

Appendix 'A'

Section 4

Equality Analysis Toolkit

Implementing the Care Act: Development of a s75
Partnership Agreement with Lancashire Care Foundation
Trust for meeting the County Council's responsibilities for
provision of Social Care in Prisons

**Issue type: 3.3 Cabinet Member for Adult and Community
Services Decision Making Session**

**Meeting: Cabinet Member for Adult and Community Services
Wednesday, 15th January, 2015**

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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

Implementing the Care Act: Development of a s75 Partnership Agreement with Lancashire Care Foundation Trust for meeting the County Council's responsibilities for provision of Social Care in Prisons

What in summary is the proposal being considered?

Section 76 of the Care Act 2014 sets out the new responsibility for Local Authorities to assess and meet the social care needs of offenders in prison and approved premises. In the past, it has been unclear which group of statutory bodies are accountable for meeting the social care needs of prisoners, and indeed that continues to be the position. From the implementation date in April 2015 all adults in prisons settings should expect broadly similar access to and levels of social care and support as the rest of the population. Councils will receive funding from central government towards the associated costs.

LCFT already provides health care services into all five Lancashire prisons, so given its strategic and operational experience in this field, together with their appetite to extend their existing partnerships with the County Council, they have been seen as the obvious external organisation to partner with for delivery of these new services. Securing LCFT as the lead organisation to start quickly on this work has built confidence that Lancashire can deliver to a challenging project timescale. LCFT has also been able to provide existing information about need and demand which is obviously necessary for commissioning any other provision likely to be required.

An earlier report in September 2014 explained that under s.76 of the Care Act 2014 the County Council must establish effective governance and operational arrangements for the assessment of need and for the provision of a broad range of support into the five prisons and two approved premises located in Lancashire.

Negotiations have been occurring with Lancashire Care Foundation Trust (LCFT) for several months with a view to establishing a new Section 75 partnership agreement under the NHS Act 2006. Such s75 agreements enable NHS and local authority bodies to undertake each other's functions in order to support the delivery of local objectives. The new s75 agreement with LCFT would mean it will discharge the substantive majority of the County Council's responsibilities for social care into prisons as part of an integrated health and social care service for prisoners.

The Cabinet Member for Adult Services, Health and Wellbeing Directorate will be asked to consider approving the governance and operational arrangements for the assessment of need and provision of social care required to meet the County Councils new responsibility for social care into Lancashire's five prisons and two

approved premises.

A Section 75 partnership agreement under the NHS Act 2006, enables NHS and local authority bodies to undertake each other's functions in order to support the delivery of local objectives to ensure compliance with our new Care Act responsibilities. The proposed agreement with Lancashire Care Foundation Trust will regularise and strengthen the new responsibility for assessment of social care need, service delivery in prison and approved premises and will set out the governance arrangements, to ensure that the responsibilities of both parties are clearly defined, as outlined in this report.

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 the 5 prisons in Lancashire –

HMP/YOI Lancaster Farms
HMP Kirkham
HMP Preston
HMP Garth
HMP Wymott

And two approved premises –

Edith Rigby House, Preston
Highfield House, Accrington

The Lancashire Prison Health Needs Assessment 2011 showed that the prison population contains a higher percentage of people from a BME background compared to the national average.

In the assessment the number prisoners who declared an ethnicity other than White British was 16.09%. This compares to the national average of 12.5% and 10% for Lancashire.

The total number of Foreign National prisoners was 158. There might be the need to access appropriate translation services if any of these prisoners required an assessment or social care.

[Empty box]

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.

In Lancashire, there are five adult men's prisons, with approximately 3,900 places, and the County Council will become responsible for providing social care to those prisoners in need from April 2015. There are two approved premises in Lancashire one for women in Preston with 11 places and one for men in Accrington with 19 places.

The introduction of the Authority being responsible for providing social care to prisoners could potentially affect all of the groups: 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. However the impact of implementing the Care Act provisions in relation to prisoners should not have any adverse impact on individuals with these protected characteristics, indeed they should lead to an improved response.

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.)

N/A

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 Lancashire Prison Health Assessment 2011 made the following conclusions.

