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# Certificate of Credit in Commissioning & Purchasing for Public Care

## Module 2

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# Sessions will cover

- The national and local agenda
- What is commissioning and how well are we doing it?
- Needs and resource analysis
- Planning and options appraisal - ✓
- Market shaping - ✓
- Accreditation – overview - ✓
- Commissioning for outcomes
- Contract management and procurement
- Monitoring and review
- Person centred approach to commissioning
- Delivering change
- Commissioning skills

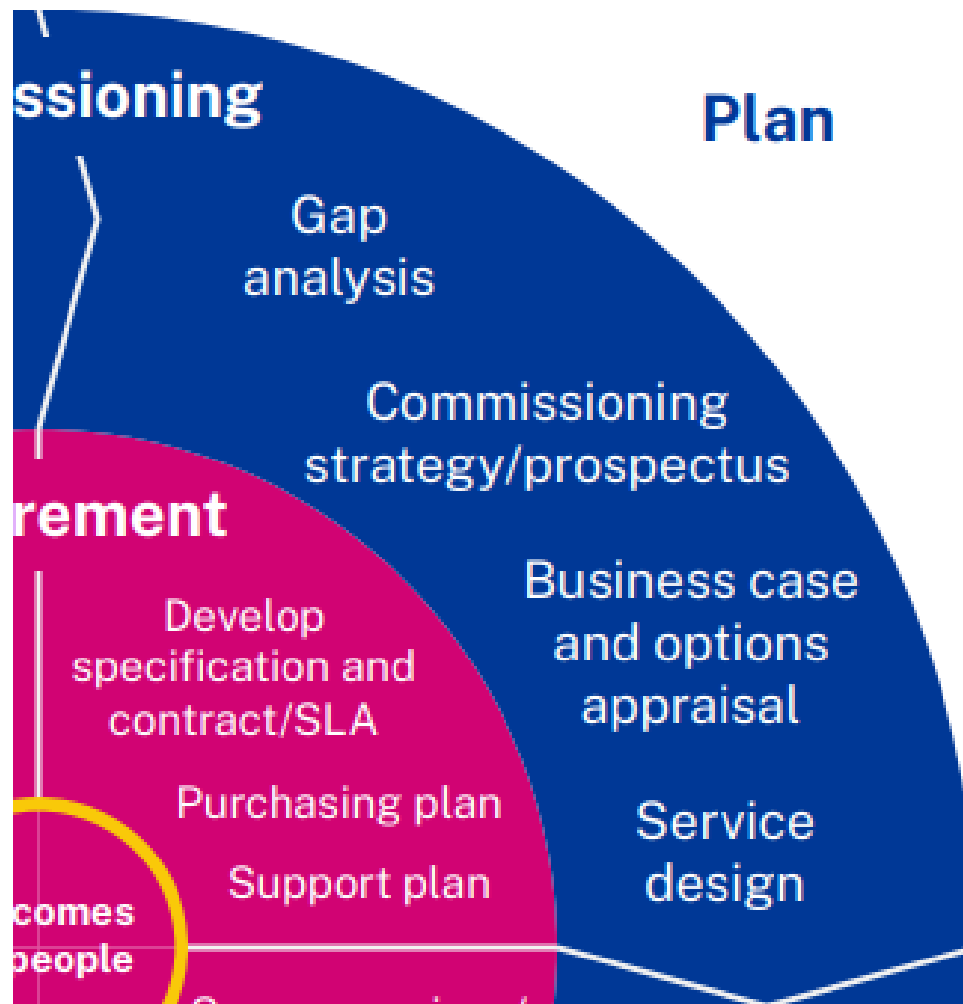
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# Planning and Options Appraisals

# Institute of Public Care Commissioning Cycle - Plan



# Commissioning activity product(s) might be:

- Commissioning strategy
- Business case
- Options appraisal
- Risk assessment
- Equality Impact Assessment
- Market position statement (MPS)
- Others?

# What is a commissioning strategy?

It is a statement...

...of how you are going to effect change in the overall configuration of services across a market to meet the needs of the client group.



# What is a Business Case?

“The business case provides justification for undertaking a project...its purpose is to obtain management commitment.”

