

Section 4

# Equality

# Analysis Toolkit

**029 Home to School Transport v3**

**For Decision Making Items**

June 2016

## **What is the Purpose of the Equality Decision-Making Analysis?**

The Analysis is designed to be used where a decision is being made at Cabinet Member or Overview and Scrutiny level or if a decision is being made primarily for budget reasons. The Analysis should be referred to on the decision making template (e.g. E6 form).

When fully followed this process will assist in ensuring that the decision-makers meet the requirement of section 149 of the Equality Act 2010 to have due regard to the need: to eliminate discrimination, harassment, victimisation or other unlawful conduct under the Act; to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Having due regard means analysing, at each step of formulating, deciding upon and implementing policy, what the effect of that policy is or may be upon groups who share these protected characteristics defined by the Equality Act. The protected characteristics are: age, disability, gender reassignment, race, sex, religion or belief, sexual orientation or pregnancy and maternity – and in some circumstances marriage and civil partnership status.

It is important to bear in mind that "due regard" means the level of scrutiny and evaluation that is reasonable and proportionate in the particular context. That means that different proposals, and different stages of policy development, may require more or less intense analysis. Discretion and common sense are required in the use of this tool.

It is also important to remember that what the law requires is that the duty is fulfilled in substance – not that a particular form is completed in a particular way. It is important to use common sense and to pay attention to the context in using and adapting these tools.

This process should be completed with reference to the most recent, updated version of the Equality Analysis Step by Step Guidance (to be distributed ) or EHRC guidance at

<http://www.equalityhumanrights.com/private-and-public-sector-guidance/public-sector-providers/public-sector-equality-duty>

This toolkit is designed to ensure that the section 149 analysis is properly carried out, and that there is a clear record to this effect. The Analysis should be completed in a timely, thorough way and should inform the whole of the decision-making process. It must be considered by the person making the final decision and must be made available with other documents relating to the decision.

The documents should also be retained following any decision as they may be requested as part of enquiries from the Equality and Human Rights Commission or Freedom of Information requests.

Support and training on the Equality Duty and its implications is available from the County Equality and Cohesion Team by contacting

[AskEquality@lancashire.gov.uk](mailto:AskEquality@lancashire.gov.uk)

Specific advice on completing the Equality Analysis is available from your Service contact in the Equality and Cohesion Team or from Jeanette Binns

[Jeanette.binns@lancashire.gov.uk](mailto:Jeanette.binns@lancashire.gov.uk)

## **Name/Nature of the Decision**

Changes to the provision of Home to Schools Transport Services from 1 September 2016.

To cease provision of discretionary denominational transport subsidies for all pupils who do not attend their nearest school but attend their nearest faith school on faith grounds. The decision will be implemented from 1 September 2016 to coincide with the new academic year and will apply to all pupils aged 4-16.

Subsequently this initial budget proposal is being amended to be implemented from 1 September 2017 and to be phased in so that pupils who do not attend their nearest school but attend their nearest faith school on faith grounds, who are beginning reception class or year 7 (or changing school) would be required to meet the full cost of a school travel season ticket. It has also been amended to confirm that pupils currently attending a faith school on faith grounds would be unaffected by the change in policy whilst remaining at their current primary or secondary school.

## **What in summary is the proposal being considered?**

To cease provision of discretionary denominational transport subsidies for all pupils who do not attend their nearest school but attend their nearest faith school on faith grounds. The policy will be implemented on a phased basis from 1 September 2017 to coincide with the new academic year and will apply to all pupils aged 4-16, being applied to pupils beginning reception and year 7 from that date onwards. This means that pupils currently included under the existing discretionary denominational transport arrangements will continue to be eligible for them whilst they remain at their current primary or secondary school but will be affected by the new provisions once they change school or transfer to secondary school.

£1.1 million is spent providing home to school transport that the County Council has no legal duty to provide. This money is spent subsidising transport for pupils from none- low income families who

attend their nearest faith school (which is between 2 and 15 miles away) but live closer to an available no-faith school. From 1 September 2017 Lancashire County Council is proposing to stop providing this funding.