- Long Term Conditions - A large-scale UK study has reported higher rates of chronic diseases amongst prisoners when compared to the wider community; 46% of their sample of sentenced males had some form of longstanding illness or disability such as heart disease, asthma and diabetes.

The Prison Reform Trust estimates that:

- 15% of people in prison report a disability.
- 20 -30% of all offenders have learning disabilities or difficulties that interfere with their ability to cope with the criminal justice system.
- 23% of young offenders have learning difficulties (IQ below 70)

- 36% have borderline learning difficulties
- 26% of the prison population, are from a minority ethnic group This compares to around one in 10 of the general population

This indicates that there could be a high demand on the social care needs with the prisons.

Department of Health - Care Act Impact Assessment highlighted that the overall lack of clarity in previous legislation regarding the identification and meeting of care needs has now been addressed by the Care Act. This should reduce the likelihood that prisoners will not have their care needs assessed and met.

The National Offender Management Service provided three pieces of data on the prisons population in September 2013, the number of prisoners aged 50+ entering into custody in the year to September 2013 and projections of the number of older prisoners between November 2013 and December 2019.

This showed a population of prisoners aged 50+ years of 10,400 in September 2013, of whom 7,072 entered within the year. This population was estimated to grow by 0.95% between the period Nov 13 and Nov 15 and this growth was applied to estimate a prisons population of 10,500 in September 2015. This population is expected to grow by approximately a further 100 prisoners per year thereafter.

For the under 50 year prisoner population, the September 2013 NOMS estimate of 74,000 prisoners has been used. No growth in population to September 2015 is assumed for this age group. In fact prisoner numbers have dropped in the past years.

Information from NOMS suggests an average of 1.02 inter-prison moves per prisoner per year take place. This will require a high level of cooperation between local authorities to share assessment and support planning information regarding prisoners known to them if they then move to a different area.

There are concerns that some prisoners will not want to request an assessment or support as they may feel that this could make them vulnerable and susceptible to bullying and intimidation.

There may be issues around delivery of care as the fabric of prisons and therefore the prisoner's environment is largely pre-determined. There may be restrictions on how a prisoner's environment can be fully adapted to suit their care needs.

Gov.uk - Safety in Custody Report – September 2014

	12 months ending									
	Sep 05	Sep 06	Sep 07	Sep 08	Sep 09	Sep 10	Sep 11	Sep 12	Sep 13	Sep 14

Total deaths¹	176	156	182	166	166	193	199	194	198	235
Self-inflicted	84	61	87	70	61	60	59	57	63	87
Natural Causes	85	90	89	90	101	123	127	130	123	133
Homicide	3	1	1	3	0	1	1	1	2	3
Other ²	4	4	5	3	4	9	12	6	10	12

Total prison population as at November 2014 – 85,925

Info for impact assessment – source Lancashire JSNA Data Compendium 2012

The elderly prison population has increased at a significant rate in England and Wales over the last decade. For example, between 1998 and 2008, the numbers of over 50's in the prison system grew from 3,504 to 6,161.

A Health Needs Assessment of Lancashire Prisons in 2011 found that Wymott, Garth and Kirkham prisons all have a higher percentage of older prisoners than the national average of 2.9% with Wymott having the largest proportion of prisoners over 55 (13.6%) compared to 6.4% in Garth and 5.2% in Kirkham. As of March 2010 there were 265 prisoners aged over 55 in Lancashire prisons. Elderly prisoners experience imprisonment differently to the rest of the prison population. Those serving life-sentences are especially more susceptible to developing psychological difficulties in adjustment, they are less likely to have friends and family to return to once they have been released and are more likely to have serious health problems. The result of these unique issues is that those who will be released in the community in old age are likely to face significant challenges in their resettlement.

Staff

It will also impact on the staff who work in these services. Lancashire Care Foundation Trust has been consulting their staff regarding planned changes to the offender health service and have developed a Transformation Programme to improve the contractual and operational delivery across five prisons and Criminal Justice Liaison Service in Lancashire. The Transformation Programme will result in variations to terms and conditions including new the introduction of new Job descriptions, change in shift patterns/core prison days, rotational working. The intention is to develop an integrated health and social care service.

