

# Involvement

Community

self-organized network  
common interests, cause  
social group whose members  
no geographical limitations

## INVOLVING ETHNIC MINORITY COMMUNITIES IN EQUALITY IMPACT ASSESSMENTS

### Equality Act 2010

#### Briefing 2:

The Council of Ethnic Minority Voluntary Sector Organisations (CEMVO) Scotland is a national intermediary organisation which was set up in 2003 with the aim of building the capacity and sustainability of the ethnic minority<sup>1</sup> (EM) voluntary sector and its communities in Scotland. With a database network of over 600 EM voluntary organisations and community groups, this enables us to gather vital intelligence about the needs of and issues affecting the sector. We work strategically with both the public sector and Scottish Government to tackle a range of issues on race equality.

This Briefing is aimed at public sector organisations which would value a community perspective on how to involve the EM voluntary sector in conducting and publishing [Equality] Impact Assessments (EQIAs). Whilst legislation does not specifically require the involvement of equality groups and communities when carrying out an EQIA (see below), we believe that both our guidance developed for the EM sector [*Community Involvement: ten key ways to influence and strengthen Equality Impact Assessments*] and this Briefing should help to provide a more effective and standardised approach. Each has been written from a race equality perspective but much of the content will be transferable for other equality groups.

<sup>1</sup> '(The term) EM ... retains the acknowledgement of the shared experiences of minority communities in the UK (and) reflects the diversity which is present within the communities in regards to religious, linguistic and cultural differences'. Inclusive Democracy report, 2002: CEMVO Scotland

## So what are public authorities required to do?

### Legislation

In carrying out an assessment, listed public authorities in Scotland must '*consider relevant evidence relating to persons who share a protected characteristic (including any received from those persons)*'.<sup>2</sup>

Further, the Equality and Human Rights Commission (EHRC) guidance on both Involvement and also Assessing Impact<sup>3</sup> clearly encourages community participation and partnership working, stating that: *Although the regulations do not specifically require the involvement of equality groups and communities when assessing impact, you may choose to involve equality groups and communities as one way of helping you to understand the impact of your policy proposals on these groups ... providing evidence that you might not otherwise hear.*

It continues: *You may also find it useful to involve relevant equality groups and communities when monitoring the implementation of policies, to determine the actual impact of the policy and discover what, if any, changes are required. You might also benefit from their input when you are considering how policies and practices may need to be revised to comply with the general equality duty.*

Whilst we are unaware of any test cases in Scotland in relation to public bodies being challenged on the legal requirements for EQIA, a number of successful challenges have been made in England which include:

- Financial decision by London Borough of Ealing to cut funding of Southall Black Sisters
- Aberdare Girls High School refusing permission to a Sikh girl to wear a kara
- Arts Council of England cutting funding of UK's leading black theatre company, Talawa, taking no account of the lack of any other organisation's ability to develop EM actors or cater to the audiences it does
- NHS England instructing doctors to prescribe Alzheimer's' medicines on the basis of a language test that took no account of cognitive impairments or having ESL

<sup>2</sup> The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 5(2)

<sup>3</sup> EHRC non statutory guidance for Scottish public authorities includes steps that are legally required as well as recommended actions



## Policy

The National Standards for Community Engagement<sup>4</sup> currently offer generic guidance and the Scottish Government has also carried out an exploratory consultation on the Community Empowerment and Renewal Bill, which was launched by the Minister for Local Government and Planning on 06 June 2012. One of the areas being consulted on is consideration of replacing the various existing duties on the public sector to engage communities with an overarching duty.

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## How to get involved Ten ways to influence and strengthen Equality Impact Assessments (EQIAs) for ethnic minority communities

In developing these EQIA community involvement principles, part of the process was to work with other EM organisations to gather people's experiences of being involved in impact assessment so far. They included the following comments:

- We are not always clear about whether involvement is in a general consultation exercise or in an EQIA
- Very little paperwork/preliminary information is provided about the relevant policy/proposals
- We are not always clear whether the public body wants people who represent a community (or even communities) or represent an area of interest or expertise e.g. employment, housing etc - more a sense that anyone from the sector will 'do'
- We continually receive requests for information we have already given at previous consultations and/or as part of research - but those contacting us do not appear to know about it
- Inadequate feedback is provided on the implementation and review stages i.e. what the EQIA has actually changed, if anything

In order to find new ways to share this learning more widely, CEMVO Scotland, collectively with a number of other key EM organisations in Scotland has developed '**How to get Involved: ten key ways to influence and strengthen equality impact assessments for ethnic minority communities**' - written for race equality practitioners and organisations. It will be supported by a number of training sessions with and for the EM voluntary sector in order to build capacity and understanding of the legislation overall, EQIA as a process and people's rights (both as service users and as staff) to enable them to contribute more effectively and challenge where necessary.

