

Equality Impact Assessment (EqIA)

This document fulfils the ICO's requirements to conduct Equality Impact Assessments, as a requirement to have due regard under the Equality Act 2010, S75 of the Northern Ireland Act 1998 and the public sector equality duty. This document helps you to assess the equality relevance of a policy or procedure on one or more groups of people with protected characteristics. Guidance is also available for Equality Impact Assessments (EqIAs), along with a glossary of issues to consider. The purpose of an EqIA is to ensure that equality issues are identified and mitigated. The guidance and 'issues to consider' documents are intended to assist with this, but they are not a substitute for consultation with people with lived experience of any of the protected characteristics. Therefore, you should, wherever appropriate, consult with the relevant EDI staff networks or other colleagues to discuss potential impacts.

You must read the [guidance](#) and [glossary of issues to consider](#) before completing the document.

Completed EqIAs will be published [on the ICO's website](#).

Summary

Prepared by: LC

What is the title of this piece of work? Guidance on content moderation and data protection

Briefly describe the overall purpose of this work. The aim of this work is to provide guidance that explains how data protection law applies when organisations use content moderation technologies and processes. It provides advice to help organisations comply with the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 (DPA 2018).

Initial screening questions

Q1. Does this work relate to an ICO policy, procedure, working practice or anything broadly similar? This includes both current policies and new policies under development.

Yes

*If you answer **No** to this question, you may not need to complete a EqIA.*

Q2. Is this work about the explanation of the laws which the ICO regulates, or about decisions to use or not use any of our regulatory powers (eg monetary penalties, enforcement notices, information notices etc)?

Yes

*If you answer **No** to this question, you may not need to complete a EqIA.*

If you answered no to both Q1 and Q2, it is best practice to rationalise why there are no negative impacts to each protected characteristic in the table below.

Impact on people with protected characteristics

Q3. For each of the protected characteristics, you should consider whether there are any **positive impacts** for people with each characteristic and set those out in the table below. If you think there are any **negative impacts**, set those out in the table below **and** explain how you will fully mitigate those impacts. It is best practice to include three mitigations per negative impact. Sign off can only be done with a minimum of two mitigations. If you think there is no impact, please explain why you think that is the case.

Protected characteristic	Is there likely to be a specific impact on people with this characteristic?	List the mitigations proposed for each impact, stating whether the impact will be reduced or removed. Please state proposed timescale for mitigations.
Religion or belief	Yes – positive impact envisaged.	
Race, nationality or cultural background	<p>The guidance recommends that services who carry out content moderation should undertake a data protection impact assessment prior to deployment. This should help services to consider and mitigate potential data protection harms to individuals, including the potential for discrimination.</p> <p>The guidance also recommends that services take steps to ensure that their moderation systems perform accurately and produce unbiased outputs. We recommend regular review of content moderation processes to minimise the risk of unfair discriminatory outcomes based on the processing of people’s personal information. This will help to address the adverse impact caused by certain content moderation systems on individuals with protected characteristics (and the other characteristics covered in this table).</p>	
Disabled people		
Sexual orientation		
Sex (see note 1)		
Age		
Gender reassignment (see note 2)		
Marital status		
Pregnancy and maternity		
Political opinions		
People with dependants		
People without dependants		
Socio-economic groups or social		

Protected characteristic	Is there likely to be a specific impact on people with this characteristic?	List the mitigations proposed for each impact, stating whether the impact will be reduced or removed. Please state proposed timescale for mitigations.
classes (see note 3)		
Multiple protected characteristics (see note 4)	Yes – positive impact envisaged for multiple protected characteristics – see above.	

Note 1: you may also wish to consider gender while considering sex, although gender is not a protected characteristic under the Equality Act or s75 of the Northern Ireland Act 1998.

Note 2: you may wish to consider the impact on transgender people while considering the protected characteristic of gender reassignment. This includes if the person is proposing to undergo, is undergoing or has undergone a process.

Note 3: Socio-economic group or social class is not a protected characteristic, but we would still like to ensure that we consider the impact of our work in this area.

Note 4: Multiple protected characteristics is an opportunity to consider whether there are issues which affect people with most or all of the protected characteristics, or where there may be different impacts of the same issue on different characteristics (eg the same issue has a positive impact on people with one protected characteristic but a negative impact on people with another protected characteristic).

Q4. The ICO has a number of legal obligations in relation to the provision of Welsh language services. Is this work being delivered in Wales, or to the people of Wales, and if so will there be a need to consider the impact on the Welsh language?

No

*If you answer **Yes or Don't Know** to this question or would like further information, please contact the Welsh Regional office to discuss next steps via wales@ico.org.uk .*

Q5. In interests of best practice, you should consider whether this work may have a negative impact on or contravene any Human Rights. Click this link to find an overview of each of the human rights and further details about each. The Human Rights Act itself is available at this link. Please confirm that you have considered this and set out any actions you will take to mitigate any impacts.

Answer: we have considered the relationship between Human Rights and data protection law. In particular we have considered the impact of content moderation decisions on people's right to freedom of expression (Article 10), and right to respect for private and family life (Article 8) and how these interact with data protection law. It is our view that the current guidance provides adequate safeguards for potential impacts on people's Human Rights.

Contributing towards the ICO's equality objectives

Q6. How does this work contribute towards the ICO's equality objectives? Please explain contributions, state ways contribution could be increased, or state 'no contribution'.

