool : Summarise the changes you made to the policy in the register in Attachment Two.

# Attachment one: impact assessment

Group	Positive Impact. Why? (i.e. it could benefit, based on the information sources outlined on p.8.)	Adverse Impact. Why? (i.e. it could disadvantage, based on the information sources outlined on p.8.)	Other characteristics of group. Why? (all 'grounds' in EO Act, e.g. age, gender, religion, impairment)	Reason (Also include recommendations for addressing the impact)
All Western Australians				
Aboriginal – all (All persons of Aboriginal and / or Torres Strait Islander descent.)				
Aboriginal – specific (Please indicate which specific community / people of Aboriginal and / or Torres Strait Islander descent, e.g. Nyoongah.)				
Ethnic minority – (All persons from ethnic or social minority groups.)				
Specific social minority groups Please indicate which specific community / group and create as many categories as appropriate.)				
Remote and regional areas.				

## Attachment two: monitoring tool

Name of the Policy	Commencement Date of the Impact Assessment	Purpose of the Policy	What was changed after the Impact Assessment	Implementation Date of the Policy (date after the Impact Assessment)

## Attachment three

### **If you do not believe that a policy needs to be assessed, it is important to document your reasons**

A. Briefly describe the policy and outline its major objectives:

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B. Will implementation of the policy affect the public, clients, stakeholders, or anyone beyond your organisation?

1. Yes - see Question C
2. No – this policy/initiative is not assessed for Substantive Equality. Document the reason below

**Tip for B: Whether directly or indirectly through another agency.**

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C. Are the guidelines for implementing the policy legislatively prescribed or a directive?

1. Yes - see Question D
2. No - complete an Impact Assessment

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# Key definitions and further information

## Key definitions

**Characteristics:** The attributes of individuals or groups which are deemed as grounds of unlawful discrimination under the *Equal Opportunity Act 1984*.

**Policy Framework:** The five level strategy for organisations to implement Substantive Equality.

**Policy:** applies to all policies for new or revised policies, initiatives, projects, plans, programs and services which are either delivered directly to the public or impact on them through written laws or directives. However, an organisation will generally have had some input into the development of such policies and may be expected to implement them as part of their planning.

**Systemic Discrimination:** discrimination on any of the grounds of the EO Act in an organisation's policies, procedures and practices. Policies, practices or procedures that have, whether by design or impact, the effect of limiting an individual's or a group's right to the services generally available. If the barrier is affecting some groups in a disproportionately negative way, it is a signal that the practices leading to this adverse impact may be discriminatory.

**Social Minority Group/ Minority Group:** for the purpose of this document it is a group which generally could readily be identified under at least one of the characteristics of the EO Act but may also typically have a combination of characteristics which are not covered by the Act such as socio-economic status.

**Substantive Equality:** recognises that entitlements, opportunities and access are not equally distributed throughout the community and that there may be barriers to service provision resulting in unequal outcomes for particular groups. It acknowledges that where service delivery agencies tailor services to the needs of the majority group, other people with different needs may miss out on essential services. **Equal treatment, therefore, is not about treating people the same; it is about treating people differently to cater for different needs.**

## Further reading

- [Equal Opportunity Commission, Understanding the Policy Framework for Substantive Equality: Key Terms, Substantive Equality Unit 2005](#)
- [Equal Opportunity Commission, Policy Framework for Substantive Equality](#)
- [Equal Opportunity Commission, Tools for Undertaking a Needs and Impact Assessment, Substantive Equality.](#) (Note: this refers to the Tool for screening and full assessment of existing initiatives)



## Contact

For further questions on how your proposal may be assessed in line with Substantive Equality objectives contact the Equal Opportunity Commission on 9216 3900 or [eoc@eoc.wa.gov.au](mailto:eoc@eoc.wa.gov.au)

## Education and training

The Commission can also provide education and training. Further information can be made by contacting (08) 9216 3900 or by emailing [training@eoc.wa.gov.au](mailto:training@eoc.wa.gov.au)

### By telephone

General enquiries	08 9216 3900
Training courses	08 9216 3927
Country callers	1800 198 149

**Email:** [eoc@eoc.wa.gov.au](mailto:eoc@eoc.wa.gov.au)

**Website:** [www.eoc.wa.gov.au](http://www.eoc.wa.gov.au)



The EOC uses the services of accredited and confidential interpreters where needed. An interpreter can be arranged by calling the Translating and Interpreting Service (TIS for migrant languages) on 131450 and ask to be put through to the EOC on 9316 3900 or presenting the Interpreter Card I For Kimberley region Aboriginal language needs contact the EOC on 9216 3900 Email [eoc@eoc.wa.gov.au](mailto:eoc@eoc.wa.gov.au) | Website: [www.eoc.wa.gov.au](http://www.eoc.wa.gov.au)

### Disclaimer

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May 2022