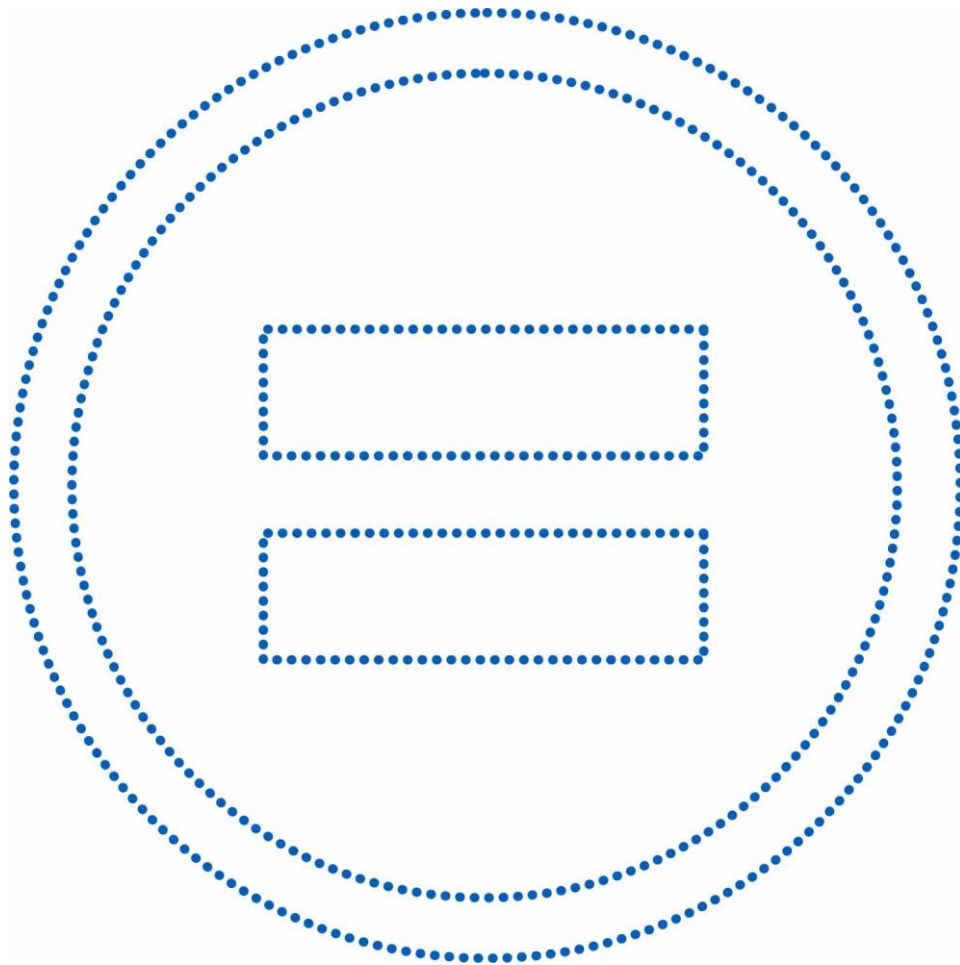


Equality and Children's Rights Impact Assessment Guidance



ECRIA Guidance Contents

Introduction	3
Do you need an ECRIA?	4
Planning the process	8
Part 1 Gathering evidence.....	10
Part 2 Assessing the impact	18
Negative and positive impact	20
Impact on equality	21
Impact on inequalities caused by socio-economic disadvantage ...	25
Impact on children’s rights	26
Part 3 Next Steps.....	30
Sharing with decision makers.....	31
Publishing your results	32
Monitoring the impact	32

Introduction

Equality and children's rights impact assessments (ECRIAs) help us make good decisions and make sure our work doesn't have a negative impact on anyone who works for NHS Lothian or uses our services. They also help us to find ways to make our work have a positive impact on people's lives. In NHS Lothian we use ECRIAs to help us check and develop our proposals for new or revised activities so our work:

- Does not result in unlawful discrimination or harassment.
- Helps to reduce or remove inequalities and achieve equality for people experiencing disadvantage or with different needs.
- Respects, protects and fulfils children and young people's human rights.

NHS Lothian has a ECRIA Policy to ensure a structured and consistent process. At the very start of thinking about a new or revised piece of work, you must decide whether an ECRIA is required. NHS Lothian has a checklist to help you decide.



If you decide an ECRIA is required, it must be done at the beginning of your project to allow you to take the results into account as part of developing your final proposal and to allow decision-makers to meet their duties to give due consideration to equality and children's rights.

This document will guide you through each step of the process to complete your ECRIA to:

1. Plan.
2. Collect relevant evidence.
3. Assess the impact of the activity.
4. Take the results into account in your final proposal.
5. Allow decision makers to consider the ECRIA results.
6. Publish the results.
7. Monitor the actual impact.

Do you need an ECRIA?

ECRIAs are not optional. We have a legal duty to assess the impact of relevant proposed new or revised policies or practices on equality and children's rights before we implement them.

