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**HEALTH & WELLBEING  
SCRUTINY COMMITTEE**

**14<sup>th</sup> OCTOBER 2015**

**REPORT OF THE DIRECTOR OF  
LEGAL & DEMOCRATIC  
SERVICES**

**Agenda Item No. 5**

**Draft Good Practice Guidance for  
Equality & Human Rights Impact  
Assessments and Scrutiny on  
Changes to Community Services in  
Wales**

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**1. PURPOSE OF THE REPORT**

The purpose of this report is to make the Committee aware of a new Guidance being produced by the Older People's Commissioner on Equality and Human Rights Assessments and Scrutiny around changes to community services in Wales.

**2. RECOMMENDATION**

It is recommended that Members:

- 2.1 Consider, in particular, the role which scrutiny is being asked play in relation to changes to community services in Wales and their impact on older people;
- 2.2 Provide any comment if they so wish on the draft Guidance on Equality and Human Rights Assessments and Scrutiny on Changes to Community Services in Wales to the Older People's Commissioner for Wales.
- 2.3 Consider whether they wish to receive further information in relation to how Equality Impact Assessments are carried out.

**3. BACKGROUND**

- 3.1 The Office of the Older People's Commissioner for Wales has prepared a draft guidance document on Equality and Human Rights Assessments and Scrutiny on Changes to Community Services in Wales. The two-part Guidance aims to improve the quality and effectiveness of impact assessments and scrutiny in Wales, ensuring that any changes to community services are thoroughly and rigorously thought through and analysed, the impact on older people and others has been fully explored, and that older people have been given every opportunity to comment on proposed changes.

- 3.2. The draft Guidance has been prepared to date in collaboration with the Welsh Government, WLGA and Wales Audit Office, with input from Cardiff and Pembrokeshire Councils. However, the Commissioner's Office would welcome any other good practice examples and any suggestions/amendments in relation to the draft Guidance by 15<sup>th</sup> October 2015 to allow publication of the final document by late November/early December 2015.
- 3.3 The Guidance is delivered in two parts:
- Part 1 examines the importance of current Equality Impact Assessments and promotes the need to use Equality and Human Rights Impact Assessments (EHRIsAs) around changes to community services. Part 1 applies to all public service bodies responsible for delivering community services for older people
  - Part 2 examines the crucial role of scrutiny around changes to community services and is targeted towards elected members and officers in local government. The aim is to improve the quality of scrutiny and ensure that the impact of closing down or reducing the provision of a community service on older people is thoroughly and rigorously analysed and considered.
- 3.4 In her foreword, the Commissioner acknowledges the difficult decisions facing Local Authorities in relation to the financial climate but expects them to fully consider and review the implications of closing down a key community service on older people, and that every effort has been made to mitigate any impact with alternative provisions put in place.
- 3.5 The Commissioner expects all Local Authorities and other public service bodies to have regard to the Guidance. The Guidance document is attached as Appendix 1 and Members are asked to give particular attention to Part 2 of the Guidance which relates to the scrutiny function.

# **Good Practice Guidance for Equality & Human Rights Impact Assessments and Scrutiny on Changes to Community Services in Wales**

## **Part 1: Equality & Human Rights Impact Assessments**

November 2015

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## Foreword

“If I could be you and you could be me for just one hour  
If we could find a way to get inside each other’s mind...  
Walk a mile in my shoes, walk a mile in my shoes  
And before you abuse, criticize and accuse  
Walk a mile in my shoes” (Joe South<sup>1</sup>)

Protecting and improving community services remains a key priority in my work and included in my Framework for Action 2013-17<sup>2</sup>. As I have previously emphasised and highlighted in my 2014 report on ‘The Importance and Impact of Community Services within Wales’<sup>3</sup>, community services i.e. non-statutory services are as important to the health, independence and wellbeing of older people as statutory health and social care services, and we simply cannot afford not to provide these services, increasing the need for smart, innovative and cost-effective service delivery as front-line budgets dwindle.

I want to make sure that older people are given every opportunity to voice their concerns over changes to their ‘lifeline’ services, and that any decision to close down a service does not have a disproportionate impact on older people. Robust Equality and Human Rights Impact Assessments (EHRIs) that are considered from the outset and challenging scrutiny that often acts as a ‘last resort’ safeguard are crucial in this regard.

This Guidance is published at a time of real change for local government in Wales. Firstly, the introduction of the Well-being of Future Generations (Wales) Act is, potentially, a ground-breaking and transformative piece of legislation<sup>4</sup>. The Act will ensure that public bodies take a longer-term, sustainable view on service delivery, with the focus on prevention and the outcomes for the individual.

Throughout 2015 I have met with Local Service Boards across Wales to ensure that the successor Public Services Boards (PSBs), statutory

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<sup>1</sup> <http://www.cfps.org.uk/publications?item=6960&offset=0>

<sup>2</sup> [http://www.olderpeoplewales.com/Libraries/Uploads/Framework\\_for\\_Action.sflb.ashx](http://www.olderpeoplewales.com/Libraries/Uploads/Framework_for_Action.sflb.ashx)

<sup>3</sup> [http://www.olderpeoplewales.com/en/news/news/14-02-25/The\\_Importance\\_and\\_Impact\\_of\\_Community\\_Services\\_within\\_Wales.aspx#.Vbd1EmctAdU](http://www.olderpeoplewales.com/en/news/news/14-02-25/The_Importance_and_Impact_of_Community_Services_within_Wales.aspx#.Vbd1EmctAdU)

<sup>4</sup> <http://gov.wales/legislation/programme/assemblybills/future-generations/?lang=en>

bodies under the new Act, fully address the needs and circumstances of older people. The role of Local Authorities in the new PSBs and their Wellbeing Plans will be invaluable, and this Guidance should help Local Authorities and others to shift the emphasis towards preventative, outcomes-focused services that better respond to older people's needs.

Secondly, local government reform in Wales will significantly impact on the structures and services provided by Local Authorities over the coming months and years. Much debate has taken place since the Welsh Government published the local government map proposal in the Summer 2015<sup>5</sup>. Whilst the debate on the number, size and structure of Local Authorities continues, it is crucial that the emphasis on the quality of services provided for older people and others is not lost.

My Guidance is delivered in two parts:

- Part 1 examines the importance of current Equality Impact Assessments and promotes the need to use Equality and Human Rights Impact Assessments (EHRIsAs) around changes to community services. Part 1 applies to all public service bodies responsible for delivering community services for older people;
- Part 2 examines the crucial role of scrutiny around changes to community services and is targeted towards elected members and officers in local government. The aim is to improve the quality of scrutiny and ensure that the impact of closing down or reducing the provision of a community service on older people is thoroughly and rigorously analysed and considered.

The Guidance should be embedded within working practices for the new local government structure, ensuring that high-quality and thorough EHRIsAs and scrutiny for older people are reflected in future proposals on community services. They are also intended to be useful, practical documents that will lead to better, high-quality EHRIsAs and scrutiny on changes to community services.

This Guidance is also published a year after the formal launch of the Ageing Well in Wales Programme, the five year national partnership

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<sup>5</sup> <http://gov.wales/newsroom/localgovernment/2015/options-published-future-configuration-local-government/?lang=en>

programme to improve the wellbeing of people aged 50+ in Wales<sup>6</sup>. I am proud to host and chair the Programme, and with all 22 Local Authorities in Wales committed to the Dublin Declaration, a commitment to establish age-friendly communities locally, this Guidance should help Local Authorities to establish such communities by thoroughly examining the importance and impact of community services for older people.

This Guidance has been produced in collaboration with the following partners:

- Wales Audit Office
- Welsh Government
- Welsh Local Government Association

The information, advice and expertise provided by these organisations was invaluable, and I am very grateful for their contribution. I am also very grateful for the input from colleagues in the Scottish Human Rights Commission and Welsh Local Authorities, in particular Pembrokeshire County Council and Cardiff City Council, in preparing the Guidance.

In the context of a challenging financial climate, I fully understand the difficult decisions facing Local Authorities. That said, I expect that Local Authorities and others fully consider and review the implications of closing down a key community service on older people, and that every effort has been made to mitigate any impact with alternative provisions put in place.

Taking an asset-based approach towards community services i.e. viewing them as invaluable services that are integral to the delivery of key policy priorities and statutory services cost containment, and considering EHRIAs from the outset should lead to better, more informed decisions. In local government, EHRIAs and scrutiny are not the sole responsibility of equalities officers and scrutiny members, they apply to officers and elected members regardless of policy area, department or portfolio. Such an approach will lead to better outcomes for older people as reflected in my Framework for Action 'Quality of Life' model (see Page 33).

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<sup>6</sup> <http://www.ageingwellinwales.com/en/home>

As I have consistently emphasised, protecting and improving community services will lead to cost savings for the Local Authority and other public service deliverers in the medium to long term, maintaining the independence of older people and thereby preventing the need for costly statutory packages of health and social care. Older people are worth over £1bn to the Welsh economy annually, and through an asset-based approach and innovative service delivery, older people can contribute so much to communities and economies across Wales.

This Guidance should help in this regard and ensure that Wales is a good place to grow older – not just for some but for everyone.



**Sarah Rochira**  
**Older People's Commissioner for Wales**

DRAFT

## Context

The loss of key community services, such as public buses, toilets, community and day centres, libraries and lifelong learning continues to be a matter of great concern for older people. The closure or reduced provision of these services is already having an impact on their lives as a result of decisions made by Local Authorities and other public service deliverers across Wales.

The financial outlook for Local Authorities for the coming years remains considerably challenging. Since 2010, Local Authorities have had to reduce funding by £720m<sup>7</sup>. It is expected that funding will not return to 2010-11 levels until 2022-23 at the earliest, meaning the continued retrenchment of public service spending<sup>8</sup>. With further budgetary reductions expected, further difficult decisions will be made on the future of community services across Wales. It is therefore imperative that Local Authorities and others fully consider the implications of these decisions on older people, an age group that often rely on these services to maintain their health, independence and wellbeing.

This two part Guidance complements the following priorities within the Commissioner's Framework for Action 2013-17<sup>9</sup>:

- Embedding the wellbeing of older people at the heart of public services
- Protecting and improving community services, facilities and infrastructure
- Tackling prejudice, inequality and discrimination

This Guidance also follows on from the Commissioner's previous publications on community services:

- The Importance and Impact of Community Services within Wales (February 2014)<sup>10</sup>

<sup>7</sup> <http://www.wlga.gov.uk/media-centre-l-wlga-e-bulletins/councils-and-unions-to-lobby-parliament-over-fair-funding-for-wales>

<sup>8</sup> <http://www.cfps.org.uk/publications?item=11641&offset=0>

<sup>9</sup> [http://www.olderpeoplewales.com/en/Publications/pub-story/13-05-23/Framework\\_for\\_Action.aspx#.VWwfyGctAdU](http://www.olderpeoplewales.com/en/Publications/pub-story/13-05-23/Framework_for_Action.aspx#.VWwfyGctAdU)

<sup>10</sup> [http://www.olderpeoplewales.com/en/Publications/pub-story/14-02-25/The\\_Importance\\_and\\_Impact\\_of\\_Community\\_Services\\_within\\_Wales.aspx](http://www.olderpeoplewales.com/en/Publications/pub-story/14-02-25/The_Importance_and_Impact_of_Community_Services_within_Wales.aspx)

- Effective Engagement with Local Authorities: Toolkit for Older People (July 2014)<sup>11</sup>
- Best Practice Guidance for Engagement and Consultation with Older People on Changes to Community Services in Wales (July 2014)<sup>12</sup>

Whilst the Commissioner recognises the budgetary pressures placed on Local Authorities, older people must be able to continue to access community services in one form or another. It is vital that community services are seen not as optional costs or non-essential luxuries, but as the vital community assets that they are for individuals to be assured of their human rights.

This Guidance is published under Section 12 of the Commissioner for Older People (Wales) Act 2006<sup>13</sup>. The purpose of the Guidance is to ensure that high quality EHRIAs and scrutiny on changes to community services exists across local government and other public service bodies in Wales. When changes are proposed this Guidance should help Local Authorities and other bodies to fully consider the implications on older people. Tighter and more impactful assessments and scrutiny from the outset should lead to Local Authorities and other service deliverers taking a longer-term view within current financial parameters.