The Service will in the future only provide for:

\*those eligible for transport in accordance with statutory requirements

\*fare payers who purchase season tickets to travel on routes with surplus capacity or where there is no additional net cost in order for them to attend their preferred school.

Is the decision likely to affect people across the county in a similar way or are specific areas likely to be affected – e.g. are a set number of branches/sites to be affected? If so you will need to consider whether there are equality related issues associated with the locations selected – e.g. greater percentage of BME residents in a particular area where a closure is proposed as opposed to an area where a facility is remaining open.

This proposal will affect children and young people and their families in different ways across Lancashire

**Could the decision have a particular impact on any group of individuals sharing protected characteristics under the Equality Act 2010, namely:**

- Age
- Disability including Deaf people
- Gender reassignment
- Pregnancy and maternity
- Race/ethnicity/nationality
- Religion or belief
- Sex/gender
- Sexual orientation
- Marriage or Civil Partnership Status

In considering this question you should identify and record any particular impact on people in a sub-group of any of the above – e.g. people with a particular disability or from a particular religious or ethnic group.

It is particularly important to consider whether any decision is likely to impact adversely on any group of people sharing protected characteristics to a disproportionate extent. Any such disproportionate impact will need to be objectively justified.

At a basic level it is clear that this proposal will affect some children and young people and their families which affects the age protected characteristic and because the proposals are for cessation of discretionary subsidised travel to denominational schools, albeit on a phased basis, it will also impact because of their religion or belief.

*There is not expected to be a staffing implication at this time but this will be kept under review as the proposal develops.*

If you have answered "Yes" to this question in relation to any of the above characteristics, – please go to Question 1.

Yes

If you have answered "No" in relation to all the protected characteristics, please briefly document your reasons below and attach this to the decision-making papers. (It goes without saying that if the lack of impact is obvious, it need only be very briefly noted.)

## Question 1 – Background Evidence

What information do you have about the different groups of people who may be affected by this decision – e.g. employees or service users (you could use monitoring data, survey data, etc to compile this). As indicated above, the relevant protected characteristics are:

- Age
- Disability including Deaf people
- Gender reassignment/gender identity
- Pregnancy and maternity
- Race/Ethnicity/Nationality
- Religion or belief
- Sex/gender
- Sexual orientation
- Marriage or Civil Partnership status (in respect of which the s. 149 requires only that due regard be paid to the need to eliminate discrimination, harassment or victimisation or other conduct which is prohibited by the Act).

In considering this question you should again consider whether the decision under consideration could impact upon specific sub-groups e.g. people of a specific religion or people with a particular disability. You should also consider how the decision is likely to affect those who share two or more of the protected characteristics – for example, older women, disabled, elderly people, and so on.

The County Council is only required by law to meet the cost of home to school transport for pupils from non low income families, where they attend their nearest school and this school is over 3 miles away for pupils aged 8 years or over or a distance of over 2 miles where a child who is under 8.

Before September 2011 the County Council exercised discretion and granted free transport to those children who attended faith schools, met the distance criterion and had been admitted to the school on denominational grounds. As a result of financial reductions, since September 2011 parents in these circumstances were required to pay

a contributory charge which for the current academic year (2015-16) is £505 per qualifying child. From 1 September 2016, the charge rises to £540 for the next academic year (2016-17). The cost of a season ticket for pupils travelling between 3 and 8 miles will be £562 but for those travelling over 8 miles will be £714. It is proposed that pupils currently in receipt of this support will continue to receive it whilst they remain at the same primary or secondary school but from 1 September 2017 a withdrawal of this discretionary support will be phased in for those beginning reception or year 7 where they attend a denominational school on faith grounds which is not their nearest school.

It is not possible to assess the impact on all families who may potentially be affected by this proposal as the distances travelled, availability of bus services and cost of bus services will vary. For example a representative speaking on the local radio during the consultation period said there would be a cost per annum per child of over £700 and since two of his children were attending a faith school it would cost their family over £1,400 each year.

Transport assistance will continue to be provided for families on low incomes where the child attends the nearest faith school, if the school is between 2 and 15 miles from home.

