



Section 4

# Equality Analysis Toolkit

**Budget option consultation: Lower-level  
advocacy**

**For Decision Making Items**

June 2018

## **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.

Specific advice on completing the Equality Analysis and advice, support and training on the Equality Duty and its implications is available from the County Equality and Cohesion Team by contacting

Jeanette Binns (Equality and Cohesion Manager) at

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

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

Budget Option ASC005: Lower-level Advocacy
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## **What in summary is the proposal being considered?**

Advocacy helps people to obtain and understand information about public services and speaks up for people in situations where they don't feel able to speak for themselves. This is usually done through the role of an "advocate" who often attends meetings with service users in a supportive role. Advocates must be independent of health and social care services.

Advocacy services in the county council area are available through a Single Point of Contact Service. The Single Point of Contact Service assesses the person's need, if any, for advocacy. If the person is eligible for statutory advocacy the Single Point of Contact service will refer the person to the statutory element of the contract.

If the person is not eligible for statutory advocacy, the provider of the Single Point of Contact service (NCompass Northwest Ltd.) can offer a "lower-level" advocacy service. "Lower-level" advocacy is available to adults aged 18+ who are dealing with adult health and social care services. It is usually provided via a time-limited session(s) of support offered either face-to-face, over the phone or online and involves information and advice, signposting, and professional support, all of which is aimed at safeguarding people's rights when accessing and dealing with Health and Social Care.

Lower-level advocacy is not a statutory requirement. However, this type of independent, specialist advocacy is not available free of charge anywhere else in the county from either another statutory agency or via any other means.

### **Review of the service**

Current provision can be summarised as follows:

Level 1: Signposting or self-help materials.

Level 2: One off face to face single session of support. On occasions customers choose to have this support delivered over the telephone.

Level 3: Up to a maximum of six sessions of support. Some customers require more sessions because of the complex nature of the issue / their needs.

Level 4 is a referral to statutory advocacy (e.g. under the Mental Health Act, Mental Capacity Act and/or the Care Act).

All levels of support are delivered by experienced / qualified advocates with detailed knowledge of the applicable legislations.

The numbers of people accessing the Single Point of Contact Service in 2017-18 can be categorised as follows:

<b>Number of contacts at each level of advocacy</b>	<b>Total</b>
Number of contacts resolved via Level 1 support	2,728
Number of contacts resolved via Level 2 support	246
Number of contacts provided with Level 3 support	180
Number of contacts resulting in access to statutory advocacy	803
<b>Total</b>	<b>3,957</b>

Figure 1: Numbers accessing the Single Point of Contact Advocacy service Qs 1-4 2017-18.

The budget option considered by Full Council on 8th February 2018 (agenda item 4, Appendix 4, ASC005 – Advocacy Services) proposed, subject to consultation, to:

- Continue providing the Single Point of Contact Service for triage and referrals.
- Continue to provide statutory advocacy services.

- Reduce the budget for "lower level" advocacy services by 50% for the remainder of the contract, which ends 1 May 2019.

If accepted, the proposals will mean that Level 3 support would be discontinued for the remainder of the contract. Face-to-face support would be removed from Level 2 and replaced with a single session of one-to-one contact, provided via telephone, or email (or other digital channels) only. The single point of contact and initial screening service, as well as Level 1, would remain in place.

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.

The decision is likely to affect people who use the service from across the county in a similar way.

**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.

Yes. The Single Point of Contact Service and lower-level advocacy is available to all residents of the county council area who qualify under the specified service criteria. However, the service is predominantly used by client groups with some protected characteristics. Reduction of the service may have an impact on anyone with a communication issue which does not allow telephony / electronic forms of communication (e.g. those with mental health and/or communication difficulties or a hearing or speech impairment). Clients for whom English is not their first language may find accessing generic advocacy extremely difficult. For these clients, the service currently arranges face-to-face meetings with an interpreter in order to assess their advocacy needs because the language barrier doesn't allow telephony assessment. In these circumstances cases are usually open for the full six face-to-face sessions or longer.