(APM Body of Knowledge 5th edition)

Two key types of business case:

- Outline Business Case (OBC)
- Full Business Case



# What is a Business Case?

## Outline Business Case (OBC) Full Business Case

- sets out the preliminary thoughts regarding a proposed service
  - should contain the information needed to help the organisation make decisions regarding the adoption of the project
  - should state envisaged outcomes, benefits and potential risks associated with the proposal
- a management tool, developed over time as a living document as a proposal develops
  - summarises research and analysis needed to support decision making in a transparent way and summarising objectives, the key features of implementation management and arrangements for evaluation

(NHSE 2013)

(Assoc of Colleges UK 2012)



# Options appraisal

“The process of defining objectives, examining options and weighing up the costs, benefits, risks and uncertainties of those options before a decision is made.”

HM Government: Green Book

# Options appraisal

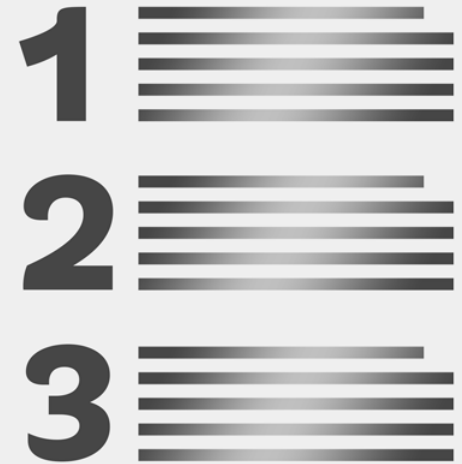
An effective option appraisal will include an assessment of:

- Project costs, benefits and risks;
- Whether the project benefits are worth the cost and the risk;
- The best option that will deliver the desired outcomes, at the right time, at an acceptable cost and level of risk;
- Whether there is adequate baseline information to allow a post-project evaluation to be carried out; and
- The future of the project.

(2009) RICS - Asset Management Best Practice: Making the Right Choices

# Options appraisal - tips

- Ensure evidence-based and beware of bias
- Make a realistic appraisal of risks, benefits and costs
- Include reference to the financial implications of options
- Where appropriate, use a recognised methodology e.g.
  - Cost benefit analysis (CBA)
  - Social Return on Investment (SROI)
  - Multi-criteria Analysis (MCA)



# Options appraisal examples

- The strategic case
- The legal case
- The outcomes case
- The operational case
- The financial case

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# What informs your options appraisal?

# What is a risk assessment?



“A systematic process of evaluating the potential risks that may be involved in a projected activity or undertaking”.

Oxford English Dictionary

# Managing risk

**Risk Matrix Chart**

		Likelihood				
		1	2	3	4	5
Consequence		Rare The event may occur in exceptional circumstances	Unlikely The event could occur sometimes	Moderate The event should occur sometimes	Likely The event will probably occur in most circumstances	Almost Certain The event is expected to occur most circumstances
1	Insignificant No injuries or health issues	LOW	LOW	LOW	LOW	MODERATE
2	Minor First aid treatment	LOW	LOW	MODERATE	MODERATE	HIGH
3	Moderate Medical treatment, potential LTI	LOW	MODERATE	HIGH	HIGH	CRITICAL
4	Major Permanent disability or disease	LOW	MODERATE	HIGH	CRITICAL	CATASTROPHIC
5	Extreme Death	MODERATE	HIGH	CRITICAL	CATASTROPHIC	CATASTROPHIC

## Risk rating:

**Low risk:** Acceptable risk and no further action required as long as the risk has been minimised as far as possible. Risk needs to be reviewed periodically.

**Moderate risk:** Tolerable with further action required to minimise risk. Risk needs to be reviewed periodically.

**High risk:** Tolerable with further action required to minimise risk. Risk needs to be reviewed continuously.

**Critical risk:** Unacceptable risk and further action required immediately to minimise risk.

**Catastrophic:** Unacceptable risk and urgent action required to minimise risk.

## Risk Rating for this incident

<input type="checkbox"/> LOW RISK	<input type="checkbox"/> MODERATE RISK	<input type="checkbox"/> HIGH RISK	<input type="checkbox"/> CRITICAL RISK	<input type="checkbox"/> CATASTROPHIC
Acceptable with periodic review	Tolerable with periodic review	Tolerable with continuous review	Intolerable	Intolerable



# Data Protection Impact Assessments





# Data Protection Impact Assessments

DPIA's must:

- Describe the nature, scope, context and purposes of the processing (*of personal data*)
- Assess the necessity, proportionality and compliance measures
- Identify and assess risks to individuals, and;
- Identify any additional measures to mitigate those risks