The new model will provide an increase overall in leadership roles to ensure that patients are seen by the right person at the right time, and increase both management and clinical supervision for all staff. The appointment of Clinical Pharmacy Staffing and Nursing Prescribers will underpin the new model whilst ensuring improved safe appropriate prescribing practice and governance. Although there is a reduction in some grades of staff there will be an overall increase in

supervisory staff and Health & Social Care Support Workers, in support of a 'gold standard' care pathway which uses a greater breadth of skill mix.

The increased supervision will ensure that all staff have greater access to the support required to manage risks and safeguarding issues within this patient cohort, in line with current LCFT Policies.

The breakdown for Lancashire's prisons taken from the Health needs Assessment 2014:

Age

The table below shows the age structure of each prison at the most recent point available (a snapshot at June 2014). The population of HMP Preston is younger than the national average, while that of HMP Garth and HMP Wymott (the oldest population of the five Lancashire prisons) are both older than the national average. HMP Lancaster Farms, being a young offenders' prison, is made up entirely of younger (under 25) prisoners.

Figure 8 - Age Structure by Establishment²³

Current Age Structure	15-49		50-59		60+		50+	
	number	%	number	%	number	%	number	%
HMP Garth	649	81%	104	13%	53	7%	157	19%
HMP Kirkham	559	88%	63	10%	16	3%	79	12%
HMP Lancaster Farms	389	100%	0	0%	0	0%	0	0%
HMP Preston	690	91%	43	6%	22	3%	65	9%
HMP Wymott	834	75%	146	13%	125	11%	271	25%
England averages	75332	88%	7006	8%	3530	4%	10536	12%

At June 2014 the ages of the youngest and oldest prisoners at each institution were as follows

Figure 9 - Youngest and Oldest Prisoners by Establishment

	HMP Garth	HMP Kirkham	HMP Lancs Farms	HMP Preston	HMP Wymott
Youngest Prisoner	21	21	18	18	21
Oldest Prisoner	84	71	24	80	85

Ethnicity

The ethnic profiles of all five Lancashire cluster prisons are predominantly white British – 79% at HMP Garth, 71% at HMP Kirkham, 86% at HMP Preston, 85% at HMP Wymott, and an estimated 82% for the future population of HMP Lancaster Farms. HMP Kirkham has the most ethnically diverse population, with the most common ethnic groups after white British being Asian Pakistani (11%), Asian Other (3.5%), and Asian Indian (2.5% of the population). While HMP Kirkham has the highest proportion of non-white British prisoners, with 29% having any other ethnicity (compared to 21% in HMP Garth, 14% at HMP Preston and 15% at HMP Wymott), HMP Garth has the greatest proportion of foreign nationals with 8.1%.

HMP Kirkham has the lowest current proportion of foreign nationals with just 1.93% of prisoners having a non---UK nationality; the future population of HMP Lancaster Farms is estimated to be even lower at just 1%.

Disability

The available data regarding disabilities in the five Lancashire cluster establishments was limited. Data was requested from the Offender Management Unit (OMU) of each prison regarding numbers of disabled prisoners, and the recent HMIP reports were used to provide responses to a self---report measure, the question “Do you consider yourself to have a disability?” No OMU data regarding disabilities was available for HMP Preston or HMP Wymott; in addition the HMIP inspections carried out recently at HMPs Garth, Wymott and Preston did not include a survey of prisoners to ask this question.

Figure 19 – Prisoners with Disabilities

	HMP Garth	HMP Kirkham ²⁷	HMP Kirkham	HMP Lancaster Farms Current Population	HMP Lancaster Farms Predicted Estimate
Prisoners with disabilities	31% (n=237)	1% (n=5)	14% (n=23)	13% (n=22)	15%
Prisoners with no disability	69% (n=538)	99% (n=625)	86% (n=137)	88% (154)	85%

HMP Garth has the highest identified proportion of prisoners with disabilities. It seems evident that identification of disability in the current population of HMP Kirkham is low. In comparison to self---report of disability in the 2013 HMIP survey. OMU data for the full year 2013/14 indicates a higher level of identification with 33 prisoners identified as disabled, however the number of 'not disabled' prisoners is not known. The national average response to the HMIP survey across all prisons was 15%.