There are currently 1688 pupils in receipt of denominational transport assistance. Of these 836 are female and 848 are male, so the gender distribution is broadly similar.

All pupils affected (and their families) could be covered by the religion or belief protected characteristic. All pupils attend Christian schools with 1012 attending Church of England schools and 676 attending Catholic schools.

It is not possible to anticipate how many pupils might be affected from the phased introduction of the new arrangements from 1 September 2017 in terms of most protected characteristics but they will be affected because of their religion or belief and as this will affect children and young people, their age. The new proposal will, however, allow considerations of the financial impact of choosing to attend a



school which is not the child's nearest school but their nearest faith school on faith grounds to be fully considered alongside other factors when making school selections.

## **Question 2 – Engagement/Consultation**

How have you tried to involve people/groups that are potentially affected by your decision? Please describe what engagement has taken place, with whom and when.

(Please ensure that you retain evidence of the consultation in case of any further enquiries. This includes the results of consultation or data gathering at any stage of the process)

A Stakeholder Consultation was carried out between 10 December 2015 and 18 January 2016. This comprised of a letter from the Leader of the County Council outlining the County Council's financial position, being sent to 334 stakeholders and partners which included a link to the budget proposals and a further link to an on-line questionnaire where respondents could provide ideas on how the effects of the budget might be mitigated and views on the possible impact of the proposals. The list of stakeholder consultees for this exercise included County Councillors, MPs and MEPs representing Lancashire areas, Third Sector Lancashire, Lancashire safeguarding children and adults boards, Lancashire Parent Carers Forum, Young Peoples Engagement Forums and Higher and Further Education establishments amongst others. No specific comments on home to school transport were included in the summary from that stage of the consultation but the awareness of proposal may have been raised amongst interested stakeholders.

This information was also available in the "Have Your Say" area of the County Council's website for members of the public to view and respond. During the 10 December 2015 to 18 January 2016 period 765 queries and comments were captured through other channels of which 41 were categorised as related to either home to school

transport proposals or proposals for transport to day centres.

As a further part of the County Council's "Have Your Say" consultation process, a 6 week consultation was carried out between 22 February 2016 and 10 April 2016. This included the consultation being placed on the County Council's consultation website and information being circulated via the schools portal to schools where pupils could be affected. The consultation sought views from all maintained Lancashire schools and academies, parents and any other interested parties. Schools were asked to publicise the consultation with a County Council guidance note provided for use on their websites, newsletters and bulletins to parents.

The consultation documents stated: "In this consultation we would like to know how will the funding to subsidise home to school transport for pupils who attend their nearest faith school but live closer to a an available non-faith school ceasing impact on you?"

There were 221 responses to the on-line consultation of whom 96% were resident in Lancashire. Only 6% of respondents did not have any children in their household – so 94% of respondents had children, or in the case of 1% were expecting their first child.

Most views could be grouped as follows:

Finance or cost: 66% of respondents stated that they would struggle to pay the excess cost associated with the proposal, and similarly 41% indicated that the proposal would have a large negative impact on their family and child.

Education and Related Issues: Respondents also indicated that they wanted to have their child educated in a faith school as it was better (39%), it's the school of my choice/it's my right (38%), it will affect my child's education/quality of education (20%), it will create problems with capacity in local schools (under or over subscription) (7%) or the withdrawal of subsidies will widen the gap of inequalities in education (6%)

Discrimination: 22% of respondents indicated that they felt they were being discriminated against/penalised because of their faith. 15%

selected the unhappy/devastated/horrified by the proposal statement.

Travel and Safety – 5% of respondents identified concerns about increasing traffic and risks on the road, 4% cited concerns about childrens safety or safeguarding and 3% identified concerns about availability of bus services or the distance to the nearest faith school not being walkable/rideable in rural areas.

In Favour – 13% of respondents identified with the statement I will not suffer any impact/I agree the subsidy should be withdrawn and 11% with the statement it is unequal and unfair for faith schools to receive a subsidy.