Previous research and evidence in this area suggests that impact assessments in Wales could be improved. For example:

- A toolkit for carrying out EIAs, prepared by the NHS Centre for Equality and Human Rights (2012), stated that EIA 'is in its infancy and is a developing process...the process may seem cumbersome...however, over time undertaking EIAs will become more routine and a body of knowledge, shared good practice and evidence to inform the process will be developed'<sup>14</sup>;

<sup>11</sup> [http://www.olderpeoplewales.com/en/Publications/pub-story/14-07-01/Effective\\_Engagement\\_with\\_Local\\_Authorities\\_Toolkit\\_for\\_Older\\_People.aspx](http://www.olderpeoplewales.com/en/Publications/pub-story/14-07-01/Effective_Engagement_with_Local_Authorities_Toolkit_for_Older_People.aspx)

<sup>12</sup> [http://www.olderpeoplewales.com/en/Publications/pub-story/14-07-01/Canllawiau\\_ymarfer\\_gorau\\_ar\\_gyfer\\_ymgysylltu\\_ac\\_ymgynghori\\_%c3%a2\\_phobl\\_h%c5%b7n\\_ar\\_newidiad\\_au\\_i\\_wasanaethau\\_cymunedol\\_yng\\_Nghymru.aspx](http://www.olderpeoplewales.com/en/Publications/pub-story/14-07-01/Canllawiau_ymarfer_gorau_ar_gyfer_ymgysylltu_ac_ymgynghori_%c3%a2_phobl_h%c5%b7n_ar_newidiad_au_i_wasanaethau_cymunedol_yng_Nghymru.aspx)

<sup>13</sup> <http://www.legislation.gov.uk/ukpga/2006/30/section/12>

<sup>14</sup> <http://www.wales.nhs.uk/sites3/Documents/256/NHS%20CEHR%20Toolkit.pdf>

- The Welsh Local Government Association and NHS Centre for Equality and Human Rights 'Review of the use of Equality Impact Assessments in the Public Sector' (2013) found that scrutiny and oversight of EIAs needs to be strengthened, and that the quality of EIAs varies between public sector organisations, and within these organisations. It also found that a negative perception of EIAs still remains within organisations, and that a focus shift is required from minimising risks for the service deliverer to improving the service and subsequent outcomes for service users<sup>15</sup>;
- The Wales Audit Office study on the 'Independence of Older People' (2015) found that...

The Commissioner expects all Local Authorities and other public service bodies to have regard to the Guidance. Future changes to community services must not proceed without a full and robust analysis of the impact that these will have on the health, independence, wellbeing and rights of older people. The cost of not taking this approach is too much to bear for the Local Authority, other service providers, and, ultimately, the individual.

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<sup>15</sup> <http://www.wlga.gov.uk/equalities-publications/report-l-review-of-the-use-of-equality-impact-assessments-in-the-public-sector/>

## Equality Impact Assessments (EIAs)

EIAs have previously been perceived in a negative and derogatory way. EIAs have been described as being bureaucratic and time-consuming, an additional administrative burden and an unnecessary demand for individuals with limited capacity and resources. In England, EIAs were discarded by the Prime Minister in 2012<sup>16</sup>. EIAs remain in Wales, and whilst some Local Authorities have made more progress with EIAs than others, research suggests that EIAs are yet to be thoroughly embedded into budget, service delivery and policy decisions<sup>17</sup>.

**Changing the perception of EIAs and the starting point is crucial. EIAs are for everyone: they are about people, not paperwork. EIAs can be hugely beneficial for both providers and service users. Service providers need to recognise that EIAs add value and can lead to better, more informed decisions. Furthermore, EIAs can help Local Authorities and other deliverers, in the medium to long term, to reduce spending and allocate funding in smarter, more cost-effective ways, particularly when a community service requires an alteration or upgrade to accommodate those with protected characteristics, or when a Local Authority or other body is open to legal challenge following a decision on a community service proposal.**

In local government, EIAs help officers and elected members to analyse policies and practices to make sure they do not discriminate or disadvantage people. EIAs are there to help make comparisons between groups of service users and to determine whether there are significant differences between groups and indications of bias. EIAs improve or promote equality, ensuring that equality issues have been consciously considered throughout the decision-making process.

EIAs help assess whether a policy “has a disparate impact on persons with protected characteristics”<sup>18</sup>, and that these groups are fully taken

<sup>16</sup> <https://www.gov.uk/government/speeches/prime-ministers-speech-to-cbi>

<sup>17</sup> [http://www.equalityhumanrights.com/sites/default/files/documents/Wales/PSED\\_Wales\\_docs/psed\\_progress\\_local\\_govt.pdf](http://www.equalityhumanrights.com/sites/default/files/documents/Wales/PSED_Wales_docs/psed_progress_local_govt.pdf)

<sup>18</sup> <http://researchbriefings.files.parliament.uk/documents/SN06591/SN06591.pdf>

into consideration and, where possible, allow a Local Authority and other bodies to put in place mitigating actions that can help to overcome potential negative impacts.

EIAs are required for any proposal i.e. service, policy, strategy, initiative that could have a negative impact on groups with protected characteristics. Regarding community services, any proposal that involves closing down or reducing the provision of, for example, public buses, public toilets, libraries, day and community centres, and lifelong learning, will impact on older people.

The Equality and Human Rights Commission provides the following guidance on EIAs:

Assessing the impact on equality of proposed changes to policies, procedures and practices is not just something the law requires, it is **a positive opportunity for public authorities to ensure they make better decisions based on robust evidence**. It will help you to demonstrate compliance if you:

- Ensure you have a written record of the equality considerations you have taken into account;
- Ensure that your decision-making includes a consideration of the actions that would help to avoid or mitigate any negative impacts on particular protected groups;
- Make your decisions based on evidence;
- Make your decision-making process more transparent.

In assessing impact, Local Authorities should also consider how the policy or practice could better advance equality of opportunity and how it will affect relations between groups. Impact assessment is a continuing duty and not a 'tick box' exercise. **Due regard must be given to the result of assessments**. Having due regard to the equality duty means that it is a duty of substance that should be exercised with rigour and an open mind.

In addition to being a legal requirement, EIAs help Local Authorities to identify the needs of all service users. EIAs can help officers to consider and look at services from another point of view, and have also been described as a valuable “tool to encourage service managers to consider the equality issues within their service and to act upon the findings of the assessments”<sup>19</sup>.

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## Good Practice

Wrexham County Borough Council, with support from the Equality and Human Rights Commission and the Welsh Local Government Association, has developed an ‘Equality Impact Assessment: Are We Being Fair?’ The template covers all equality assessment needs from initial screening to a full Impact Assessment by following the six steps<sup>20</sup>:

- Screening the equality needs of the proposal
- Data collection and evidence
- Involvement and consultation
- Assessing impact and strengthening the proposal
- Procurement and partnerships
- Monitoring, evaluating and reviewing

In addition, the Council also considers poverty, caring and the Welsh language as additional characteristics for the purposes of EIAs. By taking a wider view of the protected characteristics the Council hopes to encourage a more holistic approach to the needs of all communities in designing or delivering their services.

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The Equality Act 2010 and the PSED have helped to raise the profile of EIAs. The 2014 review of the PSED in Wales found that EIAs were being widely used to make a difference to service delivery. They were also being consistently reviewed to make them more user-friendly, more evidence-based and more proportionate<sup>21</sup>.

<sup>19</sup> <http://researchbriefings.files.parliament.uk/documents/SN06591/SN06591.pdf>

<sup>20</sup> [http://www.wrexham.gov.uk/top\\_navigation/equality.htm](http://www.wrexham.gov.uk/top_navigation/equality.htm)

<sup>21</sup> [http://www.equalityhumanrights.com/sites/default/files/publication\\_pdf/review\\_of\\_psed\\_in\\_wales\\_-\\_full\\_report.pdf](http://www.equalityhumanrights.com/sites/default/files/publication_pdf/review_of_psed_in_wales_-_full_report.pdf)

The positive perception of EIAs is therefore very important in shaping community service proposals and can be cost-effective for the Local Authority in the long term. A different starting point is required: EIAs are about improving services for people, they are not about compliance.

**EIAs must be an integral part of the decision-making process from the outset, and sufficient time must be allocated to complete the EIA process.**

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### **Good Practice**

In the Vale of Glamorgan, the County Council proposed a reconfiguration of the Adult Community Learning Service due to funding reductions to the Adult Community Learning Grant. Engagement with the Older Persons Forum found that older learners would be significantly impacted by the proposal, affecting their ability to gain new skills to re-enter or remain in the labour market. As the EIA demonstrated that older people would be directly affected by the proposal, the County Council decided to work closely with the Strategy Coordinator and Older Persons Forum to secure additional funding for the future development of new course provision for older learners and others<sup>22</sup>.

This resulted in the Council agreeing to set a discretionary rate for older learners in the cost recovery programme model that ensured that the Arts, Leisure and Wellbeing Programme remained affordable but financially sustainable in the longer term. In addition, the free Skills and Employability Programme 'Get Back on Track' continues to be well used by older learners and increased numbers amongst men who are 50 years old and older.

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<sup>22</sup> <http://www.valeofglamorgan.gov.uk/Documents/Committee%20Reports/Cabinet/2014/14-07-14/Adult-Community-Learning-Service-Restructure---Part-1---Appendix-2.PDF>

## Human Rights Assessments

A **rights based approach** is one in which human rights instruments are employed proactively i.e. to prevent human rights violations from happening rather than to simply name and remedy violations retrospectively to achieve the following:

- To empower people using public services (rights-holders) to understand, claim and enjoy their human rights
- To increase the ability and accountability of those delivering public services (duty-holders) to respect, protect and fulfil human rights duties
- To deepen understanding of the relationships between rights-holders and duty-holders in order to help bridge the gaps between them
- To create the conditions under which all people can live in dignity and develop their full potential

A **Human Rights Assessment (HRA)** is a practical way of applying a rights based approach. As a tool for policy and practice improvement, it offers a means, or way of doing things, driven by human rights standards and principles, as well as an end in terms of creating the conditions in which rights can be enjoyed.

**Combining Equality Impact Assessments with Human Rights Assessments i.e. EHRIAs** is an efficient and effective means to integrate equalities and human rights into governance, policy and decision-making structures. A combined assessment tool can:

- **Avoid duplication of time and effort**
- **Achieve better outcomes for people**

Equalities and human rights are core to achieving national and local performance outcomes which aim to improve quality of life and opportunities. They focus the attention on what will deliver the best outcomes for people, rather than 'one size fits all' policies and practices

which often seek to fit people into systems. HRAs extend the benefit of EIAs, as they aim to improve outcomes for everyone i.e. those with protected characteristics and those without, and mean that impacts disproportionately affecting vulnerable, disadvantaged or seldom heard communities are considered where they might otherwise be overlooked.

- **Improve performance**

The consideration of human rights are assessed, based on evidence and the meaningful involvement of communities, stronger relationships are built and it is easier to demonstrate fairness, transparency, accessibility and accountability thereby enhancing public ownership and legitimacy in policy and decision-making.

- **Ensure compliance with the law**

Proactively taking account of human rights and equality in the exercise of an organisation's functions provide it with assurances rather than assumptions that actions are fair, not arbitrary, and that they comply with law. This helps prevent violations before they require redress and thus reduces both legal and financial risks and expense.

## Impact Assessments: What is the Legal Framework?

The introduction of the **Equality Act 2010** simplified the discrimination legislative framework<sup>23</sup>. The characteristics protected under the Act are:

- Race (including ethnic or national origin, colour or nationality)
- Age
- Pregnancy and maternity
- Disability
- Gender reassignment
- Religion or belief
- Gender
- Marriage and Civil Partnership
- Sexual orientation

The Act amalgamated pre-existing equality duties and added six new protected characteristics. Age was included as a protected characteristic because, according to the UK Government, “We know older people (and others)...all have different needs and may face different levels of discrimination or barriers to accessing services”<sup>24</sup>.