We must carry out our public functions in a way that:

- has due regard for the need to **eliminate unlawful discrimination and advance equality and good relations**
- is compatible with **children's human rights**
- has due regard to reducing **inequalities caused by socio-economic disadvantage**.

Our statutory equality and children's rights duties don't apply to everything we do. We must decide if they apply and if we need to do an ECRIA to meet them. The NHS Lothian ECRIA Checklist will help you decide if an ECRIA is required.

As most of our work has consequences for people, we normally expect proposals for new or revised activities to include an ECRIA. However, you may not need to do one if the equality duties and children's rights are not relevant or you already know the impact your work will have.

✓ **DO need one.** ✗ **DO NOT need one.** ✗ **DO NOT need one.**

Activity impacts people but not clear how:

- Strategies and policies
- Projects
- New or redesign of service or department
- Commissioning or recommissioning services.

Example:
A policy on home working or the recommissioning of services to support sexual health and wellbeing.

Activity impacts people and we know how:

- Creation of 1 new post
- Staff health and wellbeing event
- Updating NHS Lothian website
- Guidance on implementing policies or statutory advice
- Other methods have been used to assess the impacts.

Example:
A self help guide for managing fever in children is updated.

Activity won't impact people:

- Progress, performance or research reports
- Press releases
- Audit of accounts.

Example:
A progress report on meeting our office waste recycling targets or presentation about the findings of a research project.

Level of ECRIA needed

Any ECRIA should be proportional to the impact of the proposed work. The time and resources you spend doing an ECRIA will depend on the size and scope of the activity you are working on. You will need to consider if the activity is:

- **Major** – in terms of scale or significance
- **Minor** – but likely to have a major impact on people who share relevant protected characteristics
- **Minor** – in terms of scale or significance.

Services delivered on our behalf

We cannot delegate our legal responsibilities. If we contract with an organisation to carry out one of our public functions (and an Impact Assessment must be done as part of the work) we must ensure the requirement to have due regard to equality and children's rights, and if necessary, doing an ECRIA, is included in the contract specifications.

Example:

NHS Lothian would like to commission an external organisation to support people with frailty. We know that our equality duties apply to this service and an ECRIA will help make sure the service is non-discriminatory and helps to meet the needs of different population groups. The Service Level Agreement includes the 'equality considerations and requirements' that the contractor must meet. This includes carrying out an ECRIA and using the results to put in place steps to ensure everyone who needs it can access this support. This helped the contractor identify when and how to use interpreters, including BSL, the need to produce written information in plain English, large font and EasyRead, to make sure people living in poverty can access the service and to set up a process for collecting and using equality monitoring information.

Implementing national policy or initiatives

Although national impact assessments will already have been completed for national policies or initiatives, we must decide if the results of these impact assessments allow us to understand the potential impact of implementing a national policy or initiative on people who use our services or who work for us. If they don't, we must carry out our own ECRIA and use it to inform our implementation plans.

Example:

NHS Scotland immunisation and vaccination programmes are decided nationally, with national impact assessments. In NHS Lothian, the Public Health Immunisation Team carry out ECRiAs to develop local implementation plans. National and previous local impact assessments, as well as up to date local population and equality monitoring data, help identify ways to help increase uptake in particular groups by understanding and removing barriers.

Assessing impact at a strategic level

Strategies and strategic plans set our direction and assessing their potential impact allows us to identify relevant equality and children's rights priorities or outcomes. Your proposed strategy should be as specific as possible about the equality groups and children's rights affected. In most cases, you will be guided about relevant equality and children's strategic priorities or outcomes by national policies and outcomes, and evidence of significant inequalities. However, your ECRIA will allow you to identify gaps, opportunities or different outcomes that we want to achieve.

ECRIAs of proposed strategies or strategic plans should consider relevant high level strategic frameworks including:

- The Scottish Government's National Outcomes in the National Performance Framework

- NHS Lothian's Strategic Development Framework
- NHS Lothian's Equality and Human Rights Strategy

You do not have to identify 'how' to reduce inequalities – that will come during the ECRIA of the strategy's programmes and projects.

Example:

A workforce development strategy aims to create jobs and training opportunities. The evidence collected as part of the ECRIA identifies that the Scottish Government is committed to halving the disability employment gap and ensuring minority ethnic people have equal and fair access to employment. Locally, disabled people and people from certain BME communities have particularly high unemployment rates and are under-represented in the organisations workforce. The organisation also has a policy of improving employment opportunities for care experience people, to help meet its Corporate Parenting duties. The results of the ECRIA are used to include a commitment to improving employment outcomes for disabled people, people from BME communities and people with care experience in the new strategy.

Planning the process

Some work will affect everyone working for us or using our services, but some may only affect specific groups of people. You need to identify who will be affected at the start.

Identify who is, or may be, affected by the activity

Your ECRIA should only collect evidence about the groups of people who will be affected and assess the potential impact on them.

Example:

A vaccination helpline will only affect specific groups of people who are eligible for the vaccination.