This associated briefing for the public sector has been written to reflect the ten ways identified for and by the EM voluntary sector. The steps do not require the involvement of the EM individuals (or representatives from any other equality group) at *each and every stage* - they are simply suggestions which offer a pick and mix approach as to **when you (as Public Bodies) might want to involve people, and how**. Further, you may wish to apply some of the suggestions in meeting other parts of the specific duties such as setting equality outcomes.

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<sup>4</sup> Published by Communities Scotland July 2009

## Steps for public authorities

### 1. Training for effective impact assessment

Good and bad stories of EQIA training in the public sector continue to be heard. However it may also be helpful to provide additional training for staff carrying out involvement and consultation exercises. Community involvement is a skill in its own right and should be recognised as such - not tagged on to someone else's job description. Any tendering processes in relation to training should be inclusive of and involve third sector trainers who will often bring a greater (and more up to date) insight and understanding of community needs and priorities.

### 2. Identifying policies

Find out which EM groups are in your local area (this information can be found from national and regional umbrella groups) and let them know well in advance about any new policies, service redesign, financial decisions etc as this will help the sector to prioritise which EQIAs they wish, or have time, to get involved in.

### 3. The EQIA working group

Some public bodies may advertise for external partners to work alongside them throughout the whole process of the EQIA(s). This is a welcome approach since it is more sustained, recognising that not all of the necessary knowledge and understanding will lie with the in house team. Clear 'job descriptions' as well as contracts and clarification of payment (if any) should be provided to ensure that the right EM people apply and are comfortable about their roles and responsibilities from the outset.

Where you (the public body) have set up equality advisory groups (or equivalent) care needs to be taken that this group is not used to justify actions and that wider involvement is sought when appropriate.

### 4. Gathering and analysing evidence

This continues to be a time consuming part of the EQIA process. Some developments in recent years such as the SG evidence portal<sup>4</sup> are now helping to bridge the gap.

However a considerable amount of information and evidence is already available (particularly on cultural, linguistic and religious needs) and it is the responsibility of the public body to collect *and analyse* this *before* they approach the EM sector.

EM organisations can support you (once they have seen the overall analysis) by highlighting any gaps e.g. specific issues which remain under researched such as people of mixed heritage; issues

<sup>4</sup> Scottish Government and its Agencies collect, analyse and publish equality evidence across a range of policy areas: <http://www.scotland.gov.uk/Topics/People/Equality/Equalities/DataGrid>

of intersectionality such as young EM gay people or EM women in the workforce and new concerns at local level such as community safety, trafficking etc. Certain policies may also be of particular relevance to specific groups such as refugees and/or asylum seekers whose issues needs and experiences can get lost if assumed to be included in a more generic definition of 'ethnic minority'.

If EM organisations are involved effectively at this stage there will also be less risk of a challenge based on inadequate or inaccurate information once the results of the EQIA are published.

## 5. Screening for proportionality and relevance

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Public bodies which use screening and/or rapid impact checklists as a step in the overall process can use this to involve third sector partners at an early stage. This should help understanding of any possible discriminatory impact a policy may have on your organisation and on your service users - as well as how the policy may or may not advance equality and foster good relations. Staff carrying out screening in isolation cannot be expected to 'know what they don't know' with regard to each individual equality group and as a result many of the EQIAs published tick the boxes against 'no negative impact' when in fact this may not be the case. Early involvement can also enable a public body to more robustly justify any decisions not to continue to a full EQIA should this be the result.

## 6. Wider consultation

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In general, whilst proportionality issues may need to be taken into account, we believe that a one off generic consultation exercise will rarely be sufficient on its own - not least because it can be difficult to accommodate possible multiple language needs/ use of interpreters. However there will be times when it *is* appropriate, particularly when the focus is on service delivery and you wish to seek directly the views and experiences of service users (see case study below). In such a situation, larger EM organisations are usually happy to act as a conduit and/or mediator to help extend involvement beyond the 'usual suspects' and in turn encourage wider participation and expressions of genuine concerns, interests and experiences.

Individual public bodies should develop (and share) up to date databases of both local and national race equality organisations, community groups and practitioners with details about their specific area(s) of expertise e.g. employment, health, carers, community engagement etc. This will help you approach the right people at the right time for the right policy (since not all policies are relevant to all EM people).

Time constraints and limited resources again often 'force' the kind of consultation carried out e.g. mass mail outs. These will achieve very limited results. A lack of response does not necessarily mean silent agreement - it is much more likely to indicate a lack of time or interest in that particular policy area.

## 7. Agreeing mitigating measures

Since the specific duties now require the publishing of *results* of impact assessments, developing good mitigating measures and practical solutions is obviously a crucial stage and further, makes sound business sense as it should minimise the risk of complaints or challenges further down the line.

Involving the relevant people in the EM sector (organisational managers or policy staff) at this stage in particular will help you identify practical solutions and improvements to remove or mitigate any negative impact where possible.