Objective	Contribution to objective
<p>Objective 1: We will represent the communities and societies we serve</p> <p>We believe that diverse teams make better decisions, boost creativity and innovation, enable greater professional growth and increase our understanding of the communities we regulate. As a workforce, we are the most effective and have the greatest impact when we are representative and consider different perspectives.</p>	<p>This guidance was produced in close collaboration with colleagues across the ICO and with external stakeholders. We incorporated a diverse range of views and expertise from an early-stage, and this collaboration continued to shape the guidance throughout the research and drafting process.</p>
<p>Objective 2: Our culture will be inclusive</p> <p>We're at our best when we support and look out for one another, and when we trust and empower each other to be ourselves. That applies whether it's within the workplace or in the work that we do.</p> <p>We have measures in place to support our diverse workforce, such as reasonable adjustments. However, we will do more to remove the barriers that are preventing people from developing and progressing.</p>	<p>As mentioned above, we collaborated closely with internal colleagues in producing this guidance. We worked with colleagues from varying different areas of expertise and backgrounds. This included seeking out and incorporating feedback on draft materials to ensure that the work was incorporating diverse perspectives and insights.</p> <p>In addition, we also ran an open call for views on content moderation to ensure we provided an open opportunity for any interested parties to have their voices heard in this project. This helped ensure we were able to incorporate insights from the widest possible range of stakeholders when developing our guidance.</p>
<p>Objective 3: We will better understand the needs of everyone to deliver services that are accessible to all</p>	<p>The guidance was informed by an extensive programme of research and stakeholder engagement. This included a public call for views on content moderation. Alongside this, we also undertook a</p>

Objective	Contribution to objective
<p>We target our regulatory interventions on the areas of greatest harm and to make a real difference to people's lives. Technological innovation by businesses means the landscape we regulate is constantly transforming. We know we are at our best when we understand the needs of all our customers, including those who experience vulnerability and communities of unmet need.</p>	<p>programme of direct stakeholder engagement that focused on organisations who develop and deploy content moderation solutions. This engagement helped us to understand the key uncertainties and concerns among the target audience. We used these insights to inform the content of the guidance. The guidance has also undergone an impact assessment, which has informed our understanding of the impacts on the services we regulate.</p> <p>In addition, we undertook a programme of engagement activities with Ofcom to ensure coherence and collaboration between ICO and Ofcom work on online safety. This included knowledge sharing workshops, a programme of joint stakeholder engagement, and incorporating feedback at key stages of the guidance development.</p> <p>We plan to update this guidance where needed, for example following the publication of Ofcom's final codes of practice and guidance under the Online Safety Act 2023 (OSA). This will ensure the guidance keeps pace with any technological and legislative changes.</p>

Monitoring and evaluation

Q7. What arrangements are in place, or will be put in place, to monitor and evaluate the impact of the work on equality?

Answer: we plan to review and update the guidance following the publication of Ofcom's final codes of practice and guidance under the OSA. Our review of this guidance will also incorporate changes to the data protection regime that will be implemented as part of the Data Protection and Digital Information Bill. When we review this guidance, we will re-evaluate the equality impact of the work.

Q8. How long will these arrangements be in place?

Answer: we will continue to review the impact of this guidance as part of our longer term review and monitoring of the product.

Q9. When do you intend to review this EqIA? This should usually be done upon any change that is made to the original piece of work that this EqIA is for.

Answer: we plan to review this EqIA when we review and update this guidance (see above)

Publication

Q10. As stated above and in the guidance, we intend to publish all completed EqIAs on the ICO's website. Please provide detail of any necessary redactions and the intended publication date.

You should also review the wording to ensure that it is as clear as possible for any staff or public to read.

Answer: no redactions necessary. This EqIA can be published any time following the guidance publication.

Governance and sign-off

The person who completes this document must be content that all potential equality issues have been identified and considered, that appropriate monitoring will be in place and the publication issues have been considered.

Please tick here to confirm that you have consulted with other colleagues and those it would largely impact where appropriate.

Please state here who has completed the EqIA:

Signed by: LC
Date: 29/01/2024

Approved by line manager:

Signed by SS
Date: 16/02/2024

You **must** send your completed form to [Corporate Governance](#) for storage and publication.

The EDI Board provides overall assurance that the EqIA process is operating effectively, but it is not for them to review or approve EqIAs.

If you have identified any negative impacts to any protected characteristics that you cannot fully mitigate, please contact Inclusion and Wellbeing for advice via Inclusion and Wellbeing.

Section 75 The Northern Ireland Act

To meet the NI section 75 consultation requirement, we must incorporate the following into our EqIA process. Please read through the below and implement as appropriate whilst completing your EqIA

1. We will externally publish a list of all EqIA screenings we complete. We should publish these quarterly. The spreadsheet will be 'housed' on the ICO website [Equality and diversity | ICO](#) (these will include **all** EqIA screenings we complete)
2. Where an EqIA screen results in the need for a full EqIA on a policy, procedure or change that relates directly to the ICO carrying out its external statutory functions; we will consult with key stakeholders at the earliest opportunity for 12 weeks. By law we must consult with the Northern Ireland stakeholder list, but good practice would be to include other relevant stakeholders from across the UK. The author/approval manager will be best placed to determine who these should be.
3. We have clarified that if we don't receive a response from these stakeholders to a consultation, that is fine. We record no response and move on with the policy, procedure or change.
4. We have clarified that we do not need to consult under s75 for policies that only impact our staff. Whilst it's good practice to consult with staff, TU etc about changes that impact employees, ways of working etc, this type of internal change would not engage s75. We should of course complete an EqIA at the earliest opportunity, it's just that the s75 consultation requirement is unlikely to be engaged.
5. We have agreed that it would be for the manager who approves the EqIA to determine if a s75 consultation is needed. The Inclusion and Wellbeing team can provide support, but the author and manager will know their business area and will be best placed to assess if a new/change to a policy impacts external customer and stakeholders as part of our statutory function and should therefore be consulted on.
6. We have agreed that it should be for the author/approving manager to send the EqIA screening form or full EQIA form to corporate governance.