An e-health project to provide digital correspondence about hospital appointments will affect everyone living in Lothian. We need to consider different groups of people who share protected characteristics and any potential impact connected to that characteristic (e.g. older people, disabled people, people from particular ethnic groups). It will also have a potential impact on people living in different or difficult circumstances, such as people experiencing homelessness and people who are in prison, who will also share one or more protected characteristic. Consideration will need to be given about how to make sure the proposal doesn't disadvantage people in these circumstances and if it could include steps to tackle any health or employment inequalities they experience.



Who should be involved in the assessment?

The Project or Service Lead is responsible for assessing if an ECRIA is required, and if so ensuring it is completed. You will need a range of relevant perspectives to consider the impact of your work and so you should ask a range of people to be involved in your assessment including people with:

- Responsibility for developing the work.
- Responsibility for implementing the work.
- Operational or front-line perspective.
- Relevant protected characteristics, experience of living in poverty, children and young people or people from organisations that represent them.

There are different ways to involve people. You can approach people individually or in groups as part of your evidence gathering. It's normally helpful to do the assessment with others. You can do this in the project team or arrange a meeting with a broader group to help you. However, the approach you take will depend on the type and scale of the activity you are doing an ECRIA for.

You must share the results of your ECRIA with the person or group making the final decision about the activity. The courts have confirmed that the legal duty to consider equality is on decision makers, and what matters is what they know and take into account when making decisions.

Part 1

Gathering evidence

Gathering the evidence

Gathering and using evidence allows us to understand the reality of people's lives.

You will need evidence about the needs and experiences of the people affected by your proposal including:

- People who do and don't access our services
- Our staff
- Health and employment inequalities experienced by groups of people.
- Barriers to participation in, or access to, relevant activities and services
- How to meet different needs.

Evidence can come from:

- Internal equality monitoring data, consultations, or public engagement.
- External research reports.
- National and local population data and workforce data.

If there are gaps in your evidence, you should proactively involve the relevant groups and communities. Where it's not possible to gather new information in time to inform your assessment you should collect this as part of monitoring the impact of your proposal.

You need to present your evidence in a way that helps people understand it.

This is of particular importance when gathering evidence for a strategy – as it will be critical for the programmes and projects that emerge from the strategy.



Useful places to collect evidence

- [NHS Lothian Equality and Human Rights Evidence Paper and Impact Assessment results](#)
- [Lothian Analytical Services](#) (intranet)
- [NHS Lothian annual equality and diversity monitoring report](#)
- [NHS Lothian Director of Public Health Annual Report](#)
- [NHS Lothian Minority Ethnic Health Information Services \(MEHIS\)](#)
- [NHS Lothian LGBT+ Health Needs Assessment](#)
- [NHS Lothian Equality staff networks](#)
- [Scottish Government Long-term monitoring of health inequalities collection of annual reports](#)
- Patient or stakeholder groups
- Trade unions
- [Staff responsible for delivering similar policies/past Integrated Impact Assessments](#)
- [Public Health Scotland](#)
- [Scottish Government Equality Evidence](#)
- [Scottish Parliament Research Briefings](#)
- [Poverty and Inequality Commission](#)
- [Scottish Government – Supporting disabled children, young people and their families: guidance](#)
- [Equality and Human Rights Commission](#)
- [Scottish Household Survey](#)
- [Scottish Attitudes Survey](#)
- [Scotland's Census](#)
- [Edinburgh Equality and Rights Network](#)
- [Scottish Index of Multiple Deprivation](#)
- [Scottish Government official statistics](#)
- [Who Cares? Scotland](#)
- [Children's Parliament](#)
- [Together: Scottish Alliance for Children's Rights](#)
- [Children & Young People's Commissioner Scotland](#)
- [Celcis: Statistics about children and young people in and leaving care](#)
- [University of Edinburgh Centre for Homelessness and Inclusion Health](#)
- [UN Convention on the Rights of the Child - UNICEF UK](#)
- Integration Joint Board Strategic Assessments

Discussion points

This information may help you gather evidence. It is not exhaustive and should be used as a starting point.

Protected characteristics

Age

- Adverse Childhood Experiences including abuse, neglect or poverty are a determinant for future health outcomes.
- Care Experienced children and young people are at greater risk of being homeless and have poorer health outcomes with higher rates of prescriptions for depression, greater psychiatric outpatient clinic attendance, and acute inpatient admissions.
- Babies and infants are less able to have their voices and opinions heard/listened to.
- Adults aged 55-64 have the lowest employment rate, followed by 16-25 year olds (excluding students in full-time education).
- The proportion of young people in insecure employment significantly increased in 2019/20.
- Some adults over 50 experience age discrimination in the workplace.
- The homeless population is younger than the overall adult Scottish population.
- Women outnumber men in older age groups.
- Older people are more likely to face barriers accessing online services.
- Approximately 9% of Scotland's population over the age of 65 have a diagnosis of dementia.
- 43% of carers are between 45-64. Many children and young people are carers.
- Scotland's prison population is aging and concerns have been raised about the prison system meeting older prisoner's needs including health and social care.
- Suicide and drugs are increasing the number of deaths in Scottish prisons and older prisoners are particularly more affected.
- Adults aged 25-34 are more likely to report having attempted suicide than those over 75.
- Younger people aged 16-34 are much more likely than those aged over 65% to report having self-harmed.