The Equality Act 2010 places a **General Duty** on public bodies, which includes a statutory requirement to undertake EIAs. Under the **Public Sector Equality Duty (PSED)**, in carrying out their public functions public bodies are required to give **due regard** (i.e. give appropriate weight) to the need to:

- Eliminate unlawful discrimination harassment and victimisation;
- Advance equality of opportunity between people who share a relevant protected characteristic and those who do not;
- Foster good relations between people who share a relevant protected characteristic and those who do not.

The new duty replaced separate duties on race, disability and gender equality, and covers the aforementioned characteristics. Its aim is to ensure that public authorities and those carrying out a public function

<sup>23</sup> <http://www.legislation.gov.uk/ukpga/2010/15/contents>

<sup>24</sup> <http://researchbriefings.files.parliament.uk/documents/SN06591/SN06591.pdf>

consider how they can positively contribute to a fairer society through advancing equality and good relations in their day-to-day activities.

To implement the General Duty the following principles were drawn from case law on the previous equality duties. In order to meet the General Duty, a public authority must ensure:

- **Knowledge:** Meeting the duty involves ‘a conscious approach and state of mind’
- **Timeliness:** The duty arises before and at the time that a particular policy is under consideration and a decision is taken
- **Meaningful consideration:** Consideration of the three aims of the General Duty must form an integral part of the decision-making process
- **Sufficient information:** The decision-maker must consider what information they have as well as what further information might be needed to give proper consideration to the General Duty
- **Review:** public bodies must have regard to the aims of the General Duty not only when a policy is developed and decided upon, but also when it is implemented and reviewed
- **Non-delegation:** Anyone exercising public functions on behalf of a public body is required to meet the duty

The Equality and Human Rights Commission’s review of the PSED in Wales (2014) found that the duty has helped to raise the profile of the equality agenda, has provided a clear structure and focus for equality work, and has promoted cultures of inclusivity, fairness and respect<sup>25</sup>. The duty ensures that equality considerations are built into the design of policies and the delivery of services and that they are kept under review. **In other words, the duty applies to any decisions that affect people.**

The broad purpose of the **specific duties in Wales** i.e. devolved powers is to help listed bodies in their performance of the General Duty and to aid transparency. The specific duties are set out in the Equality Act 2010

<sup>25</sup> [http://www.equalityhumanrights.com/sites/default/files/publication\\_pdf/review\\_of\\_psed\\_in\\_wales\\_-\\_full\\_report.pdf](http://www.equalityhumanrights.com/sites/default/files/publication_pdf/review_of_psed_in_wales_-_full_report.pdf)

(Statutory Duties) (Wales) Regulations 2011<sup>26</sup>. The specific duties in Wales cover:

- Objectives
- **Assessing impact**
- Pay differences
- Annual reporting
- Review
- Strategic Equality Plans
- Equality information
- Staff training
- Publishing
- Accessibility
- Engagement
- Employment information
- Procurement
- Welsh Ministers' reporting

The **Human Rights Act 1998** places a duty on public authorities to act in ways that are compatible with the European Convention on Human Rights<sup>27</sup>. Public authorities have an obligation to act in accordance with the Human Rights Act 1998 and to take human rights into account in their day-to-day work. This is the case whether delivering a service directly to the public or devising new policies or procedures. The purpose of the Human Rights Act is to support a culture of respect for everyone's human rights and a feature of everyday life.

Introducing human rights while having due regard to equality in policy and practice impact analysis assists organisations to meet duties under the Human Rights Act by:

- Broadening the scope of impact assessment
- Providing a framework for balancing competing rights, interests and risks
- Highlighting the most serious impacts

There some underlying principles which are important in applying a Human Rights approach, known as the PANEL principles<sup>28</sup>:

<sup>26</sup> [http://www.assembly.wales/Laid%20Documents/SUB-LD8462%20-%20The%20Equality%20Act%202010%20\(Statutory%20Duties\)%20\(Wales\)%20Regulations%202011-08032011-211975/sub-ld8462-e-English.pdf](http://www.assembly.wales/Laid%20Documents/SUB-LD8462%20-%20The%20Equality%20Act%202010%20(Statutory%20Duties)%20(Wales)%20Regulations%202011-08032011-211975/sub-ld8462-e-English.pdf)

<sup>27</sup> <http://www.legislation.gov.uk/ukpga/1998/42/contents>

<sup>28</sup> <http://www.scottishhumanrights.com/careaboutrights/whatisahumanrightsbasedapproach>

- **Participation**

Everyone has the right to participate in decisions which affect their human rights. Participation must be active, free, meaningful and give attention to issues of accessibility, including access to information in a form and a language which can be understood.

- **Accountability**

Accountability requires effective monitoring of human rights standards as well as effective remedies for human rights breaches. For accountability to be effective there must be appropriate laws, policies, institutions, administrative procedures and mechanisms of redress in order to secure human rights.

- **Non-discrimination and equality**

A human rights approach means that all forms of discrimination (such as age, gender, sexual orientation or ethnicity) in the realisation of rights must be prohibited, prevented and eliminated. It also requires the prioritisation of those in the most marginalised or vulnerable situations who face the biggest barriers to realising their rights.

- **Empowerment of rights-holders**

Individuals and communities should understand their rights and be fully supported to participate in the development of policy and practices which affect their lives. Individuals and communities should be able to claim their rights where necessary.

- **Legality of rights**

A human rights approach requires the recognition of rights as legally enforceable and is linked in to national and international human rights instruments.

For older people in Wales, in addition to the Human Rights 1998, key relevant instruments are:

- UN Convention on the Rights of Persons with Disabilities
- UN Principles for Older Persons 1991

## UN Convention on the Rights of Persons with Disabilities<sup>29</sup>

The purpose of the UN Convention on the Rights of Persons with Disabilities is to promote, protect and ensure the full and equal enjoyment of all human rights by persons with disabilities. It covers a number of key areas such as accessibility, personal mobility, health, education, employment, habilitation and rehabilitation, participation in political life, and equality and non-discrimination. The convention requires a shift in thinking about disability from a social welfare concern, to a human rights issue, which acknowledges that societal barriers and prejudices are themselves disabling.

## UN Principles for Older Persons 1991<sup>30</sup>

In a manner similar to the UN Convention on the Rights of Persons with Disabilities, the UN Principles for Older Persons represent a fuller set of rights and are more tailored to the particular issues faced by older people e.g. social exclusion. As such, they offer guidance for public bodies on how to discharge their duties under the Equality Act 2010 and Human Rights Act 1998 towards older people.

In proposing changes to community services, Local Authorities should have particular regard to **Principle 18 of the United Nations Principles for Older Persons**, which states that older people should be treated fairly regardless of age, gender, racial or ethnic background, disability or other status, and be valued independently of their economic contribution to society.

Additionally, as the UN Principles sit on the face of the Social Services and Well-being (Wales) Act 2014<sup>31</sup>, familiarity with the principles will increasingly be demanded of public bodies.

The **Welsh Government Strategy for Older People 2013-23**<sup>32</sup>, which recognises the importance of community services in maintaining the

<sup>29</sup> <http://www.un.org/disabilities/convention/conventionfull.shtml>

<sup>30</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OlderPersons.aspx>

<sup>31</sup> <http://gov.wales/topics/health/socialcare/act/?lang=en>

<sup>32</sup> <http://gov.wales/docs/dhss/publications/130521olderpeoplestrategyen.pdf>

independence of older people, is supported by the **2014 Declaration of Rights for Older People in Wales**<sup>33</sup>.

The **Commissioner for Older People (Wales) Act 2006**<sup>34</sup> provides the Commissioner with a range of powers to promote and safeguard the interests of older people, challenge age discrimination, promote best practice in the treatment of older people and review the law as it affects older people. The Commissioner may hold public bodies to account by reviewing their actions or investigating complaints made about them, and she may also publish good practice guidance.

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<sup>33</sup> <http://gov.wales/docs/dhss/publications/140716olderen.pdf>

<sup>34</sup> <http://www.legislation.gov.uk/ukpga/2006/30/contents>

## When should I be carrying out an Equality & Human Rights Impact Assessment?

**Undertake an EHRIA on a community service proposal from the start.** Carrying out an EHRIA towards the end of the process can lead to several issues, including: the proposal may still contain potentially discriminatory activity or adverse impact, it may lead to a missed opportunity in promoting equality or human rights, it does not meet the legal requirements of the public sector duties and it leaves the Local Authority open to compliance action or legal challenge.

Several advice and recommendation documents on conducting successful, high impact impact assessments have been published. A few examples are included below (and are reflected in the template in Annex A):

The Equality and Human Rights Commission has identified five key stages to carry out an Equality Impact Assessment (EIA)<sup>35</sup>:

Stage 1	Pre-policy development or policy review planning i) Deciding whether a policy or service requires an EIA ii) Scoping the EIA
Stage 2	Policy drafting and assessing impact
Stage 3	Putting in place monitoring, evaluation and review approaches
Stage 4	Signing off and publishing the policy
Stage 5	Monitoring and reviewing the action plan

The NHS Centre for Equality and Human Rights suggests an eight step guide to undertake a successful impact assessment (IA)<sup>36</sup>:

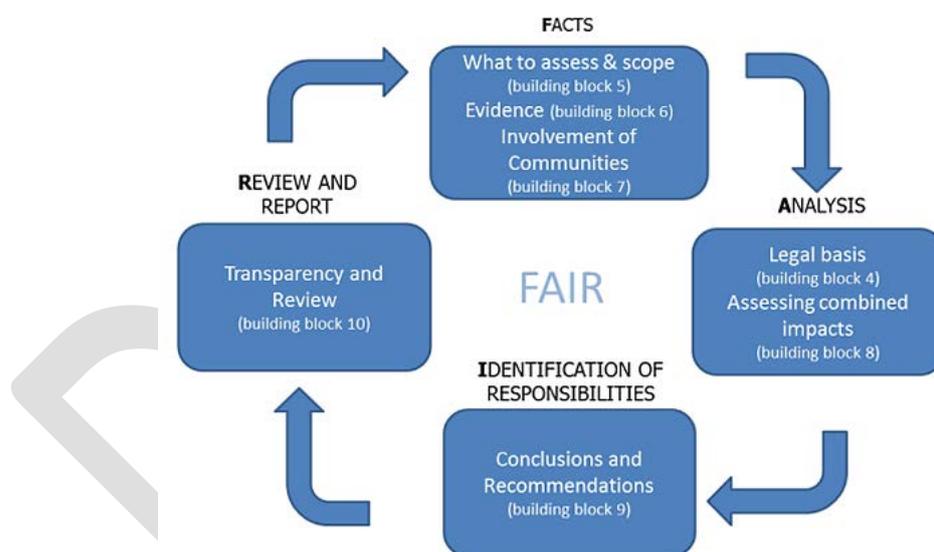
Step 1	Preparation: Fully understand the policy or service you are assessing. You also need to assess proposals to stop providing services
Step 2	Considering Resources & Relevance: Exhaust all avenues to obtain information, qualitative and

<sup>35</sup> <http://www.alcohollearningcentre.org.uk/library/eiaguidance.pdf>

<sup>36</sup> <http://www.eiapractice.wales.nhs.uk/eight-steps>

	quantitative data
Step 3	Assessment of Impact: Review and evaluate the information, determine the impact on whom
Step 4	Recommendations: Focus on fairness is essential, consider the changes and improvements to be made
Step 5	Consultation: Summarise what you have compiled into a draft IA report, submit for consultation
Step 6	Decision-making: Use the information obtained to decide a course of action, devise a formal action plan
Step 7	Outcome Report: Full IA reports should be made publicly available, in a variety of formats and versions
Step 8	Monitoring: Consistently monitor the changes and impact, both negative and positive

The Scottish Human Rights Commission suggests a four step process to undertaking an integrated Equality & Human Rights Assessment<sup>37</sup>:



FAIR is a means of putting a human rights based approach into practice and a practical way of applying the PANEL principles. The FAIR principles are as follows:

- **Facts:** Assessing impact requires a thorough understanding of the facts engaged by the proposed policy or practice and the potential effects on people. This will requires an appropriate level of

<sup>37</sup> <http://www.scottishhumanrights.com/eqhria/eqhriatrainingfair>

resources and consideration of relevant evidence. Most importantly it will require the meaningful participation of affected rights-holders.