## 8. Providing feedback

Most public bodies will already be aware of the need to provide prompt feedback to anyone involved in an EQIA. Feedback is most helpful when it includes a note of what was said, what was agreed, which actions have been taken forward and which issues, if raised, are not being implemented and why. An opportunity should also be given to respond to this feedback with appropriate changes/ amendments incorporated.

Those participating, and indeed those who did not, may be interested to see information on corporate accountability, for example if the EQIA was scrutinised by the board and what issues were raised, if any, before final sign off. This will clearly demonstrate overall organisational commitment and leadership to the third sector.

## 9. Publishing results

Learning over the last ten years would suggest that improvements can be made when it comes to publishing the results of impact assessments. EM media, newspapers etc can be used, simple summaries, translations or narratives will be more accessible than lengthy toolkits and visibility on organisational websites will all help to ensure that the people who need to be reached, can be reached.

EM organisations at both local and national level will be happy to be involved and advise on these issues in more detail.

## 10. Monitoring impact and reviewing policies

Assessing impact is not an end in itself but rather is an ongoing process. Often the actual impact of the policy will only be known once it has been introduced and implemented, for example, a review will be crucial where a decision has been taken to 'mainstream' a specialist EM service in order to see if in fact it is working or not.

If you have not involved the EM sector in the EQIA itself, you may still wish to do so at this stage as the users of services are obviously best able to help you monitor the actual and longer term impact of the implementation - particularly in relation to how it complies with the general equality duty - as well as help you identify and overcome any continuing barriers.

## How can CEMVO Scotland help?

### **Needs analysis**

Over recent years organisations have invested more and more in engaging with the community but haven't necessarily seen an improvement in outcomes for marginalised groups. In many areas it can be difficult to get an informed opinion about your services and what people need. We can help you to organise and facilitate innovative ethnic minority community involvement events which move away from traditional approaches focusing only on needs and experiences to find out what people *really* think.

Users of services are usually best placed to assess what is working and what isn't - as well as come up with practical solutions for improvement. CEMVO Scotland has the networks and skills to engage those who normally don't speak out as well as support them along the way.



### **Impact Assessment, Mainstreaming and Reviewing Progress**

It is not enough to know what people think: the key challenge is to use this information to create clear and actionable recommendations for change. But devising a programme for change isn't always easy. How do you weigh up competing needs? How do you create buy in for your ideas and vision?

CEMVO's mainstreaming programme is funded by Scottish Government to provide support to public, statutory and third sector organisations in the implementation of race equality in all areas of their organisational development, processes and practice.

As part of this programme we also offer support to public bodies on EQIA. What follows is an example of work currently in progress.

## Case Study: Scottish Court Service (SCS)

**Purpose:** Community involvement in EQIA of Security Policy

**Background:** As a result of a meeting between CEMVO and senior SCS staff to discuss progress on mainstreaming race equality, the issue of Sikhs entering courts in Scotland whilst in possession of the Kirpan<sup>6</sup> was identified as an unresolved concern. It was agreed that the impact of the current security policy on members of the Sikh community needed to be fully assessed.

**Process:** CEMVO provided further written evidence on the issue and agreed to facilitate a national community consultation event to ensure that a diverse range of community voices, including women and young people, was heard. CEMVO communicated regularly prior to the event with both community representatives and SCS staff in order to reassure, inform and guide. This meant that initial concerns and barriers were ironed out before the event, allowing for more time to be given to collaboration and consensus building rather than on personal agendas or historical grievances. The issue was of direct relevance to the community and so quickly generated considerable interest. The event itself was held in the evening and hosted by a local Gurdwara. SCS were advised in advance about good practice in relation to covering expenses for venue/catering and also about the protocol when visiting the Gurdwara. CEMVO staff facilitated in order to ensure objectivity and safety in airing occasionally opposing views. In addition, an EHRC representative was asked to attend to provide background from a legal perspective. An open and informative debate took place and then participants were asked to focus on practical suggestions for improvement. Ideas and solutions for overcoming negative impact were recorded and it was agreed that a small working group involving key members of the Sikh community in partnership with SCS staff would take these forward.

**Result:** Innovative changes subsequently approved by the Lord President, fed back by CEMVO to the wider community and currently being implemented by SCS staff. Progress to be reviewed.

<sup>6</sup> EHRC guidance on Sikh articles of faith, 2011 states that the Kirpan is a curved blade worn over or underneath the individual's clothing. It symbolically represents the power of truth to cut through untruth, and is a reminder of the obligation to uphold justice, to defend the weak and oppressed, and to exercise mercy and compassion. The Kirpan is not to be used for aggression and the right to carry the Kirpan by an initiated Sikh carries with it the responsibility of never misusing it.

### **Cost**

There is no cost for CEMVO providing this kind of support. The only expectation is that organisations cover costs for venue and catering/ refreshments for holding community involvement events. CEMVO Scotland would also expect a written agreement for organisations to commit to community engagement standards in terms of implementing agreed actions and feeding back to communities on issues arising from the consultation.







For further information on this/other briefings or our wider mainstreaming programme of support please enquire to:

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