

Appendix 'A'

## Section 4

# Equality Analysis Toolkit

**Implementing the Care Act 2014 – Approval of a new Policy for undertaking assessments and providing support for Carers in Lancashire**

**For Decision Making Items**

January 2015

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

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

### **Implementing the Care Act 2014 – Approval of a new Policy for undertaking assessments and providing support for Carers in Lancashire**

The Cabinet Member for Adult and Community Service is recommended to:

- i. Approve a new Carers' policy framework for Lancashire which is compliant with the Care Act from 1<sup>st</sup> April 2015 and sets out
  - a. How assessments of carers will be undertaken
  - b. The Council's service offer to carers, including the option of Personal Budgets to eligible individuals
  - c. that the Council's new service offer to carers will no longer include provision of 'Time for Me' grants from 1 April 2015;
  - d. the Council's intention to waive its powers to financially assess and / or impose charges on carers in respect of their Personal budgets
- ii. Authorise the Executive Director of Adult Services, Health and Wellbeing in consultation with the County Treasurer to approve the final carers' personal budget configuration;
- iii. Approve the continuation of respite care provision in line with existing arrangements so that it is costed against the Personal Budget of the individual receiving care or support;
- iv. Note the financial and operational risks associated with the new policy framework;
- v. Endorse the intention to review the impact of the new policy for carers by the end of 2015/16.

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

The Care Act places new statutory duties on local authorities to support carers of all ages from 1 April 2015.

The Act recognises the vital role that carers play and aims to help them maintain their caring role, if they are willing and able to do so, which will often help the people they care for to postpone or delay the need for more formal services. This is in addition to preventing excessive and/or inappropriate caring roles. It puts carers on an equal legal footing to those they care for, places an emphasis on prevention, gives carers of all ages the same rights to an assessment on the appearance of needs and, if a carer is deemed to have eligible needs, the right to a support plan and personal budget.

In order to meet its statutory duties, the County Council must implement new arrangements for carers from 1 April 2015, particularly in respect of carers' assessment, the provision of support, which must include the option of a personal budget to those eligible.

The report sets out key elements of a new policy framework that would enable further development of a new offer to carers and ensure the County Council meets its legal obligations. The report also highlights the financial and operational risks associated with the implementation of the changes.

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 will affect carers 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.

The decision will have an impact on all carers in Lancashire
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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.

There are currently around 17,000 carers registered with carers services in Lancashire. It is estimated that as a result of the proposal, a further 8,034 carers are expected to come forward to have a carers assessment.

Monitoring information reveals the following:

- around 92% of those carers supported by carers services describe themselves as white British

- there are significantly lower numbers of carers registered with carers service in the 18-40 age group
- around 50% of those providing care provide it to an older person, typically parent or spouse/partner

National figures reveal that:

- 58% of carers are women

Carers caring for children and young people under the age of 18 (parent carers) will be impacted as they can currently apply for a Time For Me (a grant of up to £350 that can be applied for every other year to be spent on anything to give the carer a break). Under the new proposals, parent carers will not be eligible for a personal budget.

## **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)

Initially, the Lancashire Carers Forum will be consulted about the proposed plans to introduce a carers personal budget and to cease the Time for Me Process.

Further consultation is planned via carers service social media and feedback and involvement groups. The proposals and feedback will be reviewed and any significant issues raised will be incorporated into the refreshed EA.



### **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 proposal will result in a fairer system than the current Time for Me process as the allocated amount will be based on need rather than by application via a written application.

Through the use of a Resource Allocation System (RAS) – which is basically a simple way of explaining to an individual what resources the council can make available to meet identified support needs and to achieve agreed outcomes – an indicative amount will be generated to meet the needs of the carer. The potential negative impact of this on individual carers who may share protected characteristics are:

- The amount they are assessed as being eligible for may be less than the amount they may have received under a Time for Me grant previously, in some cases, there will be no monetary allocation just information and advice
- Parent Carers (those caring for children and young people under 18) who have accessed the Time for Me grant will not be eligible for a personal budget under new proposals.

#### **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.

Plans to reduce the carer respite allocation for those who have previously used 25+ short break vouchers (25+ nights equivalent care) may combine with this decision as the total amount available to the carer

to have a break for some will be reduced.