- **Analysis:** Assessing impact requires undertaking an analysis of the potential positive and negative impacts of the proposed policy or practice on equality and on the human rights at stake.
- **Identification of responsibilities:** Where the policy or proposal engages equality and human rights issues, assessing impact requires deciding whether changes should be made and identifying responsibility for these changes.
- **Review and reporting:** Assessing impact requires consideration of how the implementation of the function or policy will be monitored and how the results of an impact assessment will be reported.

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### **Good Practice**

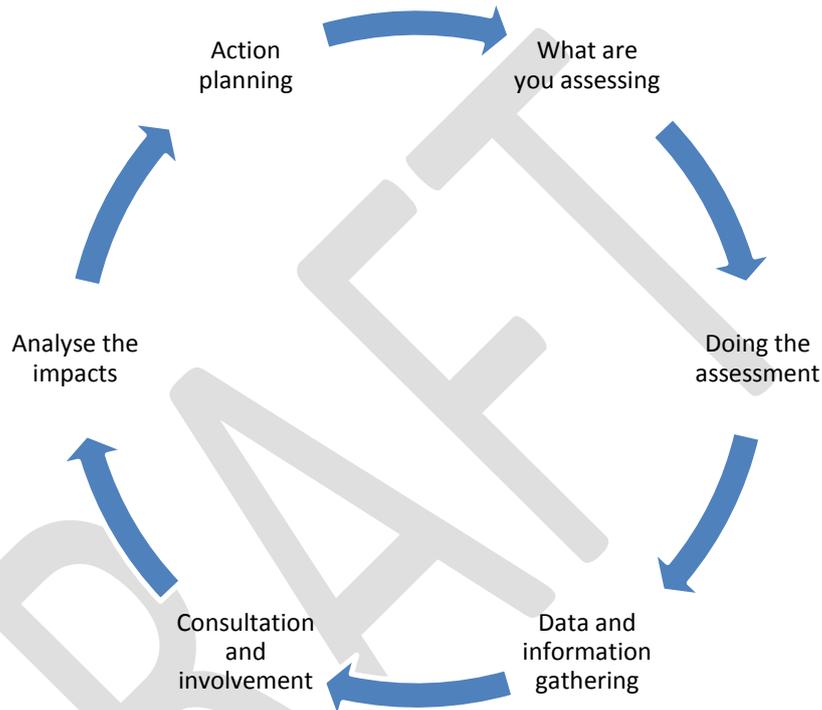
Bridgend County Borough Council proposed to relocate Bridgend's central library to a newly refurbished life centre that is being operated in partnership with social enterprise Halo Leisure. The EIA identified the potential impact of the proposal on both younger and older people. A series of consultation events were held together with online and paper versions of the consultation document. Although it was found that the proposal positively impacted on people of all ages due to better facilities and opportunities, feedback also suggested that some older people would find it difficult to visit the new location.

Ensuring that existing users were not disadvantaged was identified as a priority, and therefore a range of options were explored, including a shop-mobility extension to the new library location, awareness raising of bus routes and increased service provision. The result is a more accessible central library, an additional bus stop for library and life centre users, and parking concessions for users of the library car park. Older people can access a range of services through the co-location,

including the free swimming initiative, exercise referral, indoor bowling and a cafeteria to support social participation<sup>38</sup>.

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Remember that **IAs are not a one-off, they are an on-going cyclical process**, as demonstrated by the Continuous Approach Model<sup>39</sup>:




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### What should I do when carrying out an Equality & Human Rights Impact Assessment?

Be sharp and concise. Think ‘outside the box’ and consider a proposal from different viewpoints. Challenge your own findings and ask others for their views. EHRIAs are based around four core questions:

- What is the purpose of the policy?
- How is it seeking to achieve this?
- Who benefits and how? (and who doesn’t and why?)

<sup>38</sup> Bridgend County Borough Council Report to Cabinet (December 2012) ‘Welsh Public Library Standards and the proposal to relocate Bridgend Town Library to Bridgend Recreation Centre’

<sup>39</sup> [http://www.alcohollearningcentre.org.uk/\\_library/eiaguidance.pdf](http://www.alcohollearningcentre.org.uk/_library/eiaguidance.pdf)

- What are any ‘associated aims’ attached to the policy?

When carrying out an EHRIA around changes to community services, consider the following:

- **Proportionality:** Proposals with high relevance, including strategic budgetary decisions and changes to service delivery, should always be subject to an assessment for impact on people with protected characteristics, as well as relevant others who are marginalised or vulnerable;
- **Relevance:** When deciding whether a proposal should be assessed, relevance to the General Duty should be considered. Some proposals may be relevant to some, but not all, protected characteristics. Should a decision be made to not undertake an EHRIA, this should be explained and recorded;
- **Screening for relevance:** Some Local Authorities have developed a ‘screening’ mechanism to determine whether a policy should be subject to assessment. Screening is a short, sharp exercise that helps to determine relevance, it should not replace proper assessment. Research suggests that many IAs are ‘screened out’ without consideration of relevant evidence and with no consideration of the likely impact on groups such as older people<sup>40</sup>. An effective screening tool could include questions such as: Would this proposal significantly affect how functions are delivered to older people? Would it discriminate against older people?<sup>41</sup>

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## Good Practice

Conwy County Borough Council used local socio-demographic information and consultation to avoid radical cuts in its library services that might have impacted adversely on older people and disabled people. ‘As a result of the consultation, the library service extended its mobile library and home library coverage, amended opening times in

<sup>40</sup>[http://www.equalityhumanrights.wales.nhs.uk/sitesplus/documents/1120/EqIA\\_Guide%20for%20Board%20Members%20%28English%29.pdf](http://www.equalityhumanrights.wales.nhs.uk/sitesplus/documents/1120/EqIA_Guide%20for%20Board%20Members%20%28English%29.pdf)

<sup>41</sup>[http://www.equalityhumanrights.com/sites/default/files/publication\\_pdf/Assessing%20Impact%20and%20the%20Equality%20Duty%20Wales\\_0.pdf](http://www.equalityhumanrights.com/sites/default/files/publication_pdf/Assessing%20Impact%20and%20the%20Equality%20Duty%20Wales_0.pdf)

their five major libraries and has been engaged in working with local communities to set up Community Libraries in five localities to suit community demands. This has included greater use of volunteers to enhance the core service provided by the Local Authority’.

Through working with the community, who have taken over the management of library buildings while the Local Authority provides a full professional library service, this work has prevented the five smaller libraries from being closed<sup>42</sup>.

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## What are possible Equality & Human Rights Impact Assessment outcomes?

There are four types of conclusions and recommendations that can be reached:

- **No major change:** the EHRIA demonstrates the proposal is robust and can be justified, there is no potential for discrimination or adverse human rights impact, and all opportunities to promote equality have been taken;
- **Adjust the proposal:** the EHRIA identifies potential problems or missed opportunities. Adjusting or adapting the proposal is needed to remove barriers, eliminate any bias, better advance equality or foster good relations;
- **Continue with the proposal:** the EHRIA identifies the potential for adverse impact or missed opportunities to promote equality. The justifications for continuing with the EHRIA must be clearly set out, and should be included in the EHRIA and in line with the duty to have due regard. Compelling reasons are required to justify the proposal;
- **Stop and remove the proposal:** The proposal includes actual or potential unlawful discrimination, and the EHRIA shows bias towards one or more groups. The proposal must be stopped or removed<sup>43</sup>.

<sup>42</sup> [http://www.equalityhumanrights.com/sites/default/files/publication\\_pdf/review\\_of\\_psed\\_in\\_wales\\_-\\_full\\_report.pdf](http://www.equalityhumanrights.com/sites/default/files/publication_pdf/review_of_psed_in_wales_-_full_report.pdf)

<sup>43</sup> <http://www.eiapractice.wales.nhs.uk/what-is-an-equality-impact-assessment->

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## Good Practice

According to the Public Sector Equality Duty review in Wales, Monmouthshire County Council has improved its EIA process, now requiring all proposals to Council to come with a completed EIA that is considered early on in the decision-making process. This new approach resulted in various outcomes for the community. For example, a proposal to turn off street lights at night was found to be potentially distressing for older people. The proposal followed an appeals process to ensure it does not discriminate against older people<sup>44</sup>.

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## Useful recommendations

- **An EHRIA is not an end in itself** – it is a way of ensuring and showing that due regard has been paid to the equality and human rights duties. EHRIAs should be well informed, based on good evidence and meaningful consultation;
- EHRIAs should not be done retrospectively. **They should be an integral part of policy development and review from the start and reviewed regularly.** They are not a one-off or separate exercise. **They focus on outcomes, service improvements and solutions to problems, not the process itself;**
- They meet the legal requirements to eliminate discrimination, advance equality of opportunity and foster good relations and go further. As well as addressing discrimination or adverse impact, they are also about positive promotion of equality of opportunity, improving access, participation in public life and good relations, equality, and creating the conditions under which we can all live in equality, dignity and freedom;
- EHRIAs consider all the characteristics and possible marginalised and vulnerable groups who may be affected (identified at the start of this Guidance)
- **The quality of an assessment is not measured by the number of pages produced but by the quality of the analysis, the action**

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<sup>44</sup> <http://www.equalityhumanrights.com/publication/review-public-sector-equality-duty-psed-wales>

taken as a result, and the outcomes achieved through implementation. EHRIAs are thorough and well thought out but not necessarily excessively long. Proportionality is a key principle: generally, the larger the change and/or resource, the more this should be reflected in the size and depth of the EHRIA<sup>45</sup>;

- The information that can be gained from involvement and consultation are essential, and as such would usually be carried out as part of the main policy development process;
- **Lack of data is not an excuse for not assessing impact or to conclude there is no impact.** Some data will always be available, and where it is not, it must be actively gathered;
- EHRIAs should be understandable and accessible to a range of people<sup>46</sup>;
- The assessment should always inform the final decision on a policy<sup>47,48</sup>.

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<sup>45</sup> [http://www.equalityhumanrights.wales.nhs.uk/sitesplus/documents/1120/EqIA\\_Guide%20for%20Board%20Members%20%28English%29.pdf](http://www.equalityhumanrights.wales.nhs.uk/sitesplus/documents/1120/EqIA_Guide%20for%20Board%20Members%20%28English%29.pdf)

<sup>46</sup> University of Bradford 'How to conduct equality impact assessment and analysis' (2011)

<sup>47</sup> [http://www.acas.org.uk/media/pdf/s/n/Acas\\_managers\\_guide\\_to\\_equality\\_assessments.pdf](http://www.acas.org.uk/media/pdf/s/n/Acas_managers_guide_to_equality_assessments.pdf)

<sup>48</sup> [http://www.equalityhumanrights.wales.nhs.uk/sitesplus/documents/1120/EqIA\\_Guide%20for%20Board%20Members%20%28English%29.pdf](http://www.equalityhumanrights.wales.nhs.uk/sitesplus/documents/1120/EqIA_Guide%20for%20Board%20Members%20%28English%29.pdf)

## Equality & Human Rights Impact Assessment Checklist

1. I have used the Brown Principles, Gunning Principles and/or PANEL Principles in my EHRIA
2. I have addressed the four key questions for EHRIAs and specific questions for older people
3. I have approached the proposal from different perspectives, considered the different forms of discrimination and do not require further information to make an informed decision
4. Both the positive and negative consequences for older people have been fully explored
5. Older people have been consulted and engaged with on the proposal, and their feedback is reflected in the EHRIA
6. The EHRIA has been published online along with supporting publications on how the decision was reached. The EHRIA is accessible bilingually and available in other formats e.g. for those with visual impairments, and also available for those offline
7. I can answer the Dignity Challenge: older people who may be impacted by the decision have been given the same consideration and respect I would want for myself or a family member
8. I have considered how the proposal impacts on older people and in line with the Older People's Commissioner' 'Quality of Life' model. I have also considered how it relates to the asset-based approach i.e. investing in older people as assets and increasing their £1bn annual contribution to the Welsh economy

