

Colchester Borough Council

Equality Impact Assessment Form - An Analysis of the Effects on Equality

Section 1: screening stage

Name of policy, service or strategy to be assessed:

Charging for ‘High Hedges’ applications (HHe)

1. What is the main purpose of the policy, service or strategy?

- **To create capacity to undertake such determinations as an extension to statutory function required by Govt. and provide additional funding resource to deliver such capability**

2. What main areas or activities does it cover?

- **Initial contact through standard application using standard template**
- **Site visit and appropriate meetings and advice to planner from specialist arboriculturalist**
- **Reporting and determination of application**

3. Who are the main audience, users or customers who will be affected?

- **Landowners with high hedges**
- **Neighbours whose amenity is adversely affected by high hedges on adjacent sites**

4. What outcomes do you want to achieve from the policy, service or strategy?

- **Improved quality of life for those experiencing unacceptable harm to amenity from high hedges**
- **Delivery of quality service in a timely manner**
- **Self supporting finance for this new aspect of the services function**
- **Increased capacity to undertake statutory functions (dealing with planning applications)**

5. Are other service areas or partner agencies involved in delivery? If so, please give details below:

- **Internal/external consultees (where appropriate to landownership)**
- **CBC hedges causing problems for neighbours**
- **CBH as affected neighbour or as land owner of high hedge**
- **Fee set after comparison to charges levied by other Councils across Essex and remains unaltered from original time of setting**

6. Does the policy, service or strategy help to further or facilitate to our 'general duty'¹ to:

- (a) eliminate unlawful discrimination, harassment and victimisation?
- (b) advance equality of opportunity between people who share a 'protected characteristic'² and those who do not?
- (c) foster good relations between people who share a protected characteristic and those who do not?

- **Yes & no**

If you have answered 'no', please give details of the reasons for this decision:

No – An application under the High Hedges Regs can only legitimately follow after discussion between neighbours has broken down and mediation has failed to provide a solution to the nuisance/perceived nuisance being created. At that point an application can reinforce feelings of antipathy between parties, particularly if the Council through its ultimate decision requires

¹ these 3 points summarise the 'general duty' as it applies to public sector organisations in the Equality Act 2010

² The Equality Act's 'protected characteristics' include age, disability, gender reassignment, pregnancy and maternity, race, religion or belief and sex and sexual orientation. It also covers marriage and civil partnerships, but not for all aspects of the duty.

a hedge to be trimmed or significantly lopped. This is exacerbated if the land owner refuses and the Service takes Direct Action to do the work and then re-charge the land owner.

Similarly a requirement for a neighbour to pay for the application to require a land owner to take action can cause tension as some applicants feel that the process should be free as the alternative of taking their own legal action tends to be expensive although significantly more so than the CBC charge and they would rather save their money as the nuisance/perceived nuisance is not of their making. The Council has a legal duty to investigate alleged breaches of planning control but is not required to undertake High Hedges applications free of charge. Boundary disputes between land owners can become intractable and some claims made be made maliciously. Charging a minimal charge reduces the potential for such claims.

7. If you answered 'yes' to any of the sections in Question 6 (above), please complete the following in order to identify how the policy, practice or strategy furthers the aim of the 'general duty':

'Protected characteristic' group		How does it help to 'eliminate unlawful discrimination, harassment and victimisation'?	How does it help to 'advance equality of opportunity between people who share a protected characteristic and those who do not'?	How does it help to 'foster good relations between those who share a protected characteristic and those who do not'?
Age	Older people (60+)	<p>The High Hedges Regs are framed in Statute and national guidance on how to calculate the extent of nuisance being caused. The system is available to all and is an open and transparent system Decisions requiring remedial action to be undertaken can be appealed</p> <p>The Planning Services complaints and intense customer satisfaction monitoring processes (part of the unique E&PS set-up) are designed to ensure that any potential inequality is identified and tackled at a very early stage. (whether that be a process or human issue)</p>		
	Younger people (17-25) and children (0-16)			
Disability	Physical			
	Sensory			
	Learning			
	Mental health issues			
	Other – <i>please specify</i>			
Ethnicity ³	White			
	Black			
	Chinese			
	Mixed Ethnic Origin			
	Gypsies/ Travellers *			

³ Census 2011 categories are: Bangladeshi, Indian, Pakistani, Other Asian (Asian or Asian British); African, Caribbean, Other Black (Black or Black British); White and Black African, White and Asian, White and Black Caribbean (Mixed); British, Irish; Other White (White); Chinese, Other (Other ethnic group).

'Protected characteristic' group		How does it help to 'eliminate unlawful discrimination, harassment and victimisation'?	How does it help to 'advance equality of opportunity between people who share a protected characteristic and those who do not'?	How does it help to 'foster good relations between those who share a protected characteristic and those who do not'?
	Other – <i>please state</i>			
Language	English not first language			
Pregnancy and Maternity	Women who are pregnant or have given birth in last 26 weeks			
Religion or Belief	People with a religious belief (or none) ⁴			
Sex	Men			
	Women			
	Transsexual / gender reassignment			
Sexual Orientation	Lesbian, gay and bisexual			
Marriage and Civil Partnership ⁵	People who are single, married or in a civil partnership			

⁴ For example, Buddhist, Christian, Hindu, Jewish, Muslim, Sikh or no religious belief.