Some comments were not specified in detail but were categorised as "other comment", "general negative comment about proposal", "general suggestion" or "reconsider the decision and don't cut the subsidy". There were also specific comments that children already attended the nearest school or that the parent and/or child were disabled.

The consultation also sought information about the protected characteristics of respondents which is summarised below:

Gender – 76% of respondents were female and 24% were male. Females were over three quarters of respondents.

Transgender – 1% of respondents identified as transgender, 93% not and 7% preferred not to say.

Age – 1% of respondents were aged 19 or under while over 73% were aged 35-49, 18% were aged 50-64, 15% aged 20-34 and 1% aged 65-74. There is potentially a greater impact on the 35-49 age group from a family perspective and on children or young people.

Disability – only 4% of respondents identified as having a disability. This seems lower than for other current County Council consultations and when set against other statistics for the county from the Census and other sources. 3% of respondents also stated that there was a disabled young person aged 20-25 in their household, for these people proposals may present additional issues in terms of financial resources

and problems of balancing considerations of alternative methods of taking their child to school alongside any caring responsibilities for a disabled young person.

Ethnicity – 96% of respondents identified as White (English, Scottish, Welsh, Northern Irish British), 1% as Irish and 1% as any other White Background. Whilst they did not reach a percentage 1 respondent identified in the Other, White and Asian, White and Black African and White and Black Caribbean categories respectively. The respondents were predominantly White.

Religion or Belief – given the nature of the proposal and the schools children affected by it currently attend, it is not surprising that 90% of respondents identified as Christian. 10% identified as having No Religion. It may be reasonable to conclude that the more favourable comments about the proposal have come from the respondents who identified as No Religion.

Marriage or Civil Partnership Status – 79% of respondents identified as being married, 1% as in a civil partnership, 5% preferred not to say and 15% indicated none of these which is likely to include single people, those who are divorced or widowed.

Sexual Orientation – 90% of respondents identified as Heterosexual/Straight and 1% each as Gay Man and Lesbian/Gay Woman. 7% preferred not to say.

Pregnancy and Maternity – the closest information on this protected characteristic is that 1% of respondents had no children in their household but were expecting a child. Others who are pregnant or on maternity leave may be included within some of those in the 96% of respondents who had children in their household.

In summary, respondents were overwhelmingly White and Christian and were predominantly female. They were also predominantly in the 35-49 age group, almost three-quarters of respondents were in this age group.

### **Question 3 – Analysing Impact**

Could your proposal potentially disadvantage particular groups sharing any of the protected characteristics and if so which groups and in what way?

It is particularly important in considering this question to get to grips with the actual practical impact on those affected. The decision-makers need to know in clear and specific terms what the impact may be and how serious, or perhaps minor, it may be – will people need to walk a few metres further to catch a bus, or to attend school? Will they be cut off altogether from vital services? The answers to such questions must be fully and frankly documented, for better or for worse, so that they can be properly evaluated when the decision is made.

Could your proposal potentially impact on individuals sharing the protected characteristics in any of the following ways:

- Could it discriminate unlawfully against individuals sharing any of the protected characteristics, whether directly or indirectly; if so, it must be amended. Bear in mind that this may involve taking steps to meet the specific needs of disabled people arising from their disabilities
- Could it advance equality of opportunity for those who share a particular protected characteristic? If not could it be developed or modified in order to do so?
- Does it encourage persons who share a relevant protected characteristic to participate in public life or in any activity in which participation by such persons is disproportionately low? If not could it be developed or modified in order to do so?
- Will the proposal contribute to fostering good relations between those who share a relevant protected characteristic and those who do not, for example by tackling prejudice and promoting

understanding? If not could it be developed or modified in order to do so? Please identify any findings and how they might be addressed.

Currently 1688 pupils receive assistance with travel costs to denominational schools. The phasing in element of the revised proposal means that those children will continue under the arrangements which applied when they began at their present school whilst they remain at the school. However, for those children and families who decide to attend a faith school on faith grounds which is not their nearest school after 1 September 2017, pupils and their families may contend that this proposal discriminates against them because of their religion or belief as it is the factor on which the proposal is based. They may argue that the child is attending their nearest appropriate school for them.

