

Planning environmental justice into section 1 of the Equality Act 2010

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A single planning permission rarely creates environmental injustice. It is usually made earlier, and more quietly, through local plans, transport strategies, infrastructure priorities, housing standards, green space decisions and budgets. By the time a planning committee considers an individual application for planning permission, many of the choices that determine who breathes polluted air, who loses open space, who gains public transport and who carries infrastructure burdens may already have hardened.

That is why section 1 of the Equality Act 2010 matters. If commenced in England, it would require relevant public authorities, when making strategic decisions, to have due regard to the desirability of exercising their functions in a way designed to reduce inequalities of outcome resulting from socio-economic disadvantage. It is not a free-standing right to a clean, healthy or sustainable environment. It is not a veto for communities affected by development. Its force is more modest, but still important. It changes the questions public authorities must ask before making strategic choices.

Planning and environmental law are often treated as technical fields: air quality modelling, flood maps, biodiversity units, transport capacity, viability and carbon accounting. Those tools are essential. But they can conceal the central distributive question. Where do the burdens and benefits land?

Two neighbourhoods in the same city may experience entirely different environmental realities. One may have mature trees, safe crossings, reliable buses, and well-maintained parks. Another may have heavy traffic, poor air quality, little shade, poor housing, severance from services and open space that is too far away, unsafe or badly maintained. That difference is not merely aesthetic. It affects health, childhood, education, work, family life, mobility and resilience.

The evidence base increasingly confirms this. Studies of air pollution in England identify persistent inequalities in exposure to fine particulate pollution, with lower-income areas experiencing higher average exposure than less deprived areas. Natural England's Green Infrastructure Framework recognises the importance of access to good-quality green and blue space close to home. Climate adaptation raises similar distributional questions. Heat, flooding and poor-quality housing interact with poverty. A household with savings, private outdoor space and the ability to retrofit can respond to climate risk very differently from a household in overcrowded, insecure or poor-quality accommodation.

Existing legal tools help, but they do not fully answer the section 1 question. The public sector equality duty has generated a strong "due regard" discipline, but it is structured around protected characteristics. Poverty and class are not protected characteristics. Environmental assessment can be powerful because it produces information, consultation and reasons, but it is not always organised around inequalities of outcome. Human rights law can assist in severe environmental cases, particularly where life, health, home or possessions are affected, but it is not a routine distributive planning tool. Climate litigation has improved scrutiny of evidence and deliverability, but climate legality and climate justice are not the same thing. A carbon plan may be adequate in aggregate while leaving costs and benefits unequally distributed.

Section 1 would not replace these regimes. Its value is that it asks a different, connecting question: has the authority considered whether this strategic decision will reduce or deepen inequalities of outcome caused by socio-economic disadvantage?

In practice, that question has five consequences.

First, evidence. Authorities should identify who is exposed, who benefits, what the local baseline shows and what information is missing. That may require overlaying deprivation, health, housing, transport, air quality, flood risk, heat vulnerability, tree canopy and green space access data, alongside community evidence.

Secondly, alternatives. A strategy should not only ask whether the preferred option is technically feasible or economically attractive. It should ask whether less unequal options have been considered.

Thirdly, mitigation. If environmental burdens are concentrated on disadvantaged communities, mitigation should be targeted, funded, enforceable and monitored. Generic promises are rarely enough.

Fourthly, reasons. A lawful and accountable decision should show how socio-economic disadvantage was considered, what trade-offs were made and why particular alternatives were rejected.

Fifthly, monitoring. Outcomes matter more than outputs. It is not enough to count trees planted or cycle lanes delivered. Authorities should ask whether exposure, access and resilience have improved for the communities most affected.

The immediate use cases are clear. Air quality decisions should ask whether traffic schemes reduce inequality or merely move pollution from one street to another. Green infrastructure strategies should ask whether deprived communities gain safe and usable access to nature. Climate adaptation plans should ask whether resilience reaches those least able to adapt privately. Infrastructure decisions should ask whether communities already carrying cumulative burdens are being asked to carry more without fair mitigation or benefit.

For practitioners, the route is practical. Identify the strategic decision. Define the disadvantaged groups affected. Evidence the inequality of outcome. Test alternatives and mitigation. Scrutinise reasons and monitoring. These points are often most powerful before litigation: in consultation responses, local plan examinations, scrutiny committees, equality assessments, environmental assessment scoping and committee reports. Where litigation is needed, the strongest case will not simply say “we disagree with the outcome”. It will say: the authority never lawfully asked the distributional question Parliament required it to ask.

Section 1 will not settle every environmental conflict. Planning will still involve judgment, trade-offs and democratic discretion. But it could change the grammar of decision-making. It can move environmental planning away from aggregate claims about growth, infrastructure or environmental improvement, and towards a more honest question of equal life chances.

The message is simple: ask earlier, use better evidence, and explain properly and honestly.