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

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 latest monitoring data showing a breakdown of services by client group shows that 469 people accessed the Single Point of Contract service in Q2. 2017 (July-September) with an additional 372 contacts referring directly to the provider of statutory advocacy (Advocacy Focus). Of the 469 that accessed the Single Point of Contact service 80 required face to face support. The following is a breakdown of low level advocacy by customer group:

Brain Injury	1
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Mental Health	151
Learning disability	87
Parent Carer	22
Communication difficulty	97
Long term ill health	47
Older Person	8
Physical disability	43
Carer	8
Dementia (has capacity)	2
Autism	2
Stroke	1
<b>Total</b>	<b>469</b>

The client group accessing low level advocacy the most are those with mental health issues at 32% followed by those with a communication difficulty at 20% and people with learning disability at 19%.

Of the 469 customers 283 (60%) are female, 184 (39%) male and 2 (1%) intersex. 93% of customers are White British with the remaining 7% from BME groups

## 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)

An online public consultation was carried out between February and April 2018. The county council received 20 responses. The vast majority (79%) of respondents were professionals with one service user and three carers also among the respondents.

In summary, the consultation found that:

- Respondents indicated an extremely high level of satisfaction with current services with 100% of respondents who supplied an answer saying they were either "very satisfied" (79%) or "fairly satisfied" (29%) with the service received.
- 85% of respondents disagreed with the proposal to no longer provide level 3 support (15% "tend to disagree" and 70% strongly disagree).
- 70% of respondents disagreed with the proposal to only provide one-to-one support via telephone or email (or other digital channels) for level 2 support (5% "tend to disagree" and 65% "strongly disagree"). 20% of respondents agreed with the proposal (5% "strongly agree" and 15% "tend to agree").

Respondents were also asked about their views on the likely impact of the proposals. The majority of the responses to this question focused on the likelihood of individual needs going unmet, the role of preventative services in reducing the demand for statutory services, and the appropriateness of certain types of communications. Comments received include the following:

"There are many people who simply do not understand their rights or the information being presented to them to make sometimes complex decisions in relation to their care and well-being and the advocacy service is essential to support these individuals from an independent stance."

"The proposed change will have a devastating effect on service users. As a health professional dealing with adults at risk of abuse, neglect, or exploitation, the lack of the frontline advocacy service will result in greater levels of vulnerability, unmet needs, hospital admissions etc. In

the medium term, the cost burden to the local authority will outweigh the benefits of any cuts now."

"If people need advocacy they need the support of a physical person rather than an email and phone call. A one-to-one session gives the opportunity to look at documents side by side and sort through the, understand what they mean etc. As human beings we need an actual person at such times!"

"It actually doesn't cost that much and the saving will be minimal. A 50% cut in funding is way higher than is sustainable to deliver an effective advocacy service at any level."

"Currently, the advocacy support offered by LCC is a shining example of an authority 'getting it right' – protecting and supporting its vulnerable residents to prevent the individual's needs from getting worse. I would be very concerned if the proposed cuts went ahead."

"Advocacy is an essential service to the people of Lancashire and without it we would have nowhere to send people and no way of helping them."

"I feel this service offers valuable support to individuals who have no other support, and don't know where to turn. Without properly funding an advocacy service an individual would not have their rights met."

"This is a very valuable service and the fact this is potentially being cut is worrying. As I regularly signpost people to this service I know this will cause a huge 'gap in services'

"With pending changes to the Mental Capacity Act and the likelihood of an increased statutory level of advocacy support, this idea seems to be short-sighted and not cost effective when you consider that you will have to train a significant number of staff (and pay for qualifications) in the near future."

"Currently, the advocacy support offered by LCC is a shining example of an authority 'getting it right' – protecting and supporting its vulnerable residents to prevent the individual's needs from getting worse. I would be very concerned if the proposed cuts went ahead."

Comments stating that the likely impact would be minimal were also received.
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### **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.

Advocacy is typically sought by particular client groups who often struggle to have their voices heard in engaging with health and social care services, or with public services more widely. In this case, clients with physical and mental disabilities and mental health issues are the predominant users of the service.

The reduction of lower level advocacy services will clearly affect the users of the service. However, the budget option does not remove statutory advocacy services (which the county council will continue to provide via commissioned arrangements) and individuals who are eligible for statutory advocacy would continue to receive support.