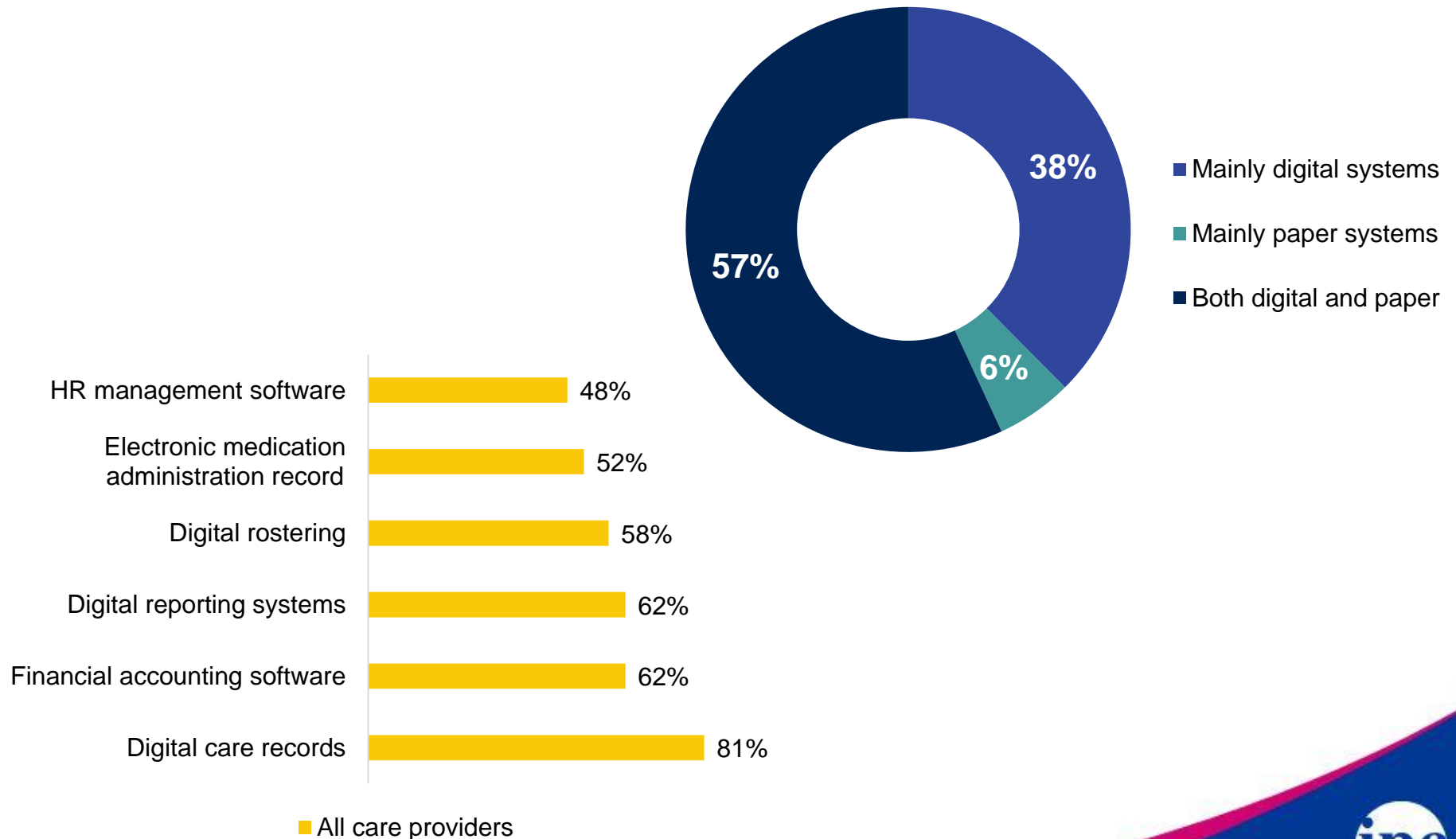
Information Commissioner's Office



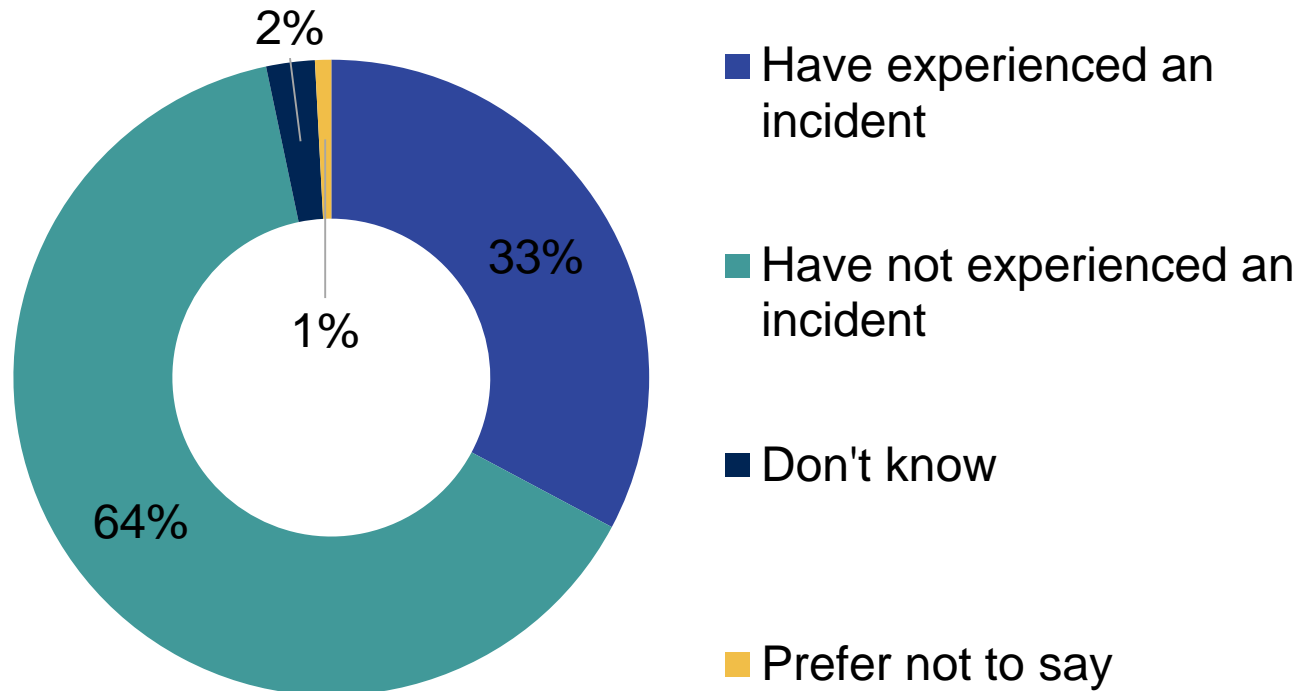
# Example - Digitising adult social care

- Digital technologies have tremendous potential to improve social care
- Policy direction to accelerate the adoption of technology
- Funding available to scale up digital social care technology across England

# Care providers' use of technology



# Social care providers and cyber security incidents (in last 3 years)



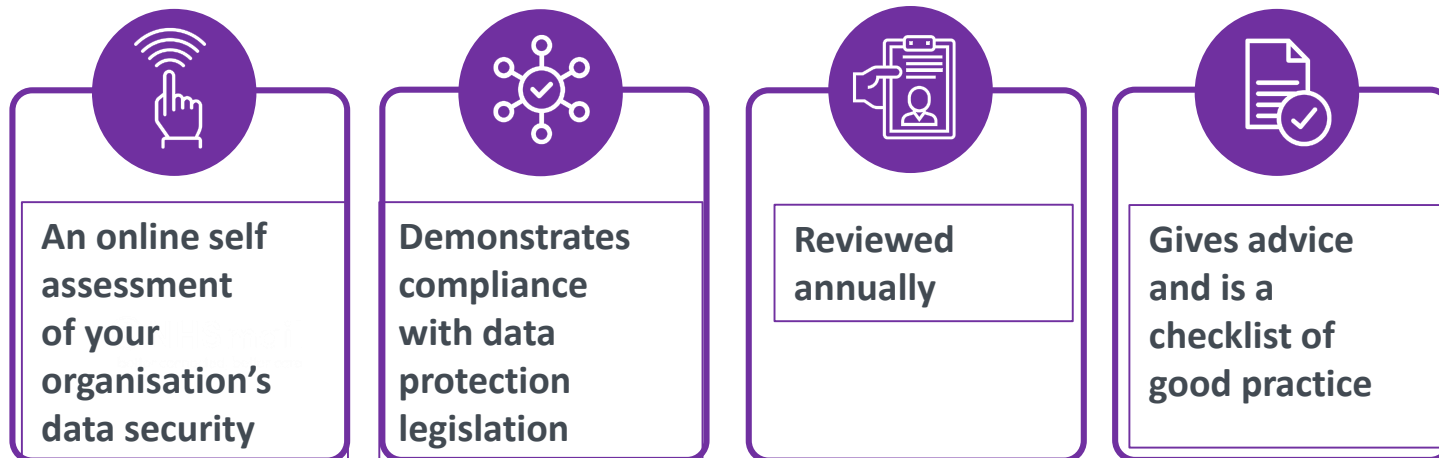
# The role of the commissioner

- To comply with data protection legislation, **the services you commission** must also be compliant
- **You share a lot of information** with care providers: contracts + sensitive information about individuals – all parties need to follow good data and cyber security
- Ensuring a **sustainable and diverse care market**: support all care providers to make the most of digital technology, including security requirements

