

Section 4

Equality

Analysis Toolkit

**Home to School Transport for Children and
Young People with Special Educational
Needs and Disabilities.**

For Decision Making Items

September 2013.

www.lancashire.gov.uk

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 - [EHRC - New public sector equality duty guidance](#)

Document 2 "Equality Analysis and the Equality Duty: Guidance for Public Authorities" may also be used for reference as necessary.

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

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

Jeanette.binns@lancashire.gov.uk

Name/Nature of the Decision

Changes to the Home to School Transport Policy for Children and Young People with Special Educational Needs and Disabilities.

What in summary is the proposal being considered?

It is proposed to amend the Home to School Transport Policy for children and young people with special educational needs and disabilities (SEND) to include;

- A contributory charge for post 16 SEND transport to be introduced at £475
- thereafter, from September 2015 onwards, the contributory charge to be increased at a rate reflective of the Retail Price Index plus 5%.

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.

Affects all districts.

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.

Disability

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 group of people who will be affected by this decision can be identified by two specific protected characteristics; disability and age.

Typically, the transport policy for children and young people with SEND affects people aged 5 to 21 who have special educational needs and/or disabilities and are entitled to receive transport support.

Although the pupils are referred to as SEND there are two distinct groups; special educational needs (SEN) and disability (D) and a pupil who has special educational needs may, or may not, also have a

disability.

Those learners who will be affected by the proposal to introduce a flat rate charge for post 16 SEND transport support average between 450 to 520 students at any one time. All of this group will be subject to a charge for receipt of transport support to school or college.

Statistics illustrate a large gap between the attainment of pupils with Statement of Special Educational Need and other pupils. In 2009 Lancashire had a slightly smaller gap than that seen nationally at Key Stage 4 but this was still a significant 45.6%. During 2010 this gap widened in Lancashire to 47%.

This contributes to the fact that young people with learning difficulties and/or disabilities are twice as likely to be not in education, training or employment (NEET) as those without. In the current economic climate the opportunities in the employment market for young people with learning difficulties and/or disabilities are likely to reduce further.

Often parents are on benefits due to full time carer responsibilities so the impact of these proposals is mitigated by the introduction of an exemption for families with low incomes.

Individuals who share other protected characteristics have been considered as follows;

Race/ethnicity/nationality

There is no evidence to suggest that there may be a disproportionately negative impact on persons with this protected characteristic. 81% of children with special educational needs or disabilities aged 5-16 in January 2011 were White British. Monitoring information would suggest that people from an ethnic minority background tend to be part of communities showing higher rates of deprivation. Consequently, post 16 learners from an ethnic minority background may be more likely to incur the reduced charge applicable to learners from families on qualifying benefits.

Sex/Gender

Monitoring information from the school census of children and young people aged 5-16 taken in January 2011 illustrates that 71% of pupils with a statement of special educational need are male compared to 29% female. This may suggest that there could be a disproportionately negative affect on the long term prospects of male children and young

people with a special educational need who may be discouraged from attending post 16 learning due to the associated transport costs.

The service does not anticipate any negative impact on the grounds of this protected characteristic in relation to the introduction of the transport banding system.

Religion/belief

We do not consistently collect data on the religion of learners who access SEND transport support and so are unable to assess the impact of these proposals on persons with this protected characteristic. There is no evidence to suggest that there may be a disproportionately negative impact on people with different religious beliefs or with no religious belief.

Sexual orientation

We have no information on the numbers or proportion of Lesbian, Gay, Bisexual (LGB) communities likely to be affected by revisions to the SEND Home to School Transport Policy. There is no evidence to suggest that there may be a disproportionately negative impact on persons with this protected characteristic.

Gender Reassignment

We have no information on the numbers or proportion of Trans communities likely to be affected by revisions to the SEND Home to School Transport Policy. There is no evidence to suggest that there may be a disproportionately negative impact on persons with this protected characteristic.

Marriage or civil partnership status

There is no evidence to suggest that there may be a disproportionately negative impact on persons with this protected characteristic. The proposed changes to the banding framework applies to all learners aged 5-24, with the vast majority aged pre 16. Those learners aged 16+ in receipt of transport support account for approximately 450 to 520 of the young people in receipt of transport support at any one time.