Vulnerabilities (e.g.Learning Disabilities)

The table below shows the number of recorded diagnoses of learning disabilities and autistic spectrum disorders recorded on SystmOne for new receptions during each year (and for currently registered patients at time of snapshot). As previously, an estimate for the future likely population of HMP Lancaster Farms has been calculated based on similar establishments.

Figure 22 – Learning Disabilities and Autism

Learning Disabilities and Autistic Spectrum	Snapshot June 2014	2013/14	2012/13	2011/12

HMP Garth	15	1	4	0
HMP Kirkham	6	10	3	3
HMP Lancaster Farms Current Population	8	23	17	8
HMP Lancaster Farms Predicted Estimate	2			
HMP Preston	10	17	19	22
HMP Wymott	12	7	12	4

Dementia

The numbers of prisoners recorded as having dementia are set out below. As would be expected by their older age profiles, HMP Garth and HMP Wymott have the highest identified numbers of dementia among patients.

Figure 23 - Dementia

Dementia	Snapshot June 2014	2013/14	2012/13	2011/12
HMP Garth	12	4	3	0
HMP Kirkham	1	1	0	0
HMP Lancaster Farms (Current)	0	0	0	0
HMP Lancaster Farms (Predicted)	0			
HMP Preston	3	0	2	0
HMP Wymott	3	3	2	0

Religion

The table below shows the recorded religion of prisoners at the three establishments. Only 2013/14 data was available for most prisons; as such this has been used to compare across the cluster. Estimated predicted proportion for HMP Lancaster Farms have been calculated based on an average between two similar local prisons (HMP Buckley Hall and HMP Kennet).

Figure 20 - Religion by Establishment

	HMP Garth		HMP Kirkham		HMP Lancaster Farms		HMP L.F. Predicted Estimate	HMP Preston		HMP Wymott	
	2013/14.	%	2013/14.	%	2011 ²⁹	%	%	2013/14.	%	2013/14.	%
No religion	193	24.9%	126	20.5%	265	51.8%	27.4%	223	31.3%	336	31.1%
Church of England	191	24.6%	155	25.2%	58	11.3%	23.5%	163	22.9%	303	28.0%
Church of Scotland	0	0.0%	0	0.0%	0	0.0%	0%	5	0.7%	0	0.0%
Muslim	88	11.4%	116	18.9%	34	6.6%	9.2%	60	8.4%	85	7.9%
Roman Catholic	185	23.9%	165	26.8%	127	24.8%	36.7%	206	28.9%	226	20.9%
Christian	61	7.9%	21	3.4%	17	3.3%	6.0%	26	3.7%	48	4.4%
Buddhist	30	3.9%	13	2.1%	4	0.8%	2.3%	7	1.0%	30	2.8%
Sikh	6	0.8%	2	0.3%	0	0.0%	0.7%	0	0.0%	2	0.2%
Mormon	0	0.0%	4	0.7%	0	0.0%	1.0%	12	1.7%	13	1.2%
Hindu	0	0.0%	1	0.2%	0	0.0%	0.3%	0	0.0%	1	0.1%
Rastafarian	0	0.0%	0	0.0%	0	0.0%	0.4%	0	0.0%	1	0.1%
Jewish	3	0.4%	2	0.3%	0	0.0%	0.2%	1	0.1%	2	0.2%
Pagan	0	0.0%	2	0.3%	0	0.0%	0%	2	0.3%	13	1.2%
Pentecostal	0	0.0%	1	0.2%	0	0.0%	0.2%	1	0.1%	2	0.2%
Protestant	0	0.0%	0	0.0%	0	0.0%	0%	1	0.1%	0	0.0%
Atheist	0	0.0%	3	0.5%	0	0.0%	0.1%	2	0.3%	3	0.3%
Agnostic	0	0.0%	0	0.0%	0	0.0%	0.2%	0	0.0%	0	0.0%
Jehovah's Witness	0	0.0%	1	0.2%	0	0.0%	0%	0	0.0%	6	0.6%
Church of Ireland	0	0.0%	0	0.0%	0	0.0%	0.1%	0	0.0%	0	0.0%
Greek Orthodox	0	0.0%	0	0.0%	0	0.0%	0.2%	1	0.1%	1	0.1%
Methodist	0	0.0%	1	0.2%	0	0.0%	0%	2	0.3%	9	0.8%
Orthodox	0	0.0%	0	0.0%	0	0.0%		0	0.0%	0	0.0%
Other/not specified	18	2.3%	0	0.0%	7	1.4%	0.5%	0	0.0%	0	0.0%
Presbyterian	0	0.0%	1	0.2%	0	0.0%	0.0%	0	0.0%	0	0.0%
Salvation Army	0	0.0%	1	0.2%	0	0.0%	0.0%	0	0.0%	0	0.0%
Seventh day Adventist	0	0.0%	0	0.0%	0	0.0%	0.0%	0	0.0%	1	0.1%
Total all prisoners	775	100.0%	615	100.0%	512	100.0%	100.0%	712	100.0%	1082	100.0%