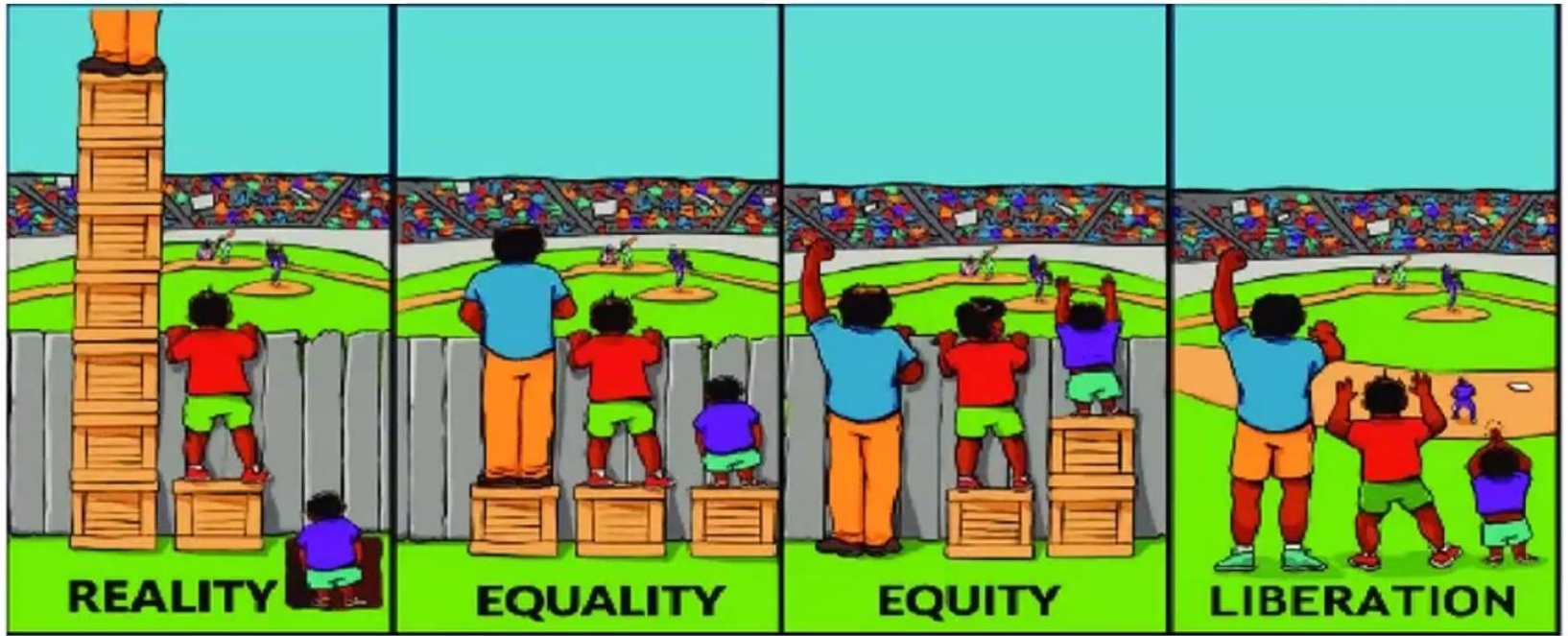
# Data risk mitigation – example



<https://www.digitalcarehub.co.uk/dspt/>



# Equality Impact Assessments



# Equality Act 2010

## Key UK legislation for anti-discrimination law

Key features include:

- Prohibition of Discrimination
- Public Sector Equality Duty
- Employment Equality
- Service Providers and Public Functions
- Education
- Associative discrimination
- Perception discrimination



Equality Act 2010



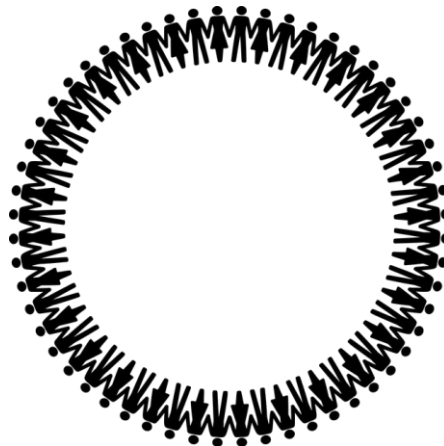
# Public Sector Equality Duty (S.149 Equality Act 2010)