Particularly in relation to pupils who travel more than 8 miles to school, the proposal could have a significant financial impact as the cost may be in the region of £714 for a season ticket which would be £160 more than the annual parental contribution from 1 September 2017.

However, this will apply to pupils entering reception and year 7 only during the phasing in period which will allow pupils and families to include this consideration alongside other factors when selecting school options. For those travelling shorter distances the financial difference between current charges and the future season ticket is less, possibly around £20.

Consultation responses have also raised concerns that the equality of opportunity for these pupils to attend a school of their choice may be adversely affected and there may also be impacts on the health and wellbeing of pupils and families arising from the additional costs or disruption which implementing a policy during a child's school career might bring. The phasing in option should help in addressing these concerns as pupils will continue to be assisted whilst they remain at their present faith school.

In a general sense, some elements of fostering good relations and community cohesion could be adversely affected if groups/people affected come to a more negative perception of the County Council

and the importance they believe the Council gives to faith, religion or belief, despite the mitigating elements which have now been included within this proposal.

#### **Question 4 –Combined/Cumulative Effect**

Could the effects of your decision combine with other factors or decisions taken at local or national level to exacerbate the impact on any groups?

For example - if the proposal is to impose charges for adult social care, its impact on disabled people might be increased by other decisions within the County Council (e.g. increases in the fares charged for Community Transport and reductions in respite care) and national proposals (e.g. the availability of some benefits) . Whilst LCC cannot control some of these decisions, they could increase the adverse effect of the proposal. The LCC has a legal duty to consider this aspect, and to evaluate the decision, including mitigation, accordingly.

If Yes – please identify these.

It is possible that families who are no longer able to receive subsidised home to school travel costs to travel to a faith school may also be affected by the reductions in bus services arising from the withdrawal of subsidies for public bus services the original proposal for which could have resulted in over 100 services ceasing. Subsequently a £3 million fund to support bus services has resulted in 28 services being retained with support from the County Council on the recommendation of the Cabinet Working Group on Bus Services. Several other services are being supported by a combination of the County Council and District Councils. 40 services being taken over fully by bus operators and approximately 45 services have ceased. Some morning and evening services may have stopped or journeys may be more complicated due to changes in routes or service frequency which have occurred from 3 April 2016. Particularly in some rural areas but also in other parts of the county use of scheduled bus

services may be more difficult or some may be unavailable.

There may be additional impacts from more general changes to benefits and other financial issues which may impact on families of children and young people affected by this proposal.

### **Question 5 – Identifying Initial Results of Your Analysis**

As a result of your analysis have you changed/amended your original proposal?

Please identify how –

For example:

Adjusted the original proposal – briefly outline the adjustments

Continuing with the Original Proposal – briefly explain why

Stopped the Proposal and Revised it - briefly explain

*The original proposal included in the 2016/17 budget has been changed so that the new arrangements will now commence from 1 September 2017 and will be phased in for pupils who begin reception class or year 7 from that date.*

### **Question 6 - Mitigation**

Please set out any steps you will take to mitigate/reduce any potential adverse effects of your decision on those sharing any particular protected characteristic. It is important here to do a genuine and realistic evaluation of the effectiveness of the mitigation contemplated. Over-optimistic and over-generalised assessments are likely to fall short of the “due regard” requirement.

Also consider if any mitigation might adversely affect any other groups and how this might be managed.

*Those pupils included under the existing denominational school travel arrangements will continue to be covered by those arrangements*



*whilst they remain at their current primary or secondary school due to the phasing in provisions of this proposal which will provide some mitigation for them.*

*Under the original budget proposal the financial considerations for some families could have changed significantly during their child's time at school in a way which was unforeseen for families when selecting that faith school. Whilst there will be financial implications for those families affected by the phasing in arrangements which are now proposed when their children begin school, parents will be aware of these at the outset and be able to make a more informed decision about the implications when choosing a faith school on faith grounds which is not the nearest school for their child.*

*Support for families meeting the low income criteria will continue.*

### **Question 7 – Balancing the Proposal/Countervailing Factors**

At this point you need to weigh up the reasons for the proposal – e.g. need for budget savings; damaging effects of not taking forward the proposal at this time – against the findings of your analysis. Please describe this assessment. It is important here to ensure that the assessment of any negative effects upon those sharing protected characteristics is full and frank. The full extent of actual adverse impacts must be acknowledged and taken into account, or the assessment will be inadequate. What is required is an honest evaluation, and not a marketing exercise. Conversely, while adverse effects should be frankly acknowledged, they need not be overstated or exaggerated. Where effects are not serious, this too should be made clear.