Disability

- Around 30% of adults and 10% of children are disabled.
- Some people may have needs such as mobility, speech, hearing, sight, memory, neurodiversity. They may require wheelchair access, induction loops, large print text, switches at accessible heights, British Sign Language (BSL) interpreters, speech to text provision, [BT relay service](#), [BSL Video Relay Service](#), double appointments.
- Some people may have needs caused by their experiences of trauma, abuse, pain and anxiety. This may affect their ability to access services and build trusting relationships. They may require adjustments to the way services are provided, to allow them to ask for, and receive help.
- Some people find it difficult to access services via public transport or walking.

- People whose first language is British Sign Language (BSL) cannot be assumed to read English well as it is not their first language.
- Many disabled people experience harassment and abuse related to their disability.
- Disabled people are more likely to live in poverty and have higher daily living costs.
- Disabled children are more likely to experience abuse or neglect.
- On average the life expectancy of people with a learning disability is shorter than the general population.
- There has been an increase in both disabled and non-disabled people reporting poor mental health since 2015. But the increase has been much larger for disabled people (7.4% compared to 1.5%).
- People discharged from hospital following a period of treatment for mental illness may be more vulnerable to homelessness.
- It is estimated that around 10% of the prison population has a diagnosed learning disability, around 60% of prisoners have difficulties with communication skills and around 15% of young people in custody are on the autistic spectrum.
- It is estimated at least 15% of people in prison have a long-term mental health condition and 17% a history of self-harm and these people are disproportionately female.
- Conditions of military service can affect veterans' mental health and veterans can have severe or multiple injuries that have a life-long impact on their health. Some veterans said they were not economically active because they were long-term sick or disabled

Gender Reassignment

- Trans people often report poor experience when using services primarily related to attitudes of and assumptions made by staff.
- Trans people are more likely to have mental health conditions and report high levels of self-harm and attempted suicide than the general population.
- Trans people may have needs in relation to modesty (e.g. privacy in changing areas, provision of single sex accommodation, appropriate uniforms/dress code).
- There is a risk of health professionals misdiagnosing people through assumptions about their gender identity, inadequate knowledge about some identities and concerns about confidentiality.

Marriage and civil partnership

- The protection from discrimination on the basis of this characteristic applies only in employment situations. There is no legal requirement to consider how to advance equality of opportunity or foster good relations in relation to this.

Pregnancy and maternity

- Pregnancy and maternity discrimination is when there is unfavourable treatment during the protected period, which is 26 weeks beginning with the date gave birth.
- Pregnancy and maternity leave can have a negative impact on employment opportunities and income.
- Pregnancy is one of the key triggers that increase the risk of women living in poverty, particular where they are lone parents. There are services that support women during

pregnancy and maternity period to make sure they get the pay and benefits they are entitled to.

- Pregnant women and new mothers in the asylum system are particularly vulnerable to poverty.
- The UK has the second highest rate of teenage pregnancies out of the 21 most developed countries. Teenage pregnancy is linked to deprivation, with rates of teenage pregnancy in deprived areas of Scotland more than treble those of the least deprived. Teenage pregnancy is often a cause and a consequence of increased social exclusion and reduced access to state services such as education, training and benefits.
- Having diabetes put mothers and their babies at more risk of serious health complications during pregnancy and childbirth. Planning ahead and support from health professionals can reduce the risks involved.
- Pregnant women in prison are more likely to give birth prematurely as women in the general population, and at least two babies have died in women's prisons in the UK.

Race/ethnicity

- Discrimination and other social determinants of health contribute to racialised health inequalities.
- Some people may require interpreters and translated materials. People may not be literate in their own language and have an oral tradition for communication. NHS Lothian has a [translation service](#). It is against NHS Lothian policy for friends or relatives to act as interpreters during treatment or appointments.
- Some self-management information may show examples of disease on pale skin which might make it harder to diagnose on darker skin.
- Some people may have cultural needs in relation to diet, modesty (e.g., privacy in changing areas, provision of single gender accommodation, appropriate uniforms/dress code), bathing and personal care, organ/tissue donation, blood sharing and certain drugs/treatments.
- Some diseases such as heart disease, diabetes, HIV are higher in some communities.
- Many refugees and asylum seekers have physical and mental health problems associated with the reason they have had to seek asylum.
- Gypsy Travellers and Roma people have the poorest health outcomes than any other social or ethnic group. The life expectancy is 50 years for both men and women.
- Ethnic minority communities are over represented in mental health admissions.
- BME women are at higher risk of dying during pregnancy, childbirth and postnatally and of experiencing premature birth, stillbirth or neonatal death compared with their White counterparts.
- In 2020, 14% of homelessness applications were made by BME households.
- Reflecting the characteristics of Scotland as a whole, the majority of people who spend time in prison identify as White. In 2019 -20, the incarceration rate for people who identify as African, Caribbean or Black, or from Other ethnic groups was significantly higher than for people who identify as White. People identifying as Asian, Asian Scottish or Asian British have the lowest incarceration rates.