⁵ Our legal duty in respect of 'marriage or civil partnership' extends only to the need to eliminate unlawful discrimination.

8. Are there any concerns that the policy, service or strategy could have a differential impact in terms of equality?

- **yes**

Please use the table below to indicate how the policy, service or strategy could have a positive or negative effect on any of the following equality groups (known under the Equality Act as ‘protected characteristics’). Include reference to any consultation, data or information that you have used in making this assessment about positive or negative effects.

‘Protected characteristic’ group		Positive Impact	Explain how it could benefit the group	Negative Impact	Explain how it could disadvantage the group
Age	Older people (60+)	yes	<p>It is open to all and operates within a tightly prescribed system by Govt and is open and transparent</p> <p>It ensures that decision are made based on measurable criteria judged after reference to Govt guidance.</p> <p>Provides an opportunity for resolution that does not require a resort to the Courts and costly private legal action</p>	yes	<p>The application forms/process can be confusing if care is not taken to explain the processes to someone who needs support completing the forms or is not familiar with form filling</p>
	Younger people (17-25) and children (0-16)				
Disability	Physical				
	Sensory				
	Learning				
	Mental health issues				
	Other – <i>please specify</i>				
Ethnicity	White	yes	<p>It can give G&T communities the certainty that a site is authorised and that they will not be subject to enforcement or similar action to move them.</p>	no	
	Black				
	Chinese				
	Mixed Ethnic Origin				
	Gypsies/ Travellers	yes			
	Other – <i>please state</i>	yes	<p>It is open to all and operates within a tightly prescribed system by Govt and is open and transparent</p>	yes	<p>The application forms/process can be confusing</p>
Language	English not first language				

'Protected characteristic' group		Positive Impact	Explain how it could benefit the group	Negative Impact	Explain how it could disadvantage the group
Pregnancy and Maternity	Women who are pregnant or have given birth in last 26 weeks		<p>It ensures that decisions are made based on all material considerations and is less prone to decision making by prejudice</p> <p>Local policies subject to scrutiny before adoption and their own EqlAs</p> <p>Information about planning service/system available via many mediums and channels</p> <p>Public meetings organised corporately to ensure easy access to decision making process- interpretation facilities are available</p>	<p>if care is not taken to explain the processes to someone who needs support completing the forms or is not familiar with form filling</p>	
Religion or Belief	People with a religious belief (or none)				
Sex	Men				
	Women				
	Transsexual / gender reassignment				
Sexual Orientation	Lesbian, gay and bisexual				
Marriage and Civil Partnership	People who are single, married or in a civil partnership				

9. Could the policy, service or strategy discriminate⁶ against any 'protected characteristic', either directly or indirectly?

Yes- through misapplication of process/appraisals or individual officer prejudice

10. If you have identified any negative impacts above, have you been able to minimise or remove them, and if so, how?

⁶ Direct discrimination occurs when a person is treated less favourably than another in a comparable situation because of their 'protected characteristic' whether on grounds of age, disability, pregnancy and maternity, ethnicity; religion or belief; sex (gender), sexual orientation, or Marriage and Civil Partnership. Indirect discrimination occurs when an apparently neutral provision or practice would nevertheless disadvantage people on the grounds of their 'protected characteristic' unless the practice can be objectively justified by a legitimate aim.

The application forms/process can be confusing if care is not taken to explain the processes to someone who needs support completing the forms or is not familiar with form filling

Minimised by:

- **Duty phone system to offer general planning advice by a planner**
- **Publication of advisory material (web/paper)**
- **Training all staff in customer excellence techniques /requirements**
- **Operating an open & transparent system**
- **Operating planning workshops for some key users (eg Parish Councils)**
- **Operating a sophisticated complaints & satisfaction review and monitoring process with learning points, changed ways of working arising from analysis and feedback (to user, staff and general public)**
- **Interpretation facilities available**
- **Hearing loops available**
- **Simplifying forms**
- **Access to Planning Aid available where appropriate**

through misapplication of process/appraisals or individual officer prejudice

Minimised by:

- **No officer can take/make a delegated decision on a planning application on her or his own and every recommendation is subject to scrutiny and checking by a more senior officer. Where the person who is making the recommendation is herself/himself a senior officer that recommendation is subject to approval by a peer of similar seniority or higher**
- **Comprehensive complaint monitoring system in operation within the service requires any complaint or any sort to be investigated by a senior officer. Complaints are closely monitored and every complainant is contacted via a survey by the service's Customer Relationship Officer to assess whether the actions taken were reasonable. Trends are followed as are specific complaints relating to individual officers.**
- **Committee decisions are made after consideration of a full report and recommendation by the Planning Service (subject to prior internal scrutiny). The meetings are public and representations are possible by the public at the meeting. The decisions are formally recorded. All reports and decisions are made available on the web. (reports 5 days before the meeting)**