Gender – Lancashire's Prison population is all male

Homelessness

Both the offender Management Unit and healthcare record homelessness prior to imprisonment or reception, however the recording is not consistent across establishments. OMU Data was not available for any of the prisons in the cluster

and, as can be seen from the chart below recording of this information on SystmOne may not have been accurate. The numbers recorded by healthcare indicate that HMP Preston has the highest proportion of recently homeless or No fixed abode prisoners

Figure 24 - Homelessness Prior to Imprisonment

Prisoner homeless in the past year	Snapshot June 2014	2013/14	2012/13	2011/12
HMP Garth	5	0	0	0
%	0.6%	0.0%	0.0%	0.0%
HMP Kirkham	0	0	0	0
%	0.0%	0.0%	0.0%	0.0%
HMP Lancs Farms	0	0	0	0
%	0.0%	0.0%	0.0%	0.0%
HMP Lancaster Farms Predicted Estimate	4.3%	4.4%	0.3%	0.0%
HMP Preston	141	339	249	345
%	18.7%	14.0%	13.1%	15.6%
HMP Wymott	0	0	0	0

Sexual Orient

Information regarding prisoners' sexual orientation is not routinely recorded; only HMP Kirkham was able to provide this information as recorded by the OMU. The HMIP prisoner's surveys (carried out in 2013 at HMP Kirkham and 2011 at HMP Lancaster Farms) contained a question regarding sexuality, but the most recent published HMIP inspections at HMP Garth, HMP Preston and HMP Wymott did not ask this question. As such the data is extremely limited; however what data is available indicates a very low proportion of prisoners identified or self-identifying as being homosexual, bisexual or transgender.

Figure 21 - Prisoners' Sexuality

	HMP Kirkham: OMU 2013/14	HMP Kirkham: HMIP 2013	HMP Lancaster Farms HMIP 2011
Heterosexual	524 (88.1%)	156 (99%)	172 (100%)
Bi sexual	63 (10.6%)	2 (1%)	0 (0%)
Homosexual	7 (1.2%)	0 (0%)	0 (0%)
Trans gender	1 (0.2%)	0 (0%)	0 (0%)

The breakdown of the approved premises is -

		Edith Rigby House	Highfield House	Total
Total Residents		11	19	30
Age	18-21 yrs	1	2	3

	22-25 yrs	1	3	4
	26-35 yrs	6	9	15
	Over 35 yrs	2	5	7
	Not Known as Service User is Limited access	1		1
Ethnicity	Asian or Asian British: Pakistani		1	1
	Black or Black British: Caribbean	1	1	2
	Black or Black British: Other		2	2
	White: British/English/Welsh/Scottish/Northern Irish	10	15	25
Disability	N	5	13	18
	Y	4	3	7
	Missing Information	2	3	5
Religion	Christian		1	1
	No Religion		1	1
	Not Disclosed	1	1	2
	Missing Information	10	16	26
Gender	Female	11		11
	Male		19	19
Domestic Status	Married / Civil partnership		1	1
	Not Known	1		1
	Single	1		1
	Missing Information	9	18	27
Sexual Orient	Heterosexual/Straight		2	2
	Not Disclosed			0
	Missing Information	11	17	28

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)

Prisoner and those in approved premises

Lancashire Care Foundation Trust have established prisoner forums to discuss experiences of using health services the remit of these groups will be expanded to

include discussions and feedback in relation to social care.

