

Section 4

# Equality Analysis Toolkit

For Decision Making Items

November 2011

## **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**

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

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.

Parents are responsible for ensuring that their children receive a suitable education. Whilst the vast majority of parents choose to send their children to school, a small number choose to educate their children at home, and the term used to describe this situation is Elective Home Education (EHE). There is currently a minimal regulatory framework for EHE - for example there is no requirement for parents whose children have never been to school to register with the local authority. There is no statutory duty on the LA to provide guidance to home educators or to support them in terms of resources. However, the authority does have a statutory duty to make arrangements to identify, as far as it is possible to do so, the identity of children in its area who are not receiving an appropriate education either by attendance at school or otherwise. The authority also has a statutory duty to intervene if it has reason to believe a child in its area is not receiving suitable education.

The decision required is the approval of the procedures document that sets out how the LA will achieve the correct balance in meeting these duties whilst also seeking to support home educated children and their families. The procedures, if adopted, will affect people across the county in a similar way. One point to note is that there are relatively higher numbers of Gypsy Roma Travellers on the EHE database.

**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.

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.)

Yes
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## 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.

Because there is no requirement for home educators to register their children with the local authority, it is not possible to record the exact number of children who are being educated at home. However, Lancashire LA does maintain records, as far as it is able, of all children who are known to be home educated.

In Lancashire, in 2010-11 there were 453 children on the LA's EHE list, compared to a school population in January 2011 of 149,946 meaning a total of 0.3% of the school age population were known to be home

educating last year.

### Age

EHE applies to children of compulsory school age - and although parents may elect to move in and out of EHE at any stage of a child's compulsory school age career, the procedures apply to all pupils of compulsory school age regardless of their individual circumstances.

### Disability

Children with statements of special educational needs in 2010-11 constituted 4.9% of the known home educating population, but a full data set of children with disabilities is not available, as not all parents who are home educating are known to the authority, and where known parents are not obliged to disclose a disability. The only way the procedures differ in respect of children with statements of special educational needs are where this is required by regulation and/or legislation, eg approval for removal from roll where a child is registered at a special school under arrangements made by a local authority, duty to review/maintain/cease to maintain statements etc.

Marriage and Civil Partnership - there are no implications for persons falling within this protected characteristic.

Pregnancy and maternity - there are no implications for persons falling within this protected characteristic.

### Race

The largest ethnic group of home educated children is White British, but a substantial minority (29% in 2009-10, 25% in 2010-11) are of Gypsy, Roma and Traveller origin. A small minority are from other ethnic groups with no discernable trends. The procedures apply similarly for all children regardless of their racial group. That said, there may be a potential for some groups (e.g. Travellers, those visiting relatives overseas for extended periods) to be recorded as missing from education rather than being home educated.

Religion and belief - although a very small number of parents (19 in 2010-11) indicate they have elected to home educate due to religious

reasons, the procedures apply equally to all children regardless of their individual circumstances so there are no implications in respect of this protected characteristic,

Sex - The procedures apply equally to all children and parents and there are no implications in respect of this protected characteristic. Of the 453 pupils home educated in 2010-11 234 were male and 219 were female.

Sexual orientation - the procedures apply equally to all children and parents so there are no implications in respect of this protected characteristic. We do not hold any data on sexual orientation of either children being home educated or their parents.

Gender reassignment - the procedures apply equally to all children and parents so there are no implications in respect of this protected characteristic.

## **Question 2 – Engagement/Consultation**

How have you tried to involve people/groups that are potentially affected by your decision? Please describe what engagement has taken place, with whom and when.