### Supplementary information

<b>1.</b>	<p><b>Brown Principles</b><sup>49</sup></p> <p>Public bodies must ensure:</p> <ul style="list-style-type: none"> <li>- Knowledge: decision-makers should be aware of the implications of the General Duty when making decisions about their policies and practices</li> <li>- Timeliness: the General Duty arises before and at the time a particular policy is under consideration and a decision is taken i.e. an EIA is not a 'rear-guard action'</li> <li>- Analysis must be rigorous: consultation and engagement with older</li> </ul>
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<sup>49</sup> <http://researchbriefings.files.parliament.uk/documents/SN06591/SN06591.pdf>

	<p>people must be meaningful</p> <ul style="list-style-type: none"> <li>- Non-delegation: the General Duty rests with the public authority even if they have delegated functions to other organisations</li> <li>- Continuing duty: the General Duty must be revisited on a continuous basis</li> <li>- Record keeping: transparency about how the decision was reached is crucial</li> </ul> <p><b>Gunning Principles</b><sup>50</sup></p> <ul style="list-style-type: none"> <li>- Consultation must take place when the proposal is still at a formative stage</li> <li>- Sufficient reasons must be put forward for the proposal to allow for intelligent consideration and response</li> <li>- Adequate time must be given for consideration and response</li> <li>- The product of consultation must be conscientiously taken into account</li> </ul> <p><b>PANEL Principles</b><sup>51</sup></p> <ul style="list-style-type: none"> <li>- Participation</li> <li>- Accountability</li> <li>- Non-discrimination and equality</li> <li>- Empowerment of rights-holders</li> <li>- Legality of rights</li> </ul>
<p>2.</p>	<ul style="list-style-type: none"> <li>• What is the purpose of the policy? Do you have a detailed understanding?</li> <li>• How is it seeking to achieve this?</li> <li>• Who benefits and how? (and who doesn't and why?)</li> <li>• What are any 'associated aims' attached to the policy</li> </ul> <ul style="list-style-type: none"> <li>• Does the policy affect older people?</li> <li>• Is it a major proposal, significantly affecting how functions are delivered in terms of older people?</li> <li>• Does it relate to an area where there are known inequalities?</li> <li>• Does it relate to a policy where there is significant potential for reducing inequalities or improving outcomes for older people?</li> <li>• Does it relate to an area where there is a lack of published research or other evidence?</li> </ul>

<sup>50</sup> <http://www.eiapractice.wales.nhs.uk/consultation-gunning-principles->

<sup>51</sup> <http://www.scottishhumanrights.com/careaboutrights/whatisahumanrightsbasedapproach>

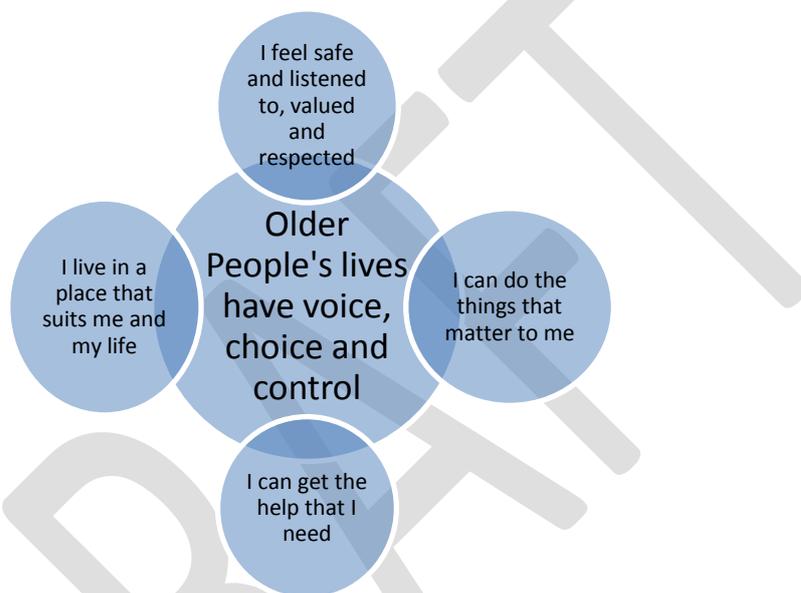
<p><b>3.</b></p>	<p>Have different forms of impact and discrimination been considered? When assessing impact, Local Authorities and other public service bodies should take into account the fact that discrimination regarding community services may be direct or indirect.</p> <p>Direct discrimination would occur where an older person is treated less favourably because of a protected characteristic. Indirect discrimination occurs where a provision, criterion or practice is applied to everyone but only disadvantages those with a protected characteristic in a way that cannot be justified</p>
<p><b>4.</b></p>	<ul style="list-style-type: none"> <li>• If negative, are you in a position to ensure that changes can be made where required?</li> <li>• Do you have support and leadership of senior management?</li> </ul>
<p><b>5.</b></p>	<ul style="list-style-type: none"> <li>• Engagement is a two-way process that involves active listening. It means the on-going involvement of older people, their forums/networks and statutory and voluntary sector organisations that represent their interests, through informal consultation or discussion</li> <li>• Consultation is also a two-way process that enables older people to contribute. It is a more formal, focused, but open process which is to be used if substantial or controversial changes to policies or practices affecting older people are under consideration</li> <li>• Each Local Authority has a 50+ Forum who can provide their views and experiences regarding a community service proposal. In addition, there are other local networks, forums and groups of older people who can contribute to the EIA. When engaging with groups, consider the National Principles for Public Engagement in Wales (see Annex B)<sup>52</sup></li> </ul>
<p><b>6.</b></p>	<p>Local Authorities and other bodies should take active steps to ensure transparency and openness in respect of the processes adopted and the subsequent decision making, including clear accountability for decisions taken.</p> <p>All Local Authorities and others should ensure that they proactively place, within the public domain, for example through their websites, full documentation leading to decisions made that result in changes to community services</p>

<sup>52</sup> Consider contacting e.g. Age Cymru, Age Connects, Contact the Elderly, The Women’s Institute, Merched y Wawr, Cylch Cinio, Men’s Sheds, University of the Third Age, One Voice Wales, Wales Council for Voluntary Action

7. The UK Government ‘Dignity in Care Campaign’ (2006) identified key issues as part of their Dignity Challenge<sup>53</sup>. These include:

- Support people with the same respect you would want for yourself or a member of your family
- Enable people to maintain the maximum possible level of independence, choice and control
- Listen and support people to express their needs and wants

8. Older People’s Commissioner for Wales’ ‘Quality of Life’ model



<sup>53</sup> <http://www.cfps.org.uk/publications?item=6960&offset=0>

## Annex A: Equality & Human Rights Impact Assessment on Changes to Community Services Template

<b>INTRODUCTION &amp; CONTACT INFORMATION</b>	
<b>Local Authority &amp; Directorate/Service Area (or other body)</b>	
<b>Name of Lead Officer(s) completing the EHRIA</b>	
<b>Head of Service(s) responsible for the proposal</b>	
<b>Contact telephone numbers and email addresses</b>	
<b>Date EHRIA completed</b>	
<b>DETAILS REGARDING THE COMMUNITY SERVICE PROPOSAL</b>	
<b>Name of the proposal (policy, strategy, initiative or practice)</b>	
<b>Is the proposal a revision to existing policy, strategy or practice or is it a new proposal?</b>	
<b>What is the purpose/objective of the proposal? How is it seeking to achieve this?</b>	
<b>Please provide background information on the proposal and any research undertaken.</b>	
<b>What actions could be taken to achieve the same aim/purpose/objective by an alternative means?</b>	

<p><b>Who is the proposal intended to help? Who will be the main beneficiaries?</b></p>	
<p><b>What to assess &amp; scope</b></p>	<p><b>Have you undertaken a screening assessment to determine if a full assessment is required?</b></p> <ul style="list-style-type: none"> <li>- Does the policy in question relate to an area where important equality issues are likely to be raised?</li> <li>- To what extent does the policy affect service users, employees or the wider community?</li> <li>- Does it relate to an area where your organisation has set equality outcomes?</li> </ul> <p><b>Is a full Equality &amp; Human Rights Impact Assessment (EHRIA) required?</b></p> <p><b>Where an EHRIA is deemed appropriate, have you assessed the resources and time required to ensure that the assessment is properly carried out?</b></p> <p><b>Is there an identifiable lead?</b></p> <p><b>Have you identified what degree of evidence gathering, consultation etc. is reasonable and proportionate for your assessment?</b></p> <p><b>Is your assessment being undertaken on an area which requires broad subject-specific expertise?</b></p> <p><b>Other factors to consider:</b></p> <ul style="list-style-type: none"> <li>- Sustainable development</li> <li>- Economic deprivation</li> <li>- Health and Wellbeing</li> <li>- Welsh Language</li> </ul>
<p><b>Evidence</b></p>	<p><b>Do you have as much up-to-date and reliable evidence as possible about the needs and experiences of the different groups the policy is likely to affect?</b></p>

	<p>There are likely to be many sources of evidence that are already available to inform the assessment, such as demographic information, research, internal monitoring data and evidence from consultation with users</p>
<p><b>Involvement of Communities</b></p>	<p><b>What arrangements have been made to consult or engage with equalities or marginalised groups?</b></p> <p><b>Have you considered:</b></p> <ul style="list-style-type: none"> <li>- <b>The timing of consultations:</b> aim to start as early as possible in the assessment process</li> <li>- <b>Barriers to consultation:</b> consultation processes have to be designed with a view to overcoming barriers to participation</li> <li>- <b>Explaining how consultation processes have affected the EHRIA:</b> There needs to be a transparent procedure whereby responses to consultations are discussed and assessors demonstrate how the outcomes of the EHRIA are affected</li> </ul> <p><b>What were the findings?</b></p> <p><b>Has a questionnaire/survey been carried out with e.g. an older people’s forum/network? Are there key issues and concerns emerging?</b></p>
<p><b>ANALYSIS</b></p>	
<p><b>Legal Basis</b></p>	<p><b>What are the impacts on groups with protected characteristics as outlined in the Equality Act 2010 or other marginalised or vulnerable groups?</b></p> <p><b>What are the potential impacts (positive, neutral and negative)? Is there any evidence of higher or lower take-up or satisfaction by any of the identified groups? Are there ‘associated aims’ with the proposal i.e. positive or negative knock-on impacts on other groups?</b></p>

	<p><b>Are there any negative impacts which require action to mitigate the effect on service users? Does the proposal introduce barriers to access for groups with protected characteristics? What action can you take to address the differential impact?</b></p>
	<p><b>How does this proposal meet the requirements of the General Duty?</b></p>
	<p><b>If there are limitations or barriers to access, do these amount to unlawful discrimination?</b></p>
	<p><b>Is the proposal to be carried out wholly or partly by contractors or in partnership with other organisations? If yes, how will you comply with equality and human rights legislation?</b></p>
<b>Moral Basis</b>	<p><b>Have the Brown Principles been applied?</b></p>
	<p><b>Have the Gunning Principles been applied?</b></p>
	<p><b>Have the PANEL Principles been applied?</b></p>
	<p><b>Has the Dignity Challenge been applied?</b></p>
	<p><b>How does the proposal relate to the Older People’s Commissioner’s ‘Quality of Life’ model and asset based approach for older people?</b></p>
<b>Assessing combined impacts</b>	<p>In Scotland, there is no legal requirement under the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 regarding combined impacts. However a court could consider non-statutory guidance published by the Equality and Human Rights Commission, including ‘Assessing Impact and the Public Sector Equality Duty’ when deciding whether the actions of an authority have been reasonable. This guidance explains <b>how assessment of impact</b></p>