Feedback from the focus groups will be used to finalise the operational pathways being developed to manage the assessment and deliver of care services from April 2015

Leaflets outlining the changes resulting from the Care Act will be circulated to prisons.

Best practice will be applied for managing long term conditions for delaying and preventing social care needs.

LCFT service user champion lead has worked with prisoners/patients to elicit their thoughts and opinions on improving the service.

Staff

Lancashire Care Foundation Trust has been consulting their staff regarding planned changes to the offender health service and have developed a Transformation Programme to improve the contractual and operational delivery across five prisons and Criminal Justice Liaison Service in Lancashire.

Staff consultations are planned to take place in December via Lancashire Care Foundation Trust Partnership Forum, HR leads are also briefing service managers to consider further requirements in relation to engagement and consultation requirements, Trade Union representatives have been consulted on the proposed partnership.

Stakeholders

Close partnership working with each prison will continue to be required to ensure effective implementation of the provision of social care. The prison service have been actively involved in the scoping and designing the service and pathway to ensure consideration has been given to the current prison population and the best way to meet the needs within in each setting.

The NHS England the primary commissioner of prison health services are aware and supportive of the proposal.

The Prison Governors have also been made aware of our intentions and also supportive of the proposal as it simplifies arrangements for delivery of an integrated health and social care service.

County Council and Lancashire Care Foundation Trust

A post implementation a review will be undertaken to establish the impact of providing social care in prisons. This will include data gathering, feedback and lessons learnt.

Since April 2013, Lancashire County Council have commissioned N-Compass to provide advocacy support to prisoners who wish to make a complaint about health services. So far, 8 prisoners have been supported in this way. A report is currently being compiled to help predict what the demand for advocacy support could be from prisoners.

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 Department of Health Guidance has confirmed that those in custodial settings will be subject to a financial assessment to determine how much they must pay towards the cost of their care and support as for anyone in the community with eligible support needs. The approach to this process will need to take account of the high numbers of people represented in the prison population with mental health and learning difficulties which may impact on their ability to understand their finances. If people do not have eligible needs but they wish to purchase care services, this request will need to be referred for decision to National Offender management service representatives.

There is a risk that Prisoners will be able to decline social care without understanding the impact of this decision. In particular potentially prisoners with Learning Difficulties. It will be important to ensure that the assessment process identifies the capacity of each person to take this decision and seek support from, advocacy services.

Providing social care in Prisoners could stigmatise and therefore create the potential for hate crime and bullying. Prisoners may also be reluctant to receive social care as this might lead to them feeling vulnerable.

For prisoners, those in custody and their families:

- Understanding the limitations of social care support available in these settings, clearly communicating what is available to meet immediate need and what can be planned to responds to meet long term need
- Some will be anxious about the prospect of receiving support and are concerned about their reputation and status within the prison community in accepting support
- An increase in advocacy referrals

Staff

For the staff affected, appropriate consultation with Lancashire Care Foundation Trust Partnership is planned to take place in December. Any particular adverse impact that is identified for any individual or groups will be considered at that stage, but since these are new employment opportunities for staff it is not apparent that there will be any adverse 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.

The Offender Health BU faces difficulties within the prison estate, warnings by the Chief Inspector of Prisons Nick Hardwick of a “political and policy failure...#157; in prisons backed by the findings of a recent Prison Reform Trust report show a system under significant strain. In the past five weeks the prison population has increased by 734 people – the size of a large prison - and now stands at 84,533. The latest Ministry of Justice statistics show that 74 out of 119 prison establishments in operational use in England and Wales are overcrowded, with the prison estate as a whole holding 9,242 more prisoners than it was designed and built to hold. Each one a new service user with considerable health needs often mental health being introduced into an overpopulated, volatile environment.

Prisoners will be supported to develop a better understanding of their needs enabling them to have their immediate needs met but to engaging in developing approaches to minimise the impacts of their needs in situ. If the cabinet item is approved prisoners supported in the service will be able to understand how their needs will be met and the cost of their care with support plans. This should be positive overall

Question 5 – Identifying Initial Results of Your Analysis

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

Will need to factor in impact of financial charges for some prisoners.