Religion or belief

- Health beliefs, values and needs vary between cultures and religions and between individuals with cultural and religious groups.
- We need to be respectful of employee's religion or belief. This includes being sensitive to employee's needs in terms of uniforms, dietary requirements, providing a room for prayer and time off for religious observance.
- 50.1% of religious minority adults were employed compared to 67.8% of non-religious people. Muslims have a particularly large employment gap, with 45.2% of Muslim adults in employment.
- Roman Catholics are significantly less likely to report good or very good health than those with no religion, once age difference have been taken into account. Levels of poor mental health were not significantly different between Roman Catholics, those with an 'other religion' and those with no religion.
- Muslim women experience barriers when engaging with mental health services, including anxiety about whether they will have to explain their beliefs to healthcare workers due to a general lack of understanding of Muslim culture.

Sex

- Men have lower life expectancy, but women are more likely to suffer ill health, suggesting that women spend more years in poor health.
- Women are more at risk of gender-based violence, young men are more likely to be involved in violence or accidents.
- Women continue to experience sexual harassment at work and there are barriers to reporting.
- Sometimes separate services for women and men are more effective at meeting needs. Providing single-sex services might be needed if someone might reasonably object to the presence of someone of the opposite sex.
- Carers are disproportionately female - 61% are women and 39% are men.
- The average life expectancy for a homeless person is 47 for men and 43 for women.
- The suicide rate for boys and young men aged 5-24 is over two times higher than for girls and young women in the same age group.
- 1 in 10 veterans are female, 9 in 10 are male.
- The leading cause of death among socio-economically deprived men aged 15 – 44 is suicide, drugs and alcohol.
- There are more homelessness applications from men than women.

Sexual orientation

- LGB people are at a higher risk of mental health problems than heterosexual people, including self-harm, suicidal thoughts, increased alcohol, drug and tobacco use.
- LGB people, especially women and bisexual adults experience worse physical and mental health and face barriers using health services.
- Gay and bisexual men are less likely to be registered with a GP.
- Gay men represent the group most at risk from HIV transmission.

- Bisexual adults are more likely to earn lower wages than heterosexual, gay and lesbian workers.
- Relative poverty rates are higher and increasing at a faster rate for LGB adults than for heterosexual adults.

Socio-economic disadvantage

- Homelessness and households assessed as homeless are increasing. Edinburgh has more than twice the national rate of households in temporary accommodation. Midlothian had the largest proportionate increase.
- Transport matters to poverty because poor access to transport can lock people into poverty by limiting access to opportunities to increase income and access healthcare. The cost of transport puts significant pressure on already tight household budgets. Being unable to access or afford transport can prevent people accessing services, reduce quality of life and lead to social isolation and can increase health inequalities.
- Around 11% of Lothian's population live in areas categorised as among the 20% most deprived in Scotland. The greatest number are in Edinburgh. West Lothian has the highest share of its population living in the most deprived communities.
- Living in deprived areas is sometimes connected to lower healthy life expectancy than affluent areas, higher mortality and morbidity, and poorer mental health.
- The inequalities that people can face because of socio-economic disadvantage include poorer skills and attainment, lower healthy life expectancy, lower quality, less secure and lower paid work, greater chance of being a victim of crime and or less chance of being treated with dignity and respect.
- People describing themselves as African, Caribbean or Black are much more likely to be living in the most deprived areas than other ethnic groups.
- After years of decline, homelessness is on the rise again.
- Caring responsibilities may limit participation in employment, education and other aspects of life. This may impact on social status, income, mental and physical health.
- In 2020-21, 14% of young carers lived in the 10% most deprived areas.
- 0.3% of veterans are homeless, rough sleeping or living in a refuge for domestic abuse.

Part 2

Assessing the impact

Assessing the impact

After collecting your evidence, you must use it to assess the potential impact your work could have on equality and good relations, socio economic inequality for different population groups and compatibility with children's rights. This means for each relevant group you must consider if your work could:

- Result in **unlawful discrimination or disadvantage**.
- Help to **advance equality of opportunity and foster good relations**.
- Reduce health and employment inequalities caused by **socio economic disadvantage**.
- **Be incompatible with** relevant **UN Convention on the Rights of the Child (UNCRC) rights**.

It is helpful to involve other people to assess the potential impacts of proposed new or revised activities. You should share the evidence that has been collected with them and check for any gaps. You can assess the potential impacts in a group, in writing or in a meeting. The approach you take will depend on your proposal, and what you think will help you.



Negative and positive impact

The work we do can have positive, negative or no impacts on our aim of improving the health and wellbeing of everyone in Lothian.

A **Negative Impact** stops us from improving the health and wellbeing of everyone in Lothian.

This could be through:

- Unlawful discrimination
- Widening inequalities
- Contributing to worse relations or increased intolerance between people
- Restricting children's rights.

If you identify any potential **unlawful discrimination**, you must change your proposals. If you identify any **disadvantage**, you must identify how to prevent, or reduce this.

Example:

If we don't provide support or alternative arrangements for an online vaccination booking system, we may unlawfully discriminate against disabled people by failing to meet the duty to make reasonable adjustments.