If accepted, the proposals will mean that Level 3 support would be discontinued for the remainder of the contract. Face-to-face support would be removed from Level 2 and replaced with a single session of one-to-one contact, provided via telephone, or email (or other digital channels) only. The single point of contact and initial screening service, as well as Level 1, would remain in place.

In 2017-18 Level 3 was accessed by 180 people and Level 2 by 246. We expect similar numbers would be annually affected by the cessation of Level 3 and changes to Level 2 provision should the proposal be accepted.

The client groups accessing Levels 2 and 3 support the most are those with mental health issues followed by those with a communication difficulty and people with a learning disability.

Customers who have received lower level advocacy support have been supported with various issues including:

- Their rights as an informal patient in secure settings.
- Support with care and support for individuals that do not meet Care Act criteria.

- Advocacy support with a health/social care complaint/child protection issues.
- Accessing and dealing with mental health services.
- Accessing and dealing with GPs and other health professionals.
- Accessing and dealing with health/social care services.

The statutory element of the advocacy service would remain in place and is unaffected by these proposals.

It should be noted that many respondents to the consultation emphasised the degree to which the type of communication mode used is of particular concern to people living with a mental health condition, learning disability, communication difficulties, acquired brain injuries or other special need. The provision of face-to-face support under current arrangements was highlighted as an especially beneficial support for this group. The removal of face-to-face contact and subsequent sole reliance on electronic or telephone methods may therefore impact negatively on this part of our community who often find that electronic or telephone communications can act as a barrier or lead to higher levels of stress and frustration.

Whilst this group may not meet the eligibility criteria for statutory services, the availability of face-to-face support may fulfil the Equality Act's requirements of making "reasonable adjustments" to help disabled people access services and advance equality of opportunity for this group. Conversely any reduction in its availability would have a detrimental impact.

#### **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.

N/A
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### **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

No. The impact analysis indicates that while the users of the service include individuals with protected characteristics, the removal of lower-level advocacy support currently provided by the service does not constitute unlawful discrimination because statutory services will continue to be provided. In addition, any disadvantage suffered by these groups can be addressed via the provision of enhanced information and advice about lower-level advocacy, self-help guides, and other materials and advice.
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### **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.

The current provider has confirmed that, should the proposal be accepted, changes would be made to the current service, including the removal of face-to-face support. This group would instead rely on informal, peer-based or community-based forms of support, either from friends or family, or local voluntary or charitable groups, or online. Beyond the remaining support available at Levels 1 and 2, there would be no formal advocacy to support people accessing health and social care services who do not qualify for statutory advocacy.

Any disadvantage suffered by specific client groups could be addressed via the provision of enhanced information and advice about lower-level advocacy, self-help guides, and other materials and advice. New social prescribing models and an enhanced way of working with the Third Sector will also enable people to more effectively access support in their community.

### **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.

Offering lower-level advocacy alongside statutory provision allows people to fully explore their options without needing to immediately access statutory services. Low-level advocacy has a preventative role, reducing the need for statutory, intensive support by helping people through provision of information and advice, peer and group advocacy, limited face-to-face interventions, and through self-help resources.

The current delivery model already takes into account the budget context faced by the county council and represents a substantial reduction of non-statutory advocacy provision compared with our previous arrangements (2013-16). For example, the previous contract allowed for up to eight face-to-face sessions while the current service does not offer any more than three sessions. The service is approximately 10% of our overall spend on advocacy services with the vast bulk of resources targeted at statutory provision.

It is likely that demand for lower-level advocacy services would not simply "disappear" in the event of the reduction of the services and would re-surface in other elements of the health and social care economy.

The proposals to reduce the service may create new unmet needs and/or greater demand on other social care services.

### **Question 8 – Final Proposal**

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

To continue with the current proposal.

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

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

Contract arrangements already in place will continue to review and monitor any amended contract as a result of a decision on the proposal.

Equality Analysis Prepared By Kieran Curran

Position/Role Policy, Information and Commissioning Manager

Equality Analysis Endorsed by Line Manager and/or Service Head

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.**

For further information please contact

Jeanette Binns – Equality & Cohesion Manager

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Thank you