(Please ensure that you retain evidence of the consultation in case of any further enquiries. This includes the results of consultation or data gathering at any stage of the process)

Consultation took place regarding the revised procedures during October and November 2011. As part of this process, contact was made by letter with all known home educators regarding the proposed new procedures document - this included letters to the parents of 117 traveller families known to be home educating in 2010-11 and during the autumn term 2011. The authority's Gypsy, Roma and Traveller service also contacted the traveller communities to offer advice and information relating to the proposed changes. No specific comments that were identifiable from the GRT community were received and of those responses that were received (85 in total) none identified any perceived



negative implications for the GRT community were these procedures to be adopted. There was also a public meeting held on 23 November 2011, all known home educators including those from the GRT community were again invited individually by letter, and again support was offered by the authority's GRT service to encourage participation and again at that meeting no particular adverse implications were identified for the GRT community arising from the new procedures. The meeting was attended by authority representatives including the Head of the Gypsy, Roma and Traveller Achievement Service - there were 33 attendees from the home educating community, none of whom identified themselves as being from the GRT community. The individual responses to the consultation and the notes of the public consultation meeting are available within the supporting background papers for the report to which this document forms an appendix.

In terms of children with Special Educational Needs/Disabilities - although issues were raised in the consultation regarding problems arising from lack of access to resources such as therapies once a child is withdrawn from school, those issues are not within the remit of the EHE procedures document which is the subject of this Impact Analysis.

### **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.

Potential implications have been identified only in respect of disability and possibly for the GRT community due to the relatively large proportion of GRT families on the EHE database.

It has been acknowledged that differential impact re disability only arises where regulation/legislation requires this, so there is no way the procedures could be amended to change this.

In terms of race, the procedures are applied consistently to all pupils regardless of race, but as highlighted above there is a greater risk that some home educating families who go travelling may be transferred to the Children Missing Education (CME) database. The processes that can be applied to mitigate against this would not be within the procedures document, but rather in the joint protocols we undertake with our GRT service and our CME team in terms of tracking pupils.

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**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.

No
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**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 - no changes were required
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**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.

Multi agency work to support families with additional needs , including SEN. This may include the CAF process.

Close arrangements with GRT service and CME team to ensure better processes in place for tracking/supporting home educating families who go travelling/are believed to have gone missing.

Development of parent friendly information available in a variety of formats, eg via website.

Awareness raising among authority services/partner agencies to ensure better understanding of EHE issues.

### **Question 7 – Balancing the Proposal/Countervailing Factors**

At this point you need to weigh up the reasons for the proposal – e.g. need for budget savings; damaging effects of not taking forward the proposal at this time – against the findings of your analysis. Please describe this assessment. It is important here to ensure that the assessment of any negative effects upon those sharing protected characteristics is full and frank. The full extent of actual adverse impacts must be acknowledged and taken into account, or the assessment will be inadequate. What is required is an honest evaluation, and not a marketing exercise. Conversely, while adverse effects should be frankly acknowledged, they need not be overstated or exaggerated. Where effects are not serious, this too should be made clear.

The procedures are required to clarify how the authority will fulfil its

responsibilities in respect of EHE. As the original procedures document was inaccurate and inappropriately stated the authority's responsibilities regarding EHE and also safeguarding, it is not possible to revert to the original document. Whilst there will be some members of the home educating community who may remain unhappy regarding the proposed procedures, those concerns do not relate to issues identified in this EIA.

### **Question 8 – Final Proposal**

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

The final proposal is to adopt the procedures as amended in response to the consultation - the only group with the potential to be affected differentially are the Gypsy Roma Traveller community given that they are a sizeable minority within the known home educating population within Lancashire - but any such differential impact is likely to be minimal, given that procedures whilst home educating would apply as for all EHE families and the main differences arise from the greater risk some families could be identified as Children missing education.

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

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

We are in the process of contacting all known home educators to identify possible interest in an ongoing process of consultation, and we are proposing to review the procedures after 12 months initially, to allow for any further changes if any unexpected negative impacts are subsequently identified - before moving to a two year review timetable.

Equality Analysis Prepared By Frances Molloy

Position/Role School Attendance Lead

Equality Analysis Endorsed by Line Manager and/or Chief Officer Bob Stott

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

Pam Smith – Equality & Cohesion Manager

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

Thank you