	<b>should consider the cumulative effect of related decisions<sup>54</sup>.</b>
<b>IDENTIFICATION OF RESPONSIBILITIES</b>	
<b>Conclusions and Recommendations</b>	<p><b>Do you have sufficient information and evidence to make an informed judgment?</b></p> <p><b>Are the conclusions of the assessment, including the (potential) severity of the human rights and/or equality impact clearly stated?</b></p> <p><b>Where action is required, are the person or persons who will implement the recommendations identified, as well as the fact that they have been notified of the need for the change and the timescale within which this change will occur?</b></p> <p><b>Are there any actions being taken forward to mitigate impact on older people? Should the proposal be taken forward, what (alternative) provision is in place for older people?</b></p> <p><b>Where recommendations can only be acted upon if they are approved by another decision-maker or decision-making body (e.g. a finance committee, elected members of a Local Authority etc.), do the recommendations clearly set out the process by which that will occur?</b></p> <p><b>Has the EHRIA been fully completed by the Lead Officer and approved by the relevant manager in each service area?</b></p>
<b>REVIEW AND REPORT</b>	
<b>Transparency &amp; Review</b>	<p><b>Have you published:</b></p> <ul style="list-style-type: none"> <li>- The methodology used for carrying out the EHRIA?</li> <li>- A report on your EHRIA (including details of consultations and other evidence used to inform the assessment; conclusions, recommendations</li> </ul>

<sup>54</sup> <http://www.equalityhumanrights.com/about-us/devolved-authorities/commission-scotland/public-sector-equality-duty-scotland/non-statutory-guidance-scottish-public-authorities>

	<p>and further monitoring required; and a person identified as responsible for the EHRIA in question)?</p> <ul style="list-style-type: none"> <li>- In accessible formats to interested groups?</li> </ul> <p><b>Have you set up post-assessment monitoring and review procedures to consider whether recommendations have been implemented, whether they have been effective, and what the ongoing impacts of the policy or practice are?</b></p> <p><b>How will the EHRIA be taken forward in the scrutiny process? (see Part 2 of the Guidance for further information)</b></p>
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### **Annex B: National Principles for Public Engagement in Wales<sup>55</sup>**

1. Engagement is effectively designed to make a difference
2. Encourage and enable everyone affected to be involved, if they so choose
3. Engagement is planned and delivered in a timely and appropriate way
4. Work with relevant partner organisations
5. The information provided will be jargon free, appropriate and understandable
6. Make it easier for people to take part
7. Enable people to take part effectively
8. Engagement is given the right resources and support to be effective
9. People are told the impact of their contribution
10. Learn and share lessons to improve the process of engagement

<sup>55</sup> [http://www.participationcymru.org.uk/media/288366/pc\\_national\\_principles\\_poster3.pdf](http://www.participationcymru.org.uk/media/288366/pc_national_principles_poster3.pdf)



# **Good Practice Guidance for Equality & Human Rights Impact Assessments and Scrutiny on Changes to Community Services in Wales**

## **Part 2: Scrutiny**

**November 2015**

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## Foreword

“If I could be you and you could be me for just one hour  
 If we could find a way to get inside each other’s mind...  
 Walk a mile in my shoes, walk a mile in my shoes  
 And before you abuse, criticize and accuse  
 Walk a mile in my shoes” (Joe South<sup>1</sup>)

Protecting and improving community services remains a key priority in my work and included in my Framework for Action 2013-17<sup>2</sup>. As I have previously emphasised and highlighted in my 2014 report on ‘The Importance and Impact of Community Services within Wales’<sup>3</sup>, community services i.e. non-statutory services are as important to the health, independence and wellbeing of older people as statutory health and social care services, and we simply cannot afford not to provide these services, increasing the need for smart, innovative and cost-effective service delivery as front-line budgets dwindle.

I want to make sure that older people are given every opportunity to voice their concerns over changes to their ‘lifeline’ services, and that any decision to close down a service does not have a disproportionate impact on older people. Robust Equality and Human Rights Impact Assessments (EHRIs) that are considered from the outset and challenging scrutiny that often acts as a ‘last resort’ safeguard are crucial in this regard.

This Guidance is published at a time of real change for local government in Wales. Firstly, the introduction of the Well-being of Future Generations (Wales) Act is, potentially, a ground-breaking and transformative piece of legislation<sup>4</sup>. The Act will ensure that public bodies take a longer-term, sustainable view on service delivery, with the focus on prevention and the outcomes for the individual.

Throughout 2015 I have met with Local Service Boards across Wales to ensure that the successor Public Services Boards (PSBs), statutory

<sup>1</sup> <http://www.cfps.org.uk/publications?item=6960&offset=0>

<sup>2</sup> [http://www.olderpeoplewales.com/Libraries/Uploads/Framework\\_for\\_Action.sflb.ashx](http://www.olderpeoplewales.com/Libraries/Uploads/Framework_for_Action.sflb.ashx)

<sup>3</sup> [http://www.olderpeoplewales.com/en/news/news/14-02-25/The\\_Importance\\_and\\_Impact\\_of\\_Community\\_Services\\_within\\_Wales.aspx#.Vbd1EmctAdU](http://www.olderpeoplewales.com/en/news/news/14-02-25/The_Importance_and_Impact_of_Community_Services_within_Wales.aspx#.Vbd1EmctAdU)

<sup>4</sup> <http://gov.wales/legislation/programme/assemblybills/future-generations/?lang=en>

bodies under the new Act, fully address the needs and circumstances of older people. The role of Local Authorities in the new PSBs and their Wellbeing Plans will be invaluable, and this Guidance should help Local Authorities and others to shift the emphasis towards preventative, outcomes-focused services that better respond to older people's needs.

Secondly, local government reform in Wales will significantly impact on the structures and services provided by Local Authorities over the coming months and years. Much debate has taken place since the Welsh Government published the local government map proposal in the Summer 2015<sup>5</sup>. Whilst the debate on the number, size and structure of Local Authorities continues, it is crucial that the emphasis on the quality of services provided for older people and others is not lost.

My Guidance is delivered in two parts:

- Part 1 examines the importance of current Equality Impact Assessments and promotes the need to use Equality and Human Rights Impact Assessments (EHRIs) around changes to community services. Part 1 applies to all public service bodies responsible for delivering community services for older people;
- Part 2 examines the crucial role of scrutiny around changes to community services and is targeted towards elected members and officers in local government. The aim is to improve the quality of scrutiny and ensure that the impact of closing down or reducing the provision of a community service on older people is thoroughly and rigorously analysed and considered.

The Guidance should be embedded within working practices for the new local government structure, ensuring that high-quality and thorough EHRIs and scrutiny for older people are reflected in future proposals on community services. They are also intended to be useful, practical documents that will lead to better, high-quality EHRIs and scrutiny on changes to community services.

This Guidance is also published a year after the formal launch of the Ageing Well in Wales Programme, the five year national partnership

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<sup>5</sup> <http://gov.wales/newsroom/localgovernment/2015/options-published-future-configuration-local-government/?lang=en>

programme to improve the wellbeing of people aged 50+ in Wales<sup>6</sup>. I am proud to host and chair the Programme, and with all 22 Local Authorities in Wales committed to the Dublin Declaration, a commitment to establish age-friendly communities locally, this Guidance should help Local Authorities to establish such communities by thoroughly examining the importance and impact of community services for older people.

This Guidance has been produced in collaboration with the following partners:

- Wales Audit Office
- Welsh Government
- Welsh Local Government Association

The information, advice and expertise provided by these organisations was invaluable, and I am very grateful for their contribution. I am also very grateful for the input from colleagues in the Scottish Human Rights Commission and Welsh Local Authorities, in particular Pembrokeshire County Council and Cardiff City Council, in preparing the Guidance.

In the context of a challenging financial climate, I fully understand the difficult decisions facing Local Authorities. That said, I expect that Local Authorities and others fully consider and review the implications of closing down a key community service on older people, and that every effort has been made to mitigate any impact with alternative provisions put in place.

Taking an asset-based approach towards community services i.e. viewing them as invaluable services that are integral to the delivery of key policy priorities and statutory services cost containment, and considering EHRIAs from the outset should lead to better, more informed decisions. In local government, EHRIAs and scrutiny are not the sole responsibility of equalities officers and scrutiny members, they apply to officers and elected members regardless of policy area, department or portfolio. Such an approach will lead to better outcomes for older people as reflected in my Framework for Action 'Quality of Life' model (see Page 16).

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<sup>6</sup> <http://www.ageingwellinwales.com/en/home>

As I have consistently emphasised, protecting and improving community services will lead to cost savings for the Local Authority and other public service deliverers in the medium to long term, maintaining the independence of older people and thereby preventing the need for costly statutory packages of health and social care. Older people are worth over £1bn to the Welsh economy annually, and through an asset-based approach and innovative service delivery, older people can contribute so much to communities and economies across Wales.

This Part 2 Guidance should help achieve a high-quality level playing field in scrutiny around changes to community services and ensure that Wales is a good place to grow older – not just for some but for everyone.



**Sarah Rochira**  
**Older People's Commissioner for Wales**

DRAFT

## Context

The loss of key community services, such as public buses, toilets, community and day centres, libraries and lifelong learning continues to be a matter of great concern for older people. The closure or reduced provision of these services is already having an impact on their lives as a result of decisions made by Local Authorities and other public service deliverers across Wales.

The financial outlook for Local Authorities for the coming years remains considerably challenging. Since 2010, Local Authorities have had to reduce funding by £720m<sup>7</sup>. It is expected that funding will not return to 2010-11 levels until 2022-23 at the earliest, meaning the continued retrenchment of public service spending<sup>8</sup>. With further budgetary reductions expected, further difficult decisions will be made on the future of community services across Wales. It is therefore imperative that Local Authorities and others fully consider the implications of these decisions on older people, an age group that often rely on these services to maintain their health, independence and wellbeing.

This two part Guidance complements the following priorities within the Commissioner's Framework for Action 2013-17<sup>9</sup>:

- Embedding the wellbeing of older people at the heart of public services
- Protecting and improving community services, facilities and infrastructure
- Tackling prejudice, inequality and discrimination

This Guidance also follows on from the Commissioner's previous publications on community services:

- The Importance and Impact of Community Services within Wales (February 2014)<sup>10</sup>

<sup>7</sup> <http://www.wlga.gov.uk/media-centre-l-wlga-e-bulletins/councils-and-unions-to-lobby-parliament-over-fair-funding-for-wales>

<sup>8</sup> <http://www.cfps.org.uk/publications?item=11641&offset=0>

<sup>9</sup> [http://www.olderpeoplewales.com/en/Publications/pub-story/13-05-23/Framework\\_for\\_Action.aspx#.VWwfyGctAdU](http://www.olderpeoplewales.com/en/Publications/pub-story/13-05-23/Framework_for_Action.aspx#.VWwfyGctAdU)

<sup>10</sup> [http://www.olderpeoplewales.com/en/Publications/pub-story/14-02-25/The\\_Importance\\_and\\_Impact\\_of\\_Community\\_Services\\_within\\_Wales.aspx](http://www.olderpeoplewales.com/en/Publications/pub-story/14-02-25/The_Importance_and_Impact_of_Community_Services_within_Wales.aspx)

- Effective Engagement with Local Authorities: Toolkit for Older People (July 2014)<sup>11</sup>
- Best Practice Guidance for Engagement and Consultation with Older People on Changes to Community Services in Wales (July 2014)<sup>12</sup>

Whilst the Commissioner recognises the budgetary pressures placed on Local Authorities, older people must be able to continue to access community services in one form or another. It is vital that community services are seen not as optional costs or non-essential luxuries, but as the vital community assets that they are for individuals to be assured of their human rights.

This Guidance is published under Section 12 of the Commissioner for Older People (Wales) Act 2006<sup>13</sup>. The purpose of the Guidance is to ensure that high quality EHRIAs and scrutiny on changes to community services exists across local government and other public service bodies in Wales. When changes are proposed this Guidance should help Local Authorities and other bodies to fully consider the implications on older people. Tighter and more impactful assessments and scrutiny from the outset should lead to Local Authorities and other service deliverers taking a longer-term view within current financial parameters.