The PSED relates to public sector organisations (e.g., local authorities) and places three main aims and responsibilities on public bodies:

- **Eliminating unlawful discrimination**, harassment and victimization and any other conduct that has been prohibited from the Equality Act.
- Advance **equality of opportunity** between people who share relevant protected characteristics and people who don't.
- **Foster or encourage good relations** between people who share a protected characteristic and those who don't.

# Protected Characteristics

- Age
- Gender reassignment
- Being married or in a civil partnership
- Being pregnant or on maternity leave
- Disability
- Race, including colour, nationality, ethnic or national origin
- Religion or belief
- Sex
- Sexual orientation



# Intersectionality



# Why does the PSED exist?

*“The broad purpose of the Equality Duty is to integrate consideration of equality and good relations in the day-to-day business of public authorities. If you do not consider how a function can affect different groups in different ways, it is unlikely to have the intended effect. This can contribute to greater inequality and poor outcomes. (The general equality duty) requires equality considerations to be reflected into the design of policies and the delivery of services, including internal policies, and for these issues to be kept under review”*

Equality and Human Rights Commission

# Equality Impact Assessments

- An evidence-based approach to help public bodies to ensure their policies, practices, events and decision-making processes are **fair**, and do not present barriers to participation or **disadvantage any protected groups from participation.**
- This includes when introducing something new, or changing something that already exists.

# Benefits of EIAs

An EIA will help to ensure that:

- **Ensure that your decisions impact in a fair way:** where there is evidence that particular groups of people will be negatively affected by a decision, action should be taken to address this. This should protect people from avoidable poorer outcomes and disadvantage.
- **Make your decisions based on evidence:** EIA provides a clear and structured way to collect, assess and put forward relevant evidence.
- **Make decision-making more transparent:** a process which involves those affected by the policy and which is based on evidence is much more open and transparent. This is more likely to engender trust in decision-makers and in your decisions.
- **Adherence with your statutory duty...**

# EIA in Law

- The Equality Act and PSED sets out in law our duties.
- The Act (2010) does not specifically require EIAs to be carried out, although they are recommended as a way of facilitating and evidencing compliance with the PSED
- Case Law indicates that some form of documentary evidence of compliance with the PSED is essential, and public bodies can be formally challenged to demonstrate they took due regard to their equality duty...

# Beyond a 'tick box' exercise...

Court of Session ruling on South Ayrshire Council, regarding closure of a day centre for adults:

“The court held that the council breached its Public Sector Equality Duty under section 149 of the 2010 Act by failing to carry out a formal equality impact assessment (EIA) to assess the effect of the policy on those persons with disabilities who relied on the service, adding that a scoping exercise which was later carried out had “all the hallmarks of a tick-box exercise” completed after the decision had been taken”.

Scottish Legal News, January 2020



# Completing EIAs – best practice

- **Should be considered at the beginning of a process**
- EIAs must be **informed by evidence**, and not our assumptions e.g., data and in consultation with local people / communities
- Asset mapping
- Team effort
- Be aware of unconscious bias
- Positive / negative / no impact?
- **KEPT UNDER REVIEW**

# What's your organisational approach?

Consider:

- What is your approach to Business cases/planning
- Risk Assessments
- EIAs
- How well do you do them, what are your strengths and weaknesses?

# Fitness for purpose checklist

- Is the business need clearly stated?
- Have the benefits been clearly identified?
- Is the reason for and benefits of the project consistent with the organisation's strategy?
- Is it clear what will define a successful outcome?
- Is it clear what the preferred option is and why?

# Fitness for purpose checklist

- Is it clear how all risks have been sufficiently considered, and there are appropriate plans for mitigation?
- Where there is an external procurement is it clear what the sourcing option is?
- Is it clear how the funding will be put in place?
- Is it clear how the benefits will be realised?
- Are the risks faced by the project explicitly stated and are there plans to address them?

# Develop an outline business case

- In relation to your targeted population group, prepare an outline business case, which:
  - Draws on your analysis of need/resources and community assets
  - Identifies your preferred commissioning option taking account of any risks and how they might be mitigated
- Prepare and present a 3 minute summary of your outline business case

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