Women who are pregnant or on maternity leave

Information on numbers of learners who are pregnant is not collected. There is no evidence to suggest that there may be a disproportionately negative impact on persons with this protected characteristic

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)

This document relates to the initial proposals outlined above and as such, the service is at the beginning of the engagement process. The consultation to be held from 03 February to 25 April 2014 will produce significant further evidence of the impact of these proposals.

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.

The proposals for change apply to the transport policy for children and young people with special educational needs and disabilities thus affecting those children and young people with SEND aged 5 to 24.

The proposal to introduce a flat rate charge for post 16 SEND learners will affect all those young people aged 16 to 19 who opt to continue in education.

The number of post 16 SEND learners who receive transport support is between 450 to 520 at any one time, all of whom, under the new proposals will be subject to a charge for receipt of transport support.

A benchmarking exercise with other local authorities has also been conducted to review the charging policies of other local authorities for this group of learners.

In addition to the impact felt by the young person any impact will also be felt across the family who, in the majority of cases, will be financially supporting the young person at this stage of their education.

Some families will struggle financially to meet the charge, juggling

limited family finances to ensure that their child can attend further education. In the current economic climate many families have been affected by job losses and/or a general reduction in household income which will exacerbate their ability to find the money to meet the proposed charge.

Population figures imply that there is a higher level of children and young people with special educational needs and disabilities in the known areas of deprivation across Lancashire; Burnley, Hyndburn, Pendle, Rossendale and Wyre. The areas with least deprivation, Ribble Valley and Fylde have the lowest levels of children and young people with special educational needs and disabilities. This supports national statistics that children and young people with SEND tend to come from low income families.

Often the parents are on benefits due to full time carer responsibilities so the impact of these proposals is mitigated by the proposal to apply an exemption for families on qualifying benefits.

For those families where the young person continues to enter the further education system families may choose to utilise the public transport network rather than pay the required contribution, particularly where the young person has moderate learning difficulties.

This would result in a young person having to walk to a local bus stop and develop the skills required to navigate the public transport network.

Learners in possession of a Blind and Disabled Person Nowcard who are able to access the local bus network would fall under the concessionary scheme and would be eligible to travel free after 9.30am on weekdays, and for a heavily subsidised flat rate before 9.30am. However, they may not be able to access public transport vehicles, particularly if low floor vehicles are not used or are used inconsistently.

Whilst a developing independence is encouraged it is noted that there is evidence of harassment of SEND young people when travelling on public transport. The Council mitigates this impact through a range of safer travel initiatives delivered through the safer travel unit in conjunction with local bus operators.

There is the possibility that the introduction of charges could deter learners from participating in further education altogether.

There is a large gap between the attainment of pupils with a statement of special educational need and other pupils. In 2011 the gap between achievement of 5 GCSE's A* - C between these two groups was 52.2%.

Young people with learning difficulties and/or disabilities are twice as likely to be not in education, training or employment (NEET) as those without. In the current economic climate youth unemployment is expected to rise which can intensify the lack of employment prospects for young people with SEND, particularly if they have not progressed through the further education system.

The ability to access further education can lead to positive outcomes for young people with learning difficulties and/or disabilities supporting them to develop skills and aptitudes to go into sustainable employment and participate in their community.

Failure to achieve a positive outcome can result in isolation, depression and longer term poor health leading to a long term dependency on the benefit system.

If some SEND learners are deterred from entering into further post 16 learning as a result of the proposal to introduce charges this may have a significant long term impact on their health, wellbeing and quality of life.

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.

The Welfare Reform Bill proposes a series of changes to the benefits system that include the introduction of universal credit and an overall benefit cap. This could result in changes or reductions in the amount of benefit that families receive increasing the financial difficulty that would be faced by families incurring the charge for transport support.

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 service is currently at the beginning of the process and, as such, is continuing with the original proposal. However, a comprehensive consultation will be held between 03 February and 25 April 2014 which will produce significant further evidence. Following a review of the consultation findings there is the possibility of change to the initial proposals.

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.