We may also increase health inequalities experienced by older people, gypsy traveller communities and people living in poverty.

A **Positive Impact** supports us to improve the health and wellbeing of everyone in Lothian.

This could be through:

- Removing disadvantage
- Meeting different needs
- Increasing participation
- Reducing inequalities and prejudice
- Protecting, respecting and fulfilling children's rights.

If you identify the **potential to make a positive impact**, you must include actions to achieve this.

Example

A targeted women's health improvement campaign may reduce gender health inequalities because women in Lothian lose more years of their life to ill health and some face additional barriers to accessing health services. Parts of the campaign are designed to reach women with the worst health outcomes – women with learning disabilities, living in Gypsy Traveller communities, of African and Caribbean descent, and those living in the most deprived areas.

Impact on equality

Protected characteristics

[The Equality Act 2010](#) provides protection from discrimination and harassment for people based on 9 characteristics. These characteristics are protected in law because we know that people experience inequalities connected to sharing one or more of these characteristics. The Equality Act applies to us all as everyone has at least one of the protected characteristics:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion and Belief
- Sexual Orientation
- Sex

Public Sector Equality Duty

The Equality Act also aims to advance equality of opportunity for everyone and includes the Public Sector Equality Duty, which requires us, to have 'due regard' to the need to:

- **Eliminate unlawful discrimination**, harassment and victimisation and other conduct prohibited by or under this Act.
- **Advance equality of opportunity** between people who share a relevant protected characteristic and those who do not share it.
- **Foster good relations** between people who share a relevant protected characteristic and those who do not.



Eliminating unlawful discrimination

Direct discrimination – we must not treat someone less favourably because of a protected characteristic.

Example:

A man is not offered a job in an all-female team, despite meeting all the recruitment criteria, because the manager is concerned that he would feel unhappy and uncomfortable in an all-female environment. This is likely to be an example of direct sex discrimination.

Indirect discrimination – we must not put someone with a protected characteristic at a disadvantage unless it is a proportionate way to achieve a legitimate aim.

Example:

A health board policy on access to assisted conception includes a requirement for people to have had heterosexual sex for two years before being considered for fertility treatment. This indirectly discriminates against people in relation to sexual orientation because this rule puts lesbians at a particular disadvantage. Although this criteria could be about achieving a legitimate aim there may be less discriminatory ways to achieve the same aim.

Discrimination arising from disability – we must not treat a disabled person unfavourably because of something connected with their disability if this cannot be objectively justified.

Example:

A manager issues a written warning [this is the unfavourable treatment] to a disabled member of staff because they have been absent from work a lot. The absence is because they needed to attend hospital appointments related to their disability. Instead, the manager should have followed the capability performance procedure before deciding if action was needed.

A failure to make a reasonable adjustment – we must make adjustments to remove, reduce or prevent barriers faced by disabled people, where it is reasonable to do so. It will always be reasonable to provide information in an accessible format if not doing so would put someone at a substantial disadvantage.

Examples of reasonable adjustments:

- changing physical features such as steps or seating
- changing the way we do things
- providing aids such as voice recognition software, a hearing loop, assistance dog, BSL interpreter

You can find more about accessible information on the Scottish Government website -

[What we mean when we talk about accessibility - Accessibility in government \(blog.gov.uk\)](#) and [Accessible communication formats - GOV.UK \(www.gov.uk\)](#)

Eliminating harassment and victimisation

Harassment – we must not allow unwanted behaviour related to a protected characteristic that could violate someone's dignity or create an intimidating, degrading, humiliating or offensive environment for them.

Examples of unwanted behaviour:

- spoken or written abuse – this could be 'banter', emails, online comments or graffiti
- physical gestures/facial expressions.

Victimisation – we must not allow someone to treat another person badly because they have done a 'protected act' in good faith - for example they have made or supported someone else who is making a complaint of discrimination or harassment.

Example:

Someone made a complaint that their GP's receptionist discriminated against them because of their mental health condition. As a result, the GP practice manager tells them to leave and register with another practice. Taken from www.mind.org.uk



Advancing equality of opportunity

We must do everything we can to:

- Remove or minimise **disadvantage** / inequalities experienced by people due to their protected characteristics.
- Meet the **needs** of different protected groups in our population where their needs are different from the needs of other people.
- Encourage different groups of people to **participate** in public life or in other activities where their participation is disproportionately low.

Fostering good relations

Fostering good relations is when we take steps to **tackle prejudice and promote understanding** between people from different groups.

Positive Action

We can take positive action to improve equality for a group of people who share a protected characteristic if the statutory conditions for this are met. We must reasonably think that people who share a protected characteristic:

- a) experience a **disadvantage** connected to that characteristic,
- b) have **needs** that are different from the needs of people who do not share that characteristic or
- c) have disproportionately low **participation** in an activity compared to others who do not share that protected characteristic.

We can take any action which is proportionate to meet the aims set out in the Equality Act 2010 to:

- a) Remedy the **disadvantage**.
- b) Meet the **needs**.
- c) Enable or encourage **participation**.