Previous research and evidence in this area suggests that scrutiny in Wales could be improved. For example:

- The 'Commission on Public Service Governance and Delivery' (2014) concluded that the fundamental importance of scrutiny in driving improvement was not recognised, that scrutiny is often under-developed and that organisations must regard scrutiny as an investment to deliver improvements and future savings<sup>14</sup>;
- The Wales Audit Office 'Good Scrutiny? Good Question!' improvement study (2014) found that whilst local government

<sup>11</sup> [http://www.olderpeoplewales.com/en/Publications/pub-story/14-07-01/Effective\\_Engagement\\_with\\_Local\\_Authorities\\_Toolkit\\_for\\_Older\\_People.aspx](http://www.olderpeoplewales.com/en/Publications/pub-story/14-07-01/Effective_Engagement_with_Local_Authorities_Toolkit_for_Older_People.aspx)

<sup>12</sup> [http://www.olderpeoplewales.com/en/Publications/pub-story/14-07-01/Canllawiau\\_ymarfer\\_gorau\\_ar\\_gyfer\\_ymgysylltu\\_ac\\_ymgynghori\\_%c3%a2\\_phobl\\_h%c5%b7n\\_ar\\_newidiad\\_au\\_i\\_wasanaethau\\_cymunedol\\_yng\\_Nghymru.aspx](http://www.olderpeoplewales.com/en/Publications/pub-story/14-07-01/Canllawiau_ymarfer_gorau_ar_gyfer_ymgysylltu_ac_ymgynghori_%c3%a2_phobl_h%c5%b7n_ar_newidiad_au_i_wasanaethau_cymunedol_yng_Nghymru.aspx)

<sup>13</sup> <http://www.legislation.gov.uk/ukpga/2006/30/section/12>

<sup>14</sup> <http://gov.wales/docs/dpsp/publications/psgd/140120-psgd-full-report-env2.pdf>

scrutiny in Wales is improving councils need to do more to develop consistently rigorous scrutiny to increase public accountability in decision-making<sup>15</sup>;

- The Welsh Government's 'Evaluation of Welsh Local Government Executive and Scrutiny Arrangements' (2015) concluded that there is considerable variation in the ways that the cabinet system has impacted upon local decision making processes, that scrutiny of partnerships and joint scrutiny is currently poorly developed, and that there is limited public engagement and participation in decision-making processes<sup>16</sup>.
- **The Wales Audit Office study on the 'Independence of Older People' (2015) found that...**

The Commissioner expects all Local Authorities and other public service bodies to have regard to the Guidance. Future changes to community services must not proceed without a full and robust analysis of the impact that these will have on the health, independence, wellbeing and rights of older people. The cost of not taking this approach is too much to bear for the Local Authority, other service providers, and, ultimately, the individual.

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<sup>15</sup> <http://audit.wales/publication/good-scrutiny-good-question-auditor-general-wales-improvement-study-scrutiny-local>

<sup>16</sup> <http://gov.wales/docs/caecd/research/2015/150108-welsh-local-government-executive-scrutiny-arrangements-en.pdf>

## Scrutiny: What is it?

Robust scrutiny and challenge can help Local Authorities promote equality of opportunity and demonstrate engagement with stakeholders such as older people. Effective scrutiny takes on-board EHRIA recommendations and fully considers the likely impact on different protected groups. It can provide a neutral forum on debates around community services, bridging local people, communities and decision-makers. The key question is: **how does scrutiny add value?**

The Welsh Government Statutory Guidance from the Local Government Measure 2011 recognised that scrutiny “needs to be independent, well-resourced and effective in order to identify any weaknesses in service delivery and then to propose improvements...it is vital that all councillors play a full and vigorous role in scrutiny”<sup>17</sup>, whilst the Commission on Public Service Governance and Delivery concluded that “public scrutiny is a particular and essential form of accountability in the public sector...the independence of scrutiny must be strongly asserted and protected...to be effective in holding to account and constructively identifying opportunities for improvement, scrutiny much be well resourced to support robust and challenging questioning”<sup>18</sup>.

Taking into consideration demographic changes and the need to take an asset-based approach to maintain the independence of older people, **it is crucial that scrutiny focuses on longer term outcomes as much as possible in the current financial climate**<sup>19</sup>.

Scrutiny should review policy priorities and outcomes and challenge the executive about its actions to deliver stated policy goals. It has the right to ‘call in’ key decisions and ask the decision-maker to think again, or to refer the decision to full council for consideration. Scrutiny should be seen as the ‘last line of defence’, and elected members should make sure the right questions are asked around community service proposals and answered before agreeing to any service delivery changes that may affect older people.

<sup>17</sup> <http://gov.wales/topics/localgovernment/publications/statguide/?lang=en>

<sup>18</sup> <http://gov.wales/topics/improvingservices/public-service-governance-and-delivery/?lang=en>

<sup>19</sup> <http://www.cfps.org.uk/publications?item=11641&offset=0>

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## Good Practice

Pembrokeshire County Council has a dedicated scrutiny committee to address older people's issues. The role of the Older Persons, Health and Wellbeing Overview and Scrutiny Committee is to review or scrutinise issues and services relevant to health and wellbeing, and particularly relating to older persons<sup>20</sup>.

One example of how the Committee can influence decisions was the recent 'Learning Pembrokeshire – Managing the Welsh Government Funding Reduction for Adult and Community Learning' proposal. Committee members expressed concerns regarding how the cabinet decision had been reached without public consultation and without sufficient consideration of how closing down Community Learning Centres will impact on older people and others<sup>21</sup>. As a result, the cabinet decided to undertake a public consultation exercise to examine the issue further, with a final report to cabinet by November 2015<sup>22</sup>.

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Scrutiny can help elected members to challenge levels and quality of delivery, conduct detailed investigations into the progress of specific objectives or projects, and add value to impact assessments to ensure they are robust. The WLGA report on 'The use of EIAs in the Public Sector' found that scrutiny of EIAs needs to be strengthened, with a greater role for equality leads and to ensure that scrutiny panels e.g. boards and committees have the necessary equalities skills and knowledge to fulfil their role<sup>23</sup>.

Looking ahead, the reform of local government and the introduction of the Wellbeing of Future Generations (WFG) (Wales) Act with statutory Public Services Boards mean that scrutiny in Wales will undergo some radical changes in the coming years. The development of effective joint

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<sup>20</sup> [http://www.pembrokeshire.gov.uk/content.asp?nav=101,2159,2170&parent\\_directory\\_id=646](http://www.pembrokeshire.gov.uk/content.asp?nav=101,2159,2170&parent_directory_id=646)

<sup>21</sup> <http://mgenglish.pembrokeshire.gov.uk/ieListDocuments.aspx?Cid=283&MID=3305#A122904&LLL=0>

<sup>22</sup> [http://mgenglish.pembrokeshire.gov.uk/Published/C00000281/M00003161/\\$\\$\\$Minutes.doc.pdf?LLL=0](http://mgenglish.pembrokeshire.gov.uk/Published/C00000281/M00003161/$$$Minutes.doc.pdf?LLL=0)

<sup>23</sup> <http://www.wlga.gov.uk/equalities-publications/report-l-review-of-the-use-of-equality-impact-assessments-in-the-public-sector/>

scrutiny arrangements for new and emerging collaborations is also likely to be a key focus for public services over the next few years<sup>24</sup>.

### Who scrutinises and how to scrutinise?

Scrutiny applies to all Local Authority elected members and in particular the following:

- **Cabinet/Executive:** The cabinet or executive is responsible for proposing key strategies, the policy and budget framework. It has power to take all executive decisions within the policy and budget framework agreed by the Local Authority;
- **Scrutiny Chair:** Good chairing can enhance the effectiveness of scrutiny by providing leadership, ensuring that scrutiny works efficiently and making best use of resources, and by promoting scrutiny both within the organisation and externally;
- **Scrutiny councillors:** Their role is to review policies and proposals and challenge whether the executive has made the correct decisions to deliver policy goals. These councillors examine the impact and implementation of cabinet decisions, hold the Leader and cabinet to account, and scrutinise external organisations who provide services to residents;
- **Scrutiny panels:** When scrutiny boards or committees are discussing community service proposals they should request information about the EHRIAs that have been conducted. EHRIAs help to inform their discussions and comment on proposals. Scrutiny panels can explore these EHRIAs in greater detail to ensure that they are based on strong evidence and engagement.

According to the Centre for Public Scrutiny' Four Principles of Good Public Scrutiny<sup>25</sup>, effective Scrutiny should:

- Be a 'critical friend' to executives, external authorities and agencies
- Reflect the voice and concerns of the public and its communities
- Take the lead and own the scrutiny process on behalf of the public

<sup>24</sup> [http://www.audit.wales/system/files/publications/WAO\\_Scrutiny\\_Report\\_English\\_2014.pdf](http://www.audit.wales/system/files/publications/WAO_Scrutiny_Report_English_2014.pdf)

<sup>25</sup> <http://www.cfps.org.uk/mission-and-purpose>

- Make an impact on the delivery of public services

The Centre has also identified characteristics of good scrutiny, including the following (further details may be found in Annex A)<sup>26</sup>:

Better outcomes	Ensure democratic accountability succeeds in driving improvement in public services. <b>Scrutiny should have a clearly defined and valued role in the council's improvement and governance arrangements.</b> It has dedicated support from officers who are able to undertake independent research effectively, and provide councillors with high-quality analysis, advice and training
Better decisions	Ensure democratic decision-making is accountable, inclusive and robust. <b>Local Authorities should ensure that scrutiny councillors have the training and development opportunities they need to undertake their role effectively,</b> and that scrutiny is councillor-led and meetings and activities are well-planned, chaired effectively and make best use of the resources available to them
Better engagement	Ensure the public is meaningfully engaged in democratic debate about the current and future delivery of public services. <b>Scrutiny should be recognised as an important council mechanism for community engagement, and facilitating greater citizen involvement in governance.</b> It should enable the 'voice' of local people and communities across the area to be heard as part of decision and policy-making processes

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## Good Practice

In 2011/12, Anglesey County Council' Environment and Technical Services Scrutiny Committee produced a report on the 'Future Provision of Public Toilets on Anglesey'<sup>27</sup>. The report acknowledged that public toilets are "often seen as a lifeline to the elderly community", and that it was vital that older people were consulted with "in relation to any proposed shortlist for closure at an early stage".

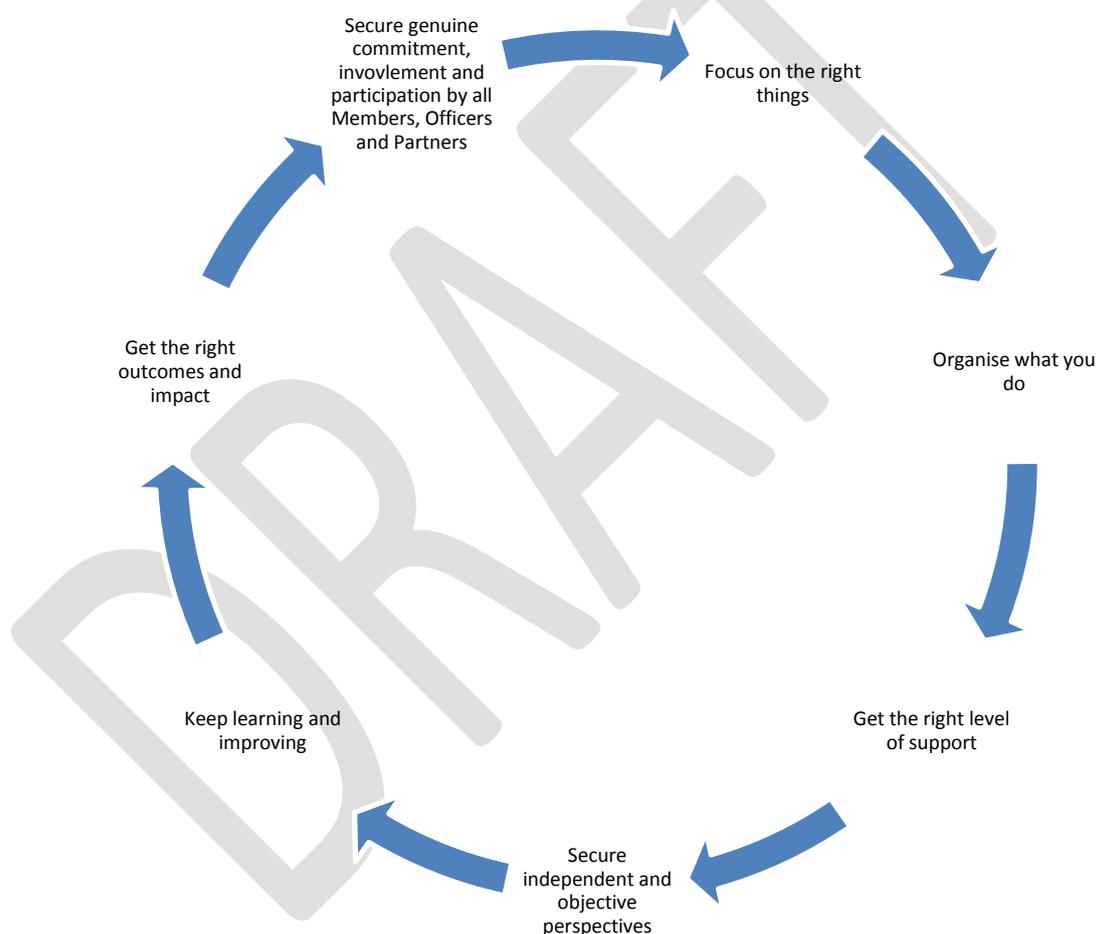
<sup>26</sup> <http://www.cfps.org.uk/publications?item=11641&offset=0>

<sup>27</sup> <http://www.anglesey.gov.uk/Journals/2011/12/08/scrutiny-review-public-toilets-review.pdf>

Following consultation with older people it was found that awareness about alternative provision was low, and therefore it was recommended that “officers work with existing organisations offering the Public Toilet Grant Scheme to improve signage and promotion of these facilities”.