In addition, general plans to reduce social care spend will impact on some carers who will consequently have a greater caring role.

Welfare Reform will impact on some carers who may have their benefits reduced or ended.

Time for Me is currently prioritised to those who have never applied before, due to high demand, this means that it is likely to be several years between successful applications. Under the proposal, there is the potential for carers to receive a personal budget every year, mitigating some of the potential cumulative affects identified above.

### **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 changes have been made however a refresh of the EA may be necessary following consultation.

### **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.

To mitigate any potential adverse effects of the proposal, we will:

1. Offer carers the option of having their carers assessment via their social worker or their local carers service
2. Introduce a carers RAS to ensure that there is a fair system in place based on need
3. Build in flexible policies and procedures to ensure the budget remains flexible and is able to be tailored to the carers needs
4. Offer carers a choice around how they have their carers assessment, which will include face to face at a venue to suit the carer, e-mail, post or over the telephone
5. Ensure workers who speak a range of languages are available to undertake carers assessments
6. A comprehensive local and national communication campaign will be put in place to promote awareness of carers assessment eligibility and personal budgets. This will take account of the diverse carer population including effective promotion within groups with protected characteristics.
7. The personal budget will be flexible recognising the wide range of carers needs and what to them is a meaningful break
8. Carers services will promote opportunities for parent carers to access alternative grants and sources of funding not open to carers of adults
9. Once the government's allocation of Care Act funding is finalised it is hoped that the total budget for carers can be increased in response to the extra anticipated demand.

## Question 7 – Balancing the Proposal/Countervailing Factors

At this point you need to weigh up the reasons for the proposal – e.g. 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 reasons for the proposal are:

1. To meet its statutory duties, the County Council must implement new arrangements for carers from 1 April 2015, particularly in respect of carers' assessment and personal budgets
2. To ensure best and fairest use of available funding to support carers based on need rather than an application process
3. To support a wider number of carers in Lancashire to have support in a way that makes sense to them

Currently, carers do not receive a personal budget and instead are able to apply for up to £350 every two years. This process is managed by carers services and decisions made via a panel of carers. The process currently takes no account of need and decisions are based purely on an anonymised written application.

On balance, the proposal will enable a fairer system to be developed which will benefit all carers across the county with a greater number of carers receiving a budget. The budget, it is proposed will be available annually and the budget will respond directly to need. However, some carers who would have received £350 under the Time for Me process will potentially receive a smaller amount or information only under the proposed changes. It is currently too early to determine the numbers of carers that this will impact on.

Parent Carers will not be able to have a personal budget until their child reaches 18 years, however, parent carers have access to alternative sources of funding that carers of adults are not able to access.

### **Question 8 – Final Proposal**

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

To cease the Time for Me process and develop a system to offer carers a personal budget via the use of a RAS within the carers assessment.

All carers will be eligible for a carers assessment and the RAS will determine the indicative budget according to the carers need. Some carers, when applying the RAS may be eligible for information and advice only and will be signposted to universal services to meet their needs.

Parent Carers will be affected as they can currently apply under the Time for Me process but will not be eligible under the new proposal.

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

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

1. Monthly monitoring meetings will take place with carers services to raise and resolve issues, identify and share good practice, review policies/procedures
2. Monitoring information will be collated both internally and via carers services. This will be scrutinised at least every 3 months by the responsible LCC Officer
3. A review of arrangements will take place 3 months and 6 months after the start of the new proposal and monitoring will include analysis across each of the 9 x protected characteristic groups

4. Carers Services will survey carers annually
5. Issues from carers will be raised at the Lancashire Carers Forum
6. The Personal Social Care Performance Management group will monitor the impact and identify issues and trends

Equality Analysis Prepared By: Joanne Miller

Position/Role : Carers Strategy Officer

Equality Analysis Endorsed by Line Manager and/or Chief Officer: Tony Pounder, Head of Care Act Implementation

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

Contact for Adult & Community Services Directorate

Jeanette Binns – Equality & Cohesion Manager

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

Saulo Cwerner – Equality & Cohesion Manager

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Contact for Children & Young Peoples Directorate

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

Thank you