Example – LAWFUL because it is non-discriminatory

We are allowed to place a job advertisement in a magazine with a largely lesbian and gay readership as well as placing it on a national recruitment website.

Example – LAWFUL positive action because it meets the conditions in the Equality Act 2010

We may be allowed to reserve places on a training course for young people if we can show they have disproportionately low participation in this area, and it will help to enable and encourage young people to participate.

Example – UNLAWFUL action because it is direct discrimination

We are not allowed to limit interviews for a job to women only, unless we can show there is an occupational requirement that only women can do this job (e.g. support workers in an organisation providing support for women who experiencing domestic abuse).

Impact on inequalities caused by socio-economic disadvantage

[The Fairer Scotland Duty](#) places a legal responsibility on us to have due regard to how we can reduce inequalities of outcome caused by socio-economic disadvantage. The Fairer Scotland Duty Guidance recommends including this within the equality impact assessment process.

In broad terms, 'socio-economic disadvantage' means living on a low income compared to others in Scotland, with little or no accumulated wealth, leading to greater material deprivation, restricting the ability to access basic goods and services. Socio-economic disadvantage can be experienced in terms of the places where people live and/ or the protected characteristics they share.

People experiencing socio-economic disadvantage means people:

- **With low income** – cannot afford to maintain regular payments such as bills, food, clothing or travel costs.
- **With low/no wealth** – enough money to meet basic living costs and pay bills but have no savings to deal with unexpected spends and no provision for the future.
- **Living in material deprivation** – being unable to access basic goods and services. This can include people experiencing homelessness.
- **Living in deprived areas** – where you live, where you work, visit or spend a continuous amount of time can all have an impact.
- **From particular socio-economic backgrounds** – disadvantage that can arise from parents' education, employment and income or social class.

Some people are more likely to experience health or employment inequalities caused by socio-economic disadvantage such as people who are homeless, in prison or are ex-offenders, people with additions, ex-service personnel/ veterans, people with caring responsibilities and people involved in prostitution.

Example

When NHS 24 needed to relocate they included tackling inequality caused by socio economic disadvantage into their relocation case criteria as a 'non-financial benefits' criteria. This has encouraged NHS 24 staff to consider how relocation plans could create employment opportunities in diverse and more deprived communities and how businesses in the local community could be supported. Taken from www.gov.scot

Impact on children's rights

The UK has ratified the [UN Convention of the Rights of the Child](#) (UNCRC). It is therefore binding on the UK as a matter of international law. The Scottish Government has incorporated relevant UNCRC requirements into the UNCRC (Incorporation) (Scotland) Act 2024. This means it is unlawful for a public authority to act, or fail to act, in a way which is incompatible with the UNCRC requirements that have been incorporated into Scots law. Acting in a way that is compatible with human rights is often called **respecting** human rights. We use the ECRIA process to assess the compatibility of relevant proposals against UNCRC rights.

We are also required to take proactive steps to ensure we are **protecting** and **fulfilling** children's rights when we are making decisions and delivering services, and to report on the progress we're making to do this.

Protecting means we need to take steps to protect someone's rights from being restricted by third parties, including individuals and private organisations. Fulfilling means taking proactive steps to help people enjoy their rights.

Article 4 of the UNCRC requires that **all appropriate legislative, administrative and other measures are taken to allow children to enjoy their rights**. This means NHS Lothian is obliged to help children enjoy their UNCRC economic, social and cultural rights to the fullest extent possible using the resources that are available.

There are UNCRC obligations that are not subject to whether resources are available and progressive realisation – in particular, the right to for children and young people to enjoy economic, social and cultural rights without discrimination.

There is also an immediate obligation to take deliberate, concrete and targeted measures, making the most efficient use of available resources, to move as expeditiously and effectively as possible towards the full realisation of rights.

An important aspect of taking steps to implement children's rights to the fullest extent possible is to consider how all proposed new or revised activities could affect children. Proposals that have a positive or neutral impact are likely to be at a lower risk of being incompatible. Those found to have a negative impact (e.g. they remove, restrict or reduce the rights experienced by children)

are likely to be at greater risk of being non-compatible. There are limited and exceptional reasons when this may be lawful. To minimise the risk of incompatibility, convincing reasons and controls should be in place to return the enjoyment of rights back to the previous position.

We have [duties as Corporate Parents](#) for all Care Experienced children and young people under 26. We use the ECRIA process to help us meet these duties. Every Corporate Parent, so far as is consistent with their functions, has a duty to do the following for a child or young person:

- a) Be alert to matters which, or which might, adversely affect their wellbeing.
- b) Assess their needs.
- c) Promote their interests.
- d) Try to provide opportunities to participate in activities to promote their wellbeing.
- e) Take such action as considered appropriate to help them access opportunities and make use of our services and access support we provide.