- Officers and members work to an adopted code of conduct that requires interests to be declared
 - Planning officers who are chartered members of the Royal Town Planning Institute (RTPI) have a professional code to adhere to.
 - By explaining each step to each party
 - Explaining the appeal process
 - The charging regime is reviewed corporately every year and is subject to a fees and charges report to the Portfolioholder & cabinet accompanied by a revised EqIA.
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- **Summary and findings of Initial Equality Impact Assessment – screening stage**

11. Please put a tick in the relevant box to confirm your findings, and what the next step is:

Findings	Action required
No likely negative impacts have been identified and this has been justified with reference to consultation, data or information. <input type="checkbox"/> N/A	Sign off screening and finish.
Likely negative impacts have been identified but have been minimised or removed. <input type="checkbox"/> YES	Sign off screening and finish.
Likely negative impacts were identified but have not been minimised or removed. <input type="checkbox"/> N/A	Sign off screening and complete a full impact assessment – Section 2.
There is insufficient evidence to make a judgement. <input type="checkbox"/> N/A	Sign off screening and complete a full impact assessment – Section 2.

12. Name and job title of person completing this form:

- **Vincent Pearce, Planning Service Manager**

13. Date of completion:

- **21 September 2011**

14. Date for update or review of this screening:

- **1 April 2012 in time for annual fees review (previous EqIA completed 25 Oct 2010 review was set for 1 January 2012 but reviewed early to reflect new corporate EqIA format)**

If you have now signed off this screening form, Section Two is not required and you should remove Section Two from this document, along with these two paragraphs in italics. Please send a copy to the relevant Head of Service and the Equality and Diversity Officer. You also need to arrange for it to be published on the Council's website [here](#) – under the relevant service area heading.

If you have identified any negative impact which and has not been minimised or removed, or if there is insufficient evidence - you must complete Section Two, Full Impact Assessment. The policy, service or strategy should not be implemented until the Full Impact Assessment has been completed and approved as it is potentially discriminatory.

Section 2: Full Equality Impact Assessment

Where there is a negative impact which has not been minimised or removed

15. If you have identified negative impact(s) on equality group(s) that have not been minimised or removed, can this be objectively justified by a legitimate aim⁷? If yes, state how:

-

If a negative impact cannot be minimised or removed and cannot be objectively justified by a legitimate aim, the policy, service or strategy should not be implemented as it is potentially discriminatory.

Where there is insufficient evidence to make a judgement

If you identified that there was insufficient evidence to make a judgement on whether there was a negative impact on an equality group, please complete the first column of the Action Plan below.

Engagement and Consultation Action Plan

		Details of Planned Engagement	Date for Review	Summary of findings
Age	Older people (60+)			
	Younger people (17-25) and children (0-16)			
Disability	Physical			
	Sensory			
	Learning			
	Mental health issues			
	Other – <i>please specify</i>			

⁷ For example, a negative equality impacts may sometimes be 'objectively justified by a legitimate aim' where the policy is specifically designed to meet the aims of the 'general duty' for those people with a specific protected characteristic.

		Details of Planned Engagement	Date for Review	Summary of findings
Ethnicity	White			
	Black			
	Chinese			
	Mixed Ethnic Origin			
	Gypsies/ Travellers			
	Other – <i>please state</i>			
Language	English not first language			
Pregnancy and Maternity	Women who are pregnant or have given birth in last 26 weeks			
Religion or Belief	People with a religious belief (or none)			
Sex	Men			
	Women			
	Transsexual / gender reassignment			
Sexual Orientation	Lesbian, gay and bisexual			
Marriage and Civil Partnership	People who are single, married or in a civil partnership			

If you confirmed in question 8 above that this policy could be discriminatory against a 'protected characteristic', you should not implement the policy.

Otherwise, you may implement the policy, taking care to review its impact based on planned engagement. The Review should be carried out within 6 months from the date of this Full Impact Assessment, at which point a further Review may or may not be required depending on whether you have collected sufficient evidence.

Summary and findings of Full Equality Impact Assessment

16. Please put a tick in the relevant box to confirm your findings, and what the next step is:

Findings	Action required
Likely negative impacts have been identified but are considered to be objectively justified by a legitimate aim. <input type="checkbox"/>	Sign off and finish.
Planned engagement with equality target groups will take place in order to gain sufficient evidence to make a judgement on impact. <input type="checkbox"/>	Sign off and review within 6 months.
The policy could be discriminatory and will not be implemented. <input type="checkbox"/>	Finish without signing off.

17. Name and job title of person completing this form:

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18. Date of completion:

-

19. Date for update or review of this screening:

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If you have now signed off this full assessment, please send a copy to the relevant Head of Service and the Equality and Diversity Officer. You also need to arrange for it to be published on the Council's website [here](#) – under the relevant service area heading.