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 final proposal remains the same as originally stated. The following arrangements will be in place to respond to any emerging themes and issues associated with implementation of this new responsibility.

A Social Care Steering Group will be formed to oversee the Section 75 agreement including representatives from the County Council, LCFT. The County Council representatives include the Head of Care Act Implementation. The role of the group will be:

- To oversee the effectiveness of the partnership agreement
- To monitor service performance against the performance framework
- To manage the financial contributions including any payment adjustments
- To develop and review the partnership agreement as required
- To resolve any disputes in accordance with the partnership agreement

The section 75 agreement is currently being developed, the draft aims and outcomes for the service are:

Aims

- To provide an integrated approach to the delivery of social care assessments including assessments for equipment to support rehabilitation and care management service that fulfils the responsibilities of the Authority under the Care Act 2014
- To undertake a full assessment in order to identify the eligibility and social care needs of Prisoners.
- To provide the most appropriate solution to the prisoners' social care needs by taking into account individual circumstances in a person-centred way and the custodial regime.
- To maintain or increase the functional independence of people within their current setting by giving advice on available options and providing equipment.
- To provide advice and information to reduce, delay or prevent further need
- Arrange support for the individual and others involved in their care, and enable care to be provided safely which enables them to remain living as independently as possible for as long as possible, whilst in prison and in preparation for resettlement.

Following a period of implementation a review will be completed to establish how effective the introduction has been and what the impacts have been.

The report's recommendations leaves some flexibility for the Executive Director of

Adult Service Health and Well Being to respond to any issues raised during the development of the operational and governance arrangements before finalising the partnership agreement on behalf of the County Council.

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 proposals in this report will have a positive impact and it is not obvious that any group with protected characteristics will be adversely affected by the development of the s75 Partnership.

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.

Section 76 of the Care Act 2014 sets out the new responsibility for Local Authorities to assess and meet the social care needs of offenders in prison and approved premises from April 2015. From the implementation date in April 2015 all adults in prisons settings should expect broadly similar access to and levels of social care and

support as the rest of the population. Councils will receive funding from central government towards the associated costs.

Prisoners are already living in a managed situation which could assist in providing their social care needs.

Prisoners will be supported to develop a better understanding of their needs enabling them to have their immediate needs met but to engaging in developing approaches to minimise the impacts of their needs in situ. If the cabinet item is approved prisoners supported in the service will be able to understand how their needs will be met and the cost of their care with support plans. This should be positive overall

Lancashire Care Foundation Trust already has extensive experience and expertise in working in prison settings and have established relationships across Lancashire's Prison community and approved premises. This experience will be an asset in meeting the new responsibilities set out in the Care Act as they already understand the service model, culture and demographic profile which will assist in delivering social care assessment and support in these settings.

Question 8 – Final Proposal

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

The final proposal remains the same as originally stated

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

(i) Approve the full development of a Section 75 partnership agreement with Lancashire Care Foundation Trust for discharging the Council's responsibilities under s76 of the Care Act including for the provision of social care assessments and meeting identified need in Lancashire's prisons and Approved Premises. This agreement would run for an initial period of 2 years, commencing 1st April 2015, with possible extension for a further 3 years

(ii) Authorise the Executive Director for Adult Services Health and Well Being be authorised to agree the finalised Section 75 agreement

Any prisoners with social care needs may be affected which could potentially include the following groups: 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.

Question 9 – Review and Monitoring Arrangements

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

The Section 75 agreement will set out the operational performance requirements and monitoring arrangements. A joint officer group will be formed with named representatives from each partner to take decisions in relation to the delivery of the service set out in the agreement.

Post implementation a review will be undertaken to establish the impact of providing social care in prisons. This will include data gathering and lessons learnt. Feedback will also be sought from the prison Governor and staff at each prison.

Ongoing monitoring across all of the 9 protected characteristic groups will be undertaken and will be reflected in the governance arrangements set out in the section 75 agreement.

Equality Analysis Prepared By Julie Dockerty

Position/Role Care Act Policy and Implementation Lead

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:

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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

Pam Smith – Equality & Cohesion Manager

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

Thank you