*This proposal has emerged following the need for the County Council to make unprecedented budget savings. The Medium Term Financial Strategy reported in the November 2015 forecast that the County Council will have a financial shortfall of 262 million in its revenue budget by 2020/2021.*

*This is a combination of reducing resources as a result of the*

*Government's extended programme of austerity at the same time as the Council is facing significant increases in both the cost (for example as a result of inflation and the national living wage) and demand for its Services.*

*The revised position following the financial settlement for 2016/17 is now a budget gap of £200.507m by 2020/21. This revised gap takes into account the impact of the settlement, new financial pressures and savings decisions taken by Full Council in 2014/15, 2015/16 and 2016/17 regarding the future pattern of Council Services.*

*The estimated reduction and future savings arising from this proposal will assist in this process. We acknowledge that potentially children and young people with the age and religion or belief protected characteristic and their families may be negatively affected however we have tried to minimise any negative impacts on the 1688 pupils currently included within this proposal by developing the phasing in element as a mitigating action having taken into account the views from the consultation.*

### **Question 8 – Final Proposal**

In summary, what is your final proposal and which groups may be affected and how?

To cease provision of discretionary denominational transport subsidies for all pupils who do not attend their nearest school but attend their nearest faith school on faith grounds. The proposal will be implemented from 1 September 2017 to coincide with the new academic year and apply to pupils aged 4-16 but will be implemented on a phased basis so affecting those pupils beginning reception class or year 7 on an ongoing basis.

### **Question 9 – Review and Monitoring Arrangements**

Describe what arrangements you will put in place to review and monitor the effects of your proposal.

*The proposal will be reviewed where practicable.*

Equality Analysis Prepared By Jeanette Binns

Position/Role Equality & Cohesion Manager

Equality Analysis Endorsed by Line Manager and/or Service Head

**EQUALITY & COHESION MANAGER**

Decision Signed Off By

Cabinet Member or Director

**Please remember to ensure the Equality Decision Making Analysis is submitted with the decision-making report and a copy is retained with other papers relating to the decision.**

Where specific actions are identified as part of the Analysis please ensure that an EAP001 form is completed and forwarded to your Service contact in the Equality and Cohesion Team.

Service contacts in the Equality & Cohesion Team are:

Karen Beaumont – Equality & Cohesion Manager

[Karen.beaumont@lancashire.gov.uk](mailto:Karen.beaumont@lancashire.gov.uk)

Contact for Adult Services ; Policy Information and Commissioning (Age Well); Health Equity, Welfare and Partnerships (PH); Patient Safety and Quality Improvement (PH).

Jeanette Binns – Equality & Cohesion Manager

[Jeanette.binns@lancashire.gov.uk](mailto:Jeanette.binns@lancashire.gov.uk)

Contact for Community Services; Development and Corporate Services; Customer Access; Policy Commissioning and Information (Live Well); Trading Standards and Scientific Services (PH), Lancashire Pension Fund

Saulo Cwerner – Equality & Cohesion Manager

[Saulo.cwerner@lancashire.gov.uk](mailto:Saulo.cwerner@lancashire.gov.uk)

Contact for Children's Services; Policy, Information and Commissioning (Start Well); Wellbeing, Prevention and Early Help (PH); BTLS

Pam Smith – Equality & Cohesion Manager

[Pam.smith@lancashire.gov.uk](mailto:Pam.smith@lancashire.gov.uk)

Contact for Governance, Finance and Public Services; Communications; Corporate Commissioning (Level 1); Emergency Planning and Resilience (PH).

Thank you