It is considered that the adverse effects of the proposed changes will be most keenly felt by those young people with SEND, and their families, who wish to enter further education and require transport support. Under these proposals this group of people will be required to pay a charge as a contribution to their transport support.

In mitigation the proposals take into account the impact of these charges on lower income families and include an exemption for families who are in receipt of qualifying benefits.

It is acknowledged that some families may still find it difficult to pay the charge upfront and therefore arrangements will be made to enable families to spread the costs over the year and pay by monthly instalments.

The service will proactively promote the Blind and Disabled Persons Nowcard where a learner is able to access the local bus network and is eligible for free travel after 9.30am on weekdays and for a flat rate before 9.30am. The service will also enter into discussions with local further education providers to influence the impact of the disjointed nature of college timetables on the individual learner and their transport needs. All too frequently, local colleges provide courses for limited hourly sessions over the course of a week resulting in personalised taxi transport on each separate occasion. The Council will work to influence colleges to develop timetables that take transport issues into consideration.

As previously noted, families just above the threshold for qualifying benefits may not be able to afford the charges introduced by these proposals. To mitigate against this, we will work closely with the County Council's welfare rights service to develop strategies around ensuring that such families are fully aware of the welfare benefits for which they are eligible and to maximise the take up of benefits.

The service is currently at the beginning of this process and a comprehensive consultation is due to be held from 03 February to 25 April 2014. As part of this consultation an exercise will be conducted to identify the impact of the proposals on a sample group of families. Feedback from this exercise and from the consultation in general will help to inform additional mitigating actions that can be introduced to

lessen any adverse impact of these proposals.

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.

The proposal to introduce a contribution towards the transport support provided to post 16 SEND students will produce annual budget savings of approximately £329,000 compared against a current annual expenditure of c£2.7 million.

The introduction of charges will have a negative impact on all the post 16 learners and their families who currently benefit from free transport to and from school/college who will be required to find the funds to meet the necessary contribution.

This impact will be felt, more specifically, by those families with a low income for whom the charge may not be affordable.

The introduction of the charges may result in some young people with SEND accessing the public bus network to travel to school or college which has its benefits in relation to developing a greater sense of independence and participation in public life. It can, however, also result in a young person with SEND being the subject of harassment and victimisation.

Further education has been proven to improve the outcomes for learners with learning difficulties and/or disabilities, supporting them to develop

the skills and aptitudes to go into sustainable employment and participate in their community. Most significantly, the introduction of means tested charges for post 16 SEND students may deter families from encouraging participation in further education impacting on the long term opportunities and life chances of these young people.

Question 8 – Final Proposal

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

As we are at the beginning of this process there have been no changes to the initial proposals. However, there is the possibility of changes to the proposals following evidence gathered as part of the consultation process. This analysis will be reviewed during and at the conclusion of the proposed consultation.

Question 9 – Review and Monitoring Arrangements

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

The service will be conducting a comprehensive consultation with children and young people with SEND, their families and with the Parent/Carer forum from 03 February to 25 April 2014.

During that time the service will be seeking to identify the full effects of the proposals through a series of consultation exercises including direct contact with the families affected. The outcomes of the consultation will be recorded and the equality analysis will be updated with the appropriate evidence which will help to inform the final proposals.

Position/Role Service Compliance Manager

Equality Analysis Endorsed by Line Manager and/or Chief Officer Sally Riley

Decision Signed Off By

Cabinet Member/Chief Officer or SMT Member

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 Directorate's contact in the Equality and Cohesion Team.

Directorate contacts in the Equality & Cohesion Team are:

Karen Beaumont – Equality & Cohesion Manager

Karen.beaumont@lancashire.gov.uk

Contact for Adult & Community Services Directorate

Jeanette Binns – Equality & Cohesion Manager

Jeanette.binns@lancashire.gov.uk

Contact for Environment Directorate, Lancashire County Commercial Group and One Connect Limited

Saulo Cwerner – Equality & Cohesion Manager

Saulo.cwerner@lancashire.gov.uk

Contact for Children & Young Peoples Directorate

Pam Smith – Equality & Cohesion Manager

Pam.smith@lancashire.gov.uk

Contact for Office of the Chief Executive and the County Treasurer's
Directorate

Thank you