

Section 4

Equality

Analysis Toolkit

BOPo46 Waste PFI

For Decision Making Items

November 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

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

Name/Nature of the Decision

Waste PFI

What in summary is the proposal being considered?

The overarching purpose of this service is to reduce the amount of household waste sent to landfill by increasing the amount of waste that is recycled, composted or otherwise recovered in line with the council's waste management strategy. This is achieved through: Provision of Waste Recovery Parks at Thornton and Farington. The Waste Recovery Parks are responsible for the reception, storage, treatment and transportation of 240,000 tonnes of residual waste, 66,000 tonnes of green waste and 78,000 tonnes of recyclable materials in accordance with performance targets and service requirements. The service also delivers the safe transfer of all products and residues arising from the processing, treatment or handling of waste including the sourcing of all end markets.

The service is currently delivered via a County council owned limited company.

The proposals around this service are:

1. To reduce processing activities and associated costs within the Farington and Thornton waste recovery parks, where these processes are uneconomic relative to available alternative disposal options.
2. In ceasing processing activities any related plant and equipment will be 'mothballed' and maintained to take advantage of future market opportunities.
3. Cease composting of co-mingled food and garden waste. Advise waste collection authorities that in future the council will only provide facilities for composting green waste that does not include food.
4. Downsize the council's waste company through a transformation and restructuring exercise.
5. Cease the Environmental Education service (including adult and community programme) provided by the company
6. Cease the waste minimisation and communications services provided by the waste company.
7. Undertake market testing and procurement activity to determine potential market opportunities for reconfiguring the entirety of the council's waste services. This will include exploring the release of value from assets including the council's waste recovery parks, transfer stations and long term landfill contracts.

The proposal also seeks approval for financial measures to cover the transitional

period of 1 April 2016-1April 2018.

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.

This is a county wide service and will generally impact the majority of the population in similar ways. Surrounding communities and organisations of the Waste recovery parks will also be affected if they utilise the free conference room facilities.

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.

Possibly – although it is unlikely that the proposal will negatively impact protected characteristic groups on a large scale, schools accessing the education programmes and communities using the waste park facilities may be negatively impacted if mitigation actions are not established to ensure continuity of these additional services.

This proposal impacts on staff employed by the Limited company – at the time of

writing the analysis it is not known the profile of the staff.

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

If you have answered "No" in relation to all the protected characteristics, please briefly document your reasons below and attach this to the decision-making papers. (It goes without saying that if the lack of impact is obvious, it need only be very briefly noted.)

Question 1 – Background Evidence

What information do you have about the different groups of people who may be affected by this decision – e.g. employees or service users (you could use monitoring data, survey data, etc to compile this). As indicated above, the relevant protected characteristics are:

- Age
- Disability including Deaf people
- Gender reassignment/gender identity
- Pregnancy and maternity
- Race/Ethnicity/Nationality
- Religion or belief
- Sex/gender
- Sexual orientation
- Marriage or Civil Partnership status (in respect of which the s. 149 requires only that due regard be paid to the need to eliminate discrimination, harassment or victimisation or other conduct which is prohibited by the Act).

In considering this question you should again consider whether the decision under consideration could impact upon specific sub-groups e.g. people of a specific religion or people with a particular disability. You should also consider how the decision is likely to affect those who share two or more of the protected characteristics – for example, older women, disabled, elderly people, and so on.

The only groups likely to be negatively impacted are the schools utilising the education programme and the groups/communities utilising the conference facilities. At the time of presenting this item this information is not available – as part of the EA process we will seek to identify this data and update the full EA as and when information becomes available. Where the data does not exist we will consider the introduction of appropriate monitoring systems to allow the analysis to be undertaken.

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)

Consultation with the council's PFI partner, Blackpool Council, and the district

collection authorities, particularly with respect to garden and food waste composting will be undertaken by 31st December 2015.

The County Council owned Limited Company will be undertaking correct consultation procedures in relation to its staff and recognised Trade Unions.

The results of the consultation will be analysed and taken into account when implementing the proposal. The findings of any consultation will be incorporated into this 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.

An initial analysis has revealed that this proposal may detrimentally affect schools and organisations/communities utilising the waste park education programmes or conference centres however we will need further information from questions 1 and 2 before a robust analysis can be completed. Once this information is available we will update this EA

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.

There are other proposals that may impact on this proposal in terms of waste management that will ultimately affect collection services for the general public in the future. However there is no suggestion that these services will stop, rather, they are likely to change.

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

Continuing with the proposal

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.

In terms of communities and organisations accessing the conference facilities at the waste parks it is likely that this facility will continue when the county council take over control of these establishments.

The Education programme is likely to cease but mitigation alternatives have yet to be identified

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.

This proposal has emerged following the need for the County council to make unprecedented budget savings. We acknowledge that a number of staff employed by the Limited Company may be negatively affected however we will strive to minimise any negative impacts by developing as many mitigating actions as possible and by taking into account the views from the consultation with partner organisations

Question 8 – Final Proposal

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

The proposals around this service are:

To reduce processing activities and associated costs within the Farington and Thornton waste recovery parks, where these processes are uneconomic relative to available alternative disposal options.

Cease composting of co-mingled food and garden waste. Advise waste collection authorities that in future the council will only provide facilities for composting green waste that does not include food.

Downsize the council's waste company through a transformation and restructuring exercise.

Cease the Environmental Education service (including adult and community programme) provided by the company

Cease the waste minimisation and communications services provided by the waste company.

Undertake market testing and procurement activity to determine potential market opportunities for reconfiguring the entirety of the council's waste services. This will include exploring the release of value from assets including the council's waste recovery parks, transfer stations and long term landfill contracts.

Approval to reduce the revenue budget from 1st April 2016 by £8.500m and to use £7.750m reserves in 16/17 and £4.500m reserves in 17/18 to fund the 'transition period' to enable service reconfiguration by 1st April 2018.

Question 9 – Review and Monitoring Arrangements

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

'Appropriate monitoring procedures will be developed following the implementation of this proposal based on the relevant protected characteristics affected'

Equality Analysis Prepared By Jeanette Binns

Position/Role Equality & Cohesion Manager

Equality Analysis Endorsed by Line Manager and/or Service Head

Decision Signed Off By **Saeed Sidat**

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

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

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

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

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

Thank you