Children's Rights

- Article 1 – everyone under age 18 has all UNCRC rights.
- Article 2 – non-discrimination.
- Article 3 – the best interests of the child shall be a primary consideration.
- Article 4 - measures to implement UNCRC rights.
- Article 5 – the responsibilities, rights and duties of parents or where applicable others, shall be respected in a manner consistent with the evolving capacities of the child, with the appropriate direction and guidance by the child.
- Article 6 – to life. The survival and development of the child will be ensured to the maximum extent possible.
- Article 7 – to a name, nationality, and as far as possible to know and be cared for by their parents.
- Article 8 – to preserve their identity.
- Article 9 – not to be separated from their parents against their will, except when competent authorities subject to judicial review determine, in accordance with the law and procedures, that separation is necessary for the best interests of the child.
- Article 10 – immigration decisions about family reunification to be dealt with in a positive, humane and expeditious manner.
- Article 11 – combat the illicit transfer and non-return of children abroad.
- Article 12 – the child who is capable of forming their own views shall have the right to express those views freely in all matters affecting the child.
- Article 13 – freedom of expression.
- Article 14 – freedom of thought, conscience, and religion.
- Article 15 – freedom of association and freedom of peaceful assembly.
- Article 16 – no child shall be subject to arbitrary or unlawful interference with his or her privacy, family, home or correspondence.
- Article 17 – access to mass media information from a diverse range of sources
- Article 18 – both parents have common responsibilities for the upbringing and development of the child.
- Article 19 – protection from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation.
- Article 20 – a child temporarily or permanently deprived of their family environment, or because it is in their own best interests not to be allowed to remain in that environment, shall be entitled to special protection and assistance.
- Article 21 – system of adoption ensures best interests of child is paramount
- Article 22 – take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee...receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights.
- Article 23 – a mentally or physically disabled child should enjoy a full and decent life, in conditions that ensure dignity, promote self-reliance, and facilitate the child's active participation in the community.
- Article 24 – enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. To strive to ensure that no child is deprived of their right to access such health care services.

- Article 25 – a child placed by competent authorities for the purposes of care, protection or treatment of their physical or mental health has right to a periodic review of treatment.
- Article 26 – to social security
- Article 27 – to standard of living adequate for their development
- Article 28 – right to education
- Article 29 – direction of education
- Article 30 – a child belonging to an ethnic, religious or linguistic minority group will not be denied the right... to enjoy their own culture, to profess or practice their own religion or to use their own language.
- Article 31 – to rest and leisure, to engage in play and recreational activities appropriate to their age and to participate freely in cultural life and the arts.
- Article 32 – protection from economic exploitation
- Article 33 – protection from illicit use of narcotic drugs and psychotropic substances
- Article 34 – protection from all forms of sexual exploitation and sexual abuse
- Article 35 – prevention of abduction, sale or trafficking
- Article 36 – protection against all forms of exploitation prejudicial to any aspect of their welfare.
- Article 37 – no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. No child shall be deprived of their liberty unlawfully or arbitrarily.
- Article 38 – respect for rules of international humanitarian law in armed conflict.
- Article 39 – to take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, or abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment, or armed conflicts.

Read the rights in full here or use our UNCRC guidance published on NHS Lothian ECRIA webpage.

Part 3

Next Steps

Sharing with decision makers

Decision makers have a legal duty to consider equality 'in substance, with rigour and an open mind, not a tick box'. They need sufficient knowledge to allow them to make a decision. These principles can also be applied to how we meet the Fairer Scotland Duty and uphold children's rights.

You must tell the decision maker **if the duties to consider equality and children's rights apply to their decision.**

✓ If they DO:

- You must provide them with the results of your impact assessment or explain the impact if already known.
- They must **consider equality and children's rights at the time a decision is taken.**
- They must **assess the risk and extent of any potential discrimination or incompatibility with children's rights and ways to eliminate it or act compatibly before the proposal is agreed.**

To do this they must ensure they understand the proposal, the groups affected, evidence and any potential impacts.

✗ If they DO NOT:

- You must provide them with a record of your decision of why you have not completed an ECRIA.



Publishing your results

As soon as possible after your policy is implemented, you are required, by law, to publish the results of your Impact Assessment. Send the report to LOTH.equalityhumanrights@nhs.scot

Monitoring the impact

Having due regard to equality and children's rights is an ongoing process. You should identify the *actual* impact once your proposal is implemented.

You should include equality indicators in your performance reports. These should show the effect your policy is having on reducing inequalities for example if you are seeing increased participation rates, better outcomes, fewer complaints, or more positive feedback from people from the groups where inequalities were identified.

Equality monitoring data will help you to understand the difference you are making. We have access to equality data from the Scotland Census, Lothian Analytical Services and the Workforce Planning Team. We can collect our own equality monitoring data using feedback questionnaires or surveys. The Equality and Human Rights Team can provide a template.

The purpose of collecting this information is to review whether your work is having the desired effect and, if not, consider how to change it or, if necessary, stop it and try something else. To be effective, monitoring requires baseline information from the beginning. This means identifying indicators that represent the issue and/or UNCRC right you are trying to address.

You may want to align to NHS Lothian or national indicators, Scottish Government's National Performance Indicators, Local Outcome Improvement Plans or Community Planning Partnership indicators. If you cannot identify an appropriate existing indicator, you should consider whether you can develop a bespoke measurement. Your indicators should be able to reflect the effect on people's lives, not just output measures such as actions taken.