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The WLGA’s ‘Role of Overview and Scrutiny in Assessing Equality Performance’ guide refers to the Welsh Government’s ‘Seven Success Factors’ model (2008) to ensure effective scrutiny<sup>28</sup>:



<sup>28</sup> <http://www.wlga.gov.uk/equalities-publications/wlga-publication-the-role-of-overview-and-scrutiny-in-assessing-equality-performance/>

## Useful recommendations

- **Secure genuine commitment, involvement and participation by all Members, Officers and Partners:** Have the Older People's Champions and Equality Champions, for example, been consulted on the proposal? Is the cabinet/executive open to concerns raised by scrutiny about inequalities?
- **Focus on the right things:** Does scrutiny take into account the Local Authority's Strategic Equality Plan and Equality objectives<sup>29</sup>? Is it clear how older people's needs, concerns and rights make it onto the scrutiny agenda?
- **Organise what you do:** Read information in advance and ask relevant and timely questions. Does scrutiny review community service proposals alongside an EIA/EHRIA? Remember that elected members have a legitimate right to challenge Local Authority finances and how these are used
- **Get the right level of support:** Are scrutiny councillors trained in equality issues? Is there sufficient access to equalities officers?
- **Secure independent and objective perspectives:** Do scrutiny committees make provisions to hear from community groups or older people's forums when a community service proposal is put forward?
- **Keep learning and improving:** Are there any training or skills gaps that need to be addressed? Are lessons learnt from previous scrutiny reviews?
- **Get the right outcomes and impact:** Is scrutiny helping to ensure that the Local Authority is achieving the aims of the PSED (eliminate unlawful discrimination, advance equality of opportunity between people, foster good relations between people) and Human Rights Act 1998?

<sup>29</sup> <http://www.wlga.gov.uk/equality-and-diversity-local-government>

## Scrutiny Questions for Elected Members

<p><b>Mitigating the effects of austerity measures</b></p>	<ul style="list-style-type: none"> <li>• What is the anticipated impact on older people? Can the Leader and Cabinet/Senior Officers provide members with details of the plans to mitigate the impact of these proposals on older people?</li> <li>• If...These proposals clearly have a disproportionate impact on older people. How will the Local Authority manage this? Have alternative arrangements and provision been put in place? Have innovative cost-saving approaches e.g. Community Asset Transfer been explored<sup>30</sup>?</li> <li>• How much will maintaining the community service cost? Is this cost for this financial year or is it on-going? What happens if this is not funded? Is there any external funding available? Could we charge for this? Can the proposal be deferred? Will the impact on older people be monitored and reviewed?</li> <li>• How does the proposal contribute to the Local Authority's medium to long-term savings plan? How were decisions arrived at in order to decide between options? Were groups/networks of older people, including the local 50+ Forum, consulted with?</li> <li>• Taking the asset-based approach to community services, how do the decisions contribute to the 'older people as assets' model and help increase their £1bn annual contribution to the Welsh economy, helping individuals, communities and local economies in the process?</li> <li>• How do the decisions contribute to the Older People's Commissioner' 'Quality of Life' model for older people i.e. I feel safe and listened to, valued and respected; I can do the things that matter to</li> </ul>
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<sup>30</sup> <http://gov.wales/topics/people-and-communities/communities/community-asset-transfer/?lang=en>

	<p>me; I can get the help that I need; I live in a place that suits me and my life<sup>31</sup>?</p> <ul style="list-style-type: none"> <li>• The Local Authority is committed to establishing age-friendly communities via the Dublin Declaration, a commitment as part of the Ageing Well in Wales Programme<sup>32</sup>. How do these proposals contribute to the establishment of age-friendly communities and the Local Authority's commitment to empower older people and maintain their health and independence?</li> </ul>
<p><b>The effective use of EHRAs (see Part 1 of the Guidance for further information)</b></p>	<ul style="list-style-type: none"> <li>• Has an EHRAs been carried out? If so, can the Leader and Cabinet/Senior Officers provide members with copies and a detailed explanation of the EHRAs conducted in respect of these proposals?</li> <li>• What engagement and consultation work with older people was conducted with older people as part of the EHRAs of these proposals? Have the National Principles for Public Engagement in Wales been applied<sup>33</sup>?</li> <li>• Does the Local Authority's EHRAs process adequately capture the needs and views of older people? What steps have been taken to ensure that older people have been given every opportunity to voice their needs and concerns? Are these fully reflected in the EHRAs?</li> </ul>
<p><b>Specific questions on community services</b></p>	<p><b>Public buses</b></p> <p>Public transport is vital to reduce physical and mental health problems amongst older people. It is crucial to connect older people with their friends and family, GPs and hospitals, shops and key services, and does much to tackle social isolation. A free bus pass for older people is worth little without a bus:</p>

<sup>31</sup> [http://www.olderpeoplewales.com/Libraries/Uploads/Framework\\_for\\_Action.sflb.ashx](http://www.olderpeoplewales.com/Libraries/Uploads/Framework_for_Action.sflb.ashx)

<sup>32</sup> <http://agefriendlyworld.org/en/the-dublin-declaration-on-age-friendly-cities-and-communities-in-europe-2013/>

<sup>33</sup> <http://www.participationcymru.org.uk/national-principles>

- Has the Local Authority fully considered the devastating impact of removing this 'lifeline' service on older people
- Is there alternative provision e.g. a community transport scheme in place to mitigate the impact?

### **Public toilets**

Public toilets are crucial in maintaining the health and independence of older people. Without the provision of public conveniences, older people and others will not leave their homes, and as a result are exposed to a wide range of physical and mental health problems. Everyone needs a public toilet, and removing these facilities makes our villages/towns/cities 'no go' areas:

- Has the Local Authority fully explored the impact of closing down this public toilet not only on older people but others in society (including the impact on tourism)?
- Have alternative arrangements been explored or put in place e.g. local businesses offering their toilet facilities to the public, or community asset transfer plans?

### **Public libraries**

Libraries play a significant role in the lives of older people. The importance of libraries goes far beyond books, they are places where older people develop digital skills, socialise and undertake a range of activities that keeps them physically and mental active:

- Has the Local Authority fully considered the impact of closing down this library on older people?
- What alternative arrangements are in place to ensure that older people can continue to access books, digital learning and other social activities?
- Does the Local Authority have another community hub in place for older people? Is the Local Authority committed to tackling loneliness and isolation amongst older people by proposing other venues where older people can meet, socialise and contribute to their local communities (these

	<p>questions also apply to proposals around community and day centres)</p> <p><b>Lifelong learning</b>                  Learning for older people has a range of benefits. For some, it is an important way of keeping physically and mentally active in retirement. For others, it is a crucial way of remaining in or re-entering employment. Learning helps to tackle social isolation, contributes to the development of personal skillsets and increases efficiency as workers or volunteers:</p> <ul style="list-style-type: none"> <li>• Has the Local Authority fully explored the impact of closing down this lifelong learning provision on older people and others?</li> <li>• Has the Local Authority provided alternative arrangements so that older people can continue to access much needed learning opportunities?</li> </ul>
<p><b>Compliance with the Equality and Human Rights Legal Framework</b></p>	<ul style="list-style-type: none"> <li>• Can the Leader and Cabinet/ Senior Officers assure members that these proposals comply with Equality and Human Rights legislation in respect of older people? Do the proposals comply with the Local Authority’s Strategic Equality Plan?</li> <li>• What steps has the Local Authority taken to ensure these proposals meet our statutory commitments to older people under the Equality Act 2010 and Human Rights Act 1998?</li> <li>• Is there any danger these proposals may represent a breach of older people’s human rights? Have the UN Principles for Older Persons and Declaration of Rights for Older People in Wales been fully considered and applied? Has the UN Convention on the Rights of Persons with Disabilities been considered?</li> <li>• Have the National Welsh Characteristics of Good Scrutiny been applied (see Annex A)?</li> </ul>

## The continuing role of scrutiny

Remember that scrutiny is a continuous process; **scrutiny does not end when a decision is made on a community service proposal**. It is crucial that any changes to community services are monitored and that the impact on older people and others are taken into consideration. The closure or reduced provision of a key 'lifeline' community service may significantly impact on the health and wellbeing of older people, and therefore scrutinising the proposal at a later stage may be needed.

Consider the following questions within a year of the decision:

- Was any mitigation applied or was the community service proposal delivered as originally proposed before the EHRIA was undertaken?
- Were the intended outcomes of the proposal achieved or were there other results? Has it proved to be an effective cost-saving proposal for the Local Authority? Is there any evidence that health and social care needs for older people have increased as an indirect consequence?
- Were the impacts confined to the group you initially thought would be affected i.e. older people, or were others affected e.g. people with disabilities, parents with young children?

## **Annex A: National Welsh Characteristics of Good Scrutiny<sup>34</sup>**

### **Democratic accountability drives improvement in public services: Better Outcomes**

Overview and scrutiny:

- Has a clearly defined and valued role in the council's improvement and governance
- Has the dedicated officer support it needs from officers who are able to undertake independent research effectively, and provides councillors with high-quality analysis, advice and training
- Inquiries are non-political, methodologically sound and incorporate a wide range of evidence and perspectives
- Regularly engages in evidence based challenge of decision makers and service providers
- Provides viable and well evidenced solutions to recognised problems

### **Democratic decision making is accountable, inclusive and robust: Better Decisions**

- Overview and scrutiny councillors have the training opportunities they need to undertake their role effectively
- The process receives effective support from the council's corporate management team who ensures that information provided to overview and scrutiny is of high quality and is provided in a timely and consistent manner
- Overview and scrutiny is councillor-led, takes into account the views of the public, partners and regulators, and balances the prioritisation of community concerns against issues of strategic risk and importance
- Overview and scrutiny meetings and activities are well-planned, chaired effectively and make best use of the resources available to it
- Decision makers give public account for themselves at scrutiny committees for their portfolio responsibilities

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<sup>34</sup> <https://www.cardiff.gov.uk/ENG/Your-Council/Councillors-and-meetings/Scrutiny/Documents/Guidelines%20for%20effective%20Scrutiny%20in%20Wales.pdf>

## **The public is engaged in democratic debate about the current and future delivery of public services: Better Engagement**

- Overview and scrutiny is recognised by the executive and corporate management team as an important council mechanism for community engagement, and facilitates greater citizen involvement in governance
- Overview and scrutiny is characterised by effective communication to raise awareness of, and encourage participation in democratic accountability
- Scrutiny operates non-politically and deals effectively with sensitive political issues, tension and conflict
- Overview and scrutiny builds trust and good relationships with a wide variety of internal and external stakeholders
- Overview and scrutiny enables the 'voice' of local people and communities across the area to be heard as part of decision and policy-making processes

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