

Annex 1

Section 4

# Equality Analysis Toolkit

**Commutation of Small Pensions**  
For Decision Making Items

September 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 at

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

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

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

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

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

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

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

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

**Review and clarification of Pension Fund policy in the light of recent legislative changes, which allow pension funds to extend the choice to commute 'small' pensions to a wider group than previously existed.**

**To endorse an exercise to offer the new commutation freedoms to existing eligible pensioners.**

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

To implement a policy whereby 'small' pensions (according to a specific definition) are commuted to a lump sum as the 'standard offer' for those taking their pension for the first time; additionally to carry out an exercise to commute existing eligible 'small' pensions which are already in payment.

Note that the term 'standard offer' implies that, operationally, information for prospective pensioners would promote the commutation route as well as other options, for example by the relevant paperwork and retirement process, but the choice not to commute would remain for prospective and current eligible pensioners.

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 proposal would have no specific geographical impact. Note that around 90% of pensioners live in Lancashire.

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

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

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

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

Yes
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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.

Data held about pension fund members is limited to age, gender, marital status only. This means that no information is available around personal details as above.

The policy would affect existing and future pensioners aged 55 or above, and a small number of children whose (scheme member) parents die in service. Members (except in very limited circumstances such as ill health cannot access their pension pot before the age of 55)

Average pensions paid to females are lower than those paid to males (£2.9k pa and £6.7k pa respectively). This means that proportionately

more females than males would be able to take advantage of the commutation option.

## **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)

Ongoing engagement/consultation will take place at a members' conferences and via regular communication via roadshows, pension surgeries, newsletters etc. Your Pensions Service provides a continuous service to members allowing face-to-face consultation and advice etc. across the county.

## **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.

None anticipated. The advice received from the Fund's actuary indicates that, from a relatively technical perspective, some pensioners could marginally 'lose out' by commuting, whereas others could 'gain' by a similar margin . However it must be stressed that the factors used in reaching this conclusion do vary according to fund performance, actuarial assumptions etc., and would very probably change in future. Additionally, the commutation factors used in relevant calculations are periodically revised by the Government Actuary, to ensure gender equity. Against any technical marginal loss or gain must be weighed up questions of amenity and choice etc., and it should be emphasised that the choice whether or not to commute remains with the individual.



#### **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.

Receiving a lump sum of up to £30,000, as can happen under a 'small' pension commutation, could affect a person's entitlement to means-tested benefits, or result, for example, in paying higher charges for social care. In line with the Freedom and Choice agenda, pensioners must make the best decision which fits their circumstances and aspirations.

The retirement process will need to provide relevant signposting to ensure awareness of such risks.

#### **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

Not at this stage. The risk to any means-tested benefits must be pointed out to pensioners or prospective pensioners, by Your Pension Service, at the time a decision is made.

### **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 proposed change is that commutation of small pensions will become the service's standard offer; although prospective and current pensioners will be able to choose not to commute. The final decision will always that of the pensioner.

### **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.

It is not perceived that there will be any adverse impact on pensioners or the fund – the choice of options to take a pension or commutation will remain after any change in policy.

There would be a positive impact in terms of administrative costs should take up be significant. Additionally the fund would see a reduction in both liabilities and assets, but could benefit by reducing the amount of uncertainty in future strategic investment planning, valuation strategy etc.

### **Question 8 – Final Proposal**

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

To make commutation of 'small' pensions the standard offer for those about to take their pension for the first time; to offer existing 'small' pensioners the option to commute their existing 'small' pension.

To implement any policy or practice change starting in 2016

To retain choice for all current and prospective pensioners.

To enable pensioners to take advantage of 'the Freedom and Choice' agenda

To see a potential improvement in wellbeing, as accessing a lump sum could enable, for example, holidays, a new car etc. to be purchased. Such options may not be available to those on limited incomes (who for example may struggle to obtain credit to purchase a new car).

To provide information to prospective and current eligible pensioners to enable them to make an informed choice as to the option which suits their circumstances.

## Question 9 – Review and Monitoring Arrangements

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

Feedback from pensioners; monitoring of take up etc. Feedback provided to the Pensions Committee and Pension Board

Equality Analysis Prepared By Andy Brown

Position/Role Policy and Operations Manager

Equality Analysis Endorsed by Line Manager and/or Service Head Diane Lister

Decision Signed Off By

Cabinet Member or Director

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

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

Service contacts in the Equality & Cohesion Team are:

Karen Beaumont – Equality & Cohesion Manager

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

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

Jeanette Binns – Equality & Cohesion Manager

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

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

Saulo Cwerner – Equality & Cohesion Manager

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

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

Pam Smith – Equality & Cohesion Manager

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

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

Thank you