

Equality Impact Analysis Full Tool with Guidance

Overview

This Tool has been produced to help you analyse the likelihood of impacts on the protected characteristics – including where people are represented in more than one – with regard to your new or proposed policy, strategy, function, project or activity. It has been updated to reflect the new public sector equality duty and should be used for decisions from 5th April 2011 onwards. It is designed to help you analyse decisions of high relevance to equality, and/or of high public interest.

General points

1. 'Due regard' means the regard that is appropriate in all the circumstances. In the case of controversial matters such as service closures or reductions, considerable thought will need to be given the equalities aspects.
2. Wherever appropriate, and in all cases likely to be controversial, the outcome of the EIA needs to be summarised in the Cabinet/Cabinet Member report (section 08 of this tool) and equalities issues dealt with and cross referenced as appropriate within the report.
3. Equalities duties are fertile ground for litigation and a failure to deal with them properly can result in considerable delay, expense and reputational damage.
4. Where dealing with obvious equalities issues e.g. changing services to disabled people/children, take care not to lose sight of other less obvious issues for other protected groups.

Timing, and sources of help

Case law has established that having due regard means analysing the impact, and using this to inform decisions, thus demonstrating a conscious approach and state of mind ([2008] EWHC 3158 (Admin), [here](#)). It has also established that due regard cannot be demonstrated after the decision has been taken. Your EIA should be considered at the outset and throughout the development of your proposal, through to the recommendation for decision. It should demonstrably inform, and be made available when the decision that is recommended. This tool contains guidance, and you can also access guidance from the EHRC [here](#). If you are analysing the impact of a budgetary decision, you can find EHRC guidance [here](#). Advice and guidance can be accessed from the Opportunities Manager: PEIA@lbhf.gov.uk or ext 3430.

Full Equality Impact Analysis Tool

Overall Information	Details of Full Equality Impact Analysis
Financial Year and Quarter	2011/12
Name and details of policy, strategy, function, project, activity, or programme	<p>New Cross Authority Framework Agreement for provision of Self Directed Support Services. London Boroughs of Brent Hammersmith and Fulham, Hillingdon and Royal Borough of Kensington and Chelsea will be able to use the Framework Agreement to buy support services for adults, children and young people in receipt of direct payments to help them manage their budget and buy appropriate services. There is no current impact on council staff.</p> <p>This tender exercise does not require an organisational change assessment as Direct Payments are already being made for social care payments.</p> <p>The Direct Payment Support Service is currently provided by an external provider and Support Planning and brokerage is provided by the internal Support Planning service. As Hammersmith and Fulham Council currently provide support planning in house the Support Planning and Brokerage element of the framework will not be used in the short to medium term, although the position could change during the 4 year life of the framework agreement.</p> <p>.</p>
Lead Officer	<p>Name: Christine Baker Position: Procurement Manager Email: christine.baker@lbhf.gov.uk Telephone No: 020 87531447</p>
Date of completion of final EIA	11/7/2011

Section 02	Scoping of Full EIA
Plan for completion	<p>Timing - Framework to be used from November 2011 Resources - CSD, Quality Commissioning and Procurement Lead Officer - Christine Baker</p>

What is the policy, strategy, function, project, activity, or programme looking to achieve?

Direct Payments, as a policy, is part of the government's wider vision for social care services. The payments themselves are monetary payments made in lieu of directly provided services to individuals who have had their needs assessed under the Community Care legislation. Direct payments are one way in which people can direct their own support by purchasing the assistance or services that the council would otherwise provide. They are crucial to delivering the personalisation agenda as set out in *Putting People First*. In providing Direct Payments, local authorities are also expected to provide an adequate service to support those who need assistance in managing their Direct Payments.

The overarching intention of the proposal via the framework, of the four Councils, is to develop the range of support available to eligible service users in the Boroughs so that their needs are met in a more comprehensive and integrated way. With the development of self-directed support and Personal Budgets - the personalisation agenda - the underlying driver is to improve the choice and control that people have over the support they receive.

Regarding the Public Sector Equality Duty, the proposed Framework Agreement will enable the council to buy services which will aim to advance equality of opportunity by give more choice and control to people in the protected groups below, regarding the care and support services they purchase with their own budget.

Age	The proposed Framework Agreement will advance equality of opportunity by giving more choice and control to people of all ages in receipt of a direct payment to enable them to buy care and support services with their own budget.	L	Neutral
Disability	The proposed Framework Agreement will advance equality of opportunity by giving more choice and control to disabled people in receipt of a direct payment to enable them to buy care and support services with their own budget. Disabled people are more likely than non-disabled people to be in receipt of a Direct Payment, and as such, the proposal is of high relevance to Disability and is positive, as it gives disabled people more control over their care.	H	+
Gender reassignment	The proposed Framework Agreement may advance equality of opportunity by giving more choice and control to people undergoing gender reassignment in receipt of a direct payment to enable them to buy care and support services with their own budget. However, in general the framework is of low relevance to this protected characteristic and will have a neutral impact, as it is matters that relate to disability that are assessed for the payments themselves.	L	Neutral

	Marriage and Civil Partnership	Support services purchased using the Framework Agreement gives the same opportunity to partners, whether married or in a Civil Partnership, who are in receipt of a direct payment to enable them to buy care and support services with their own budget. However, in general the framework is of low relevance to this protected characteristic and will have a neutral impact, as it is matters that relate to disability that are assessed for the payments themselves.	L	Neutral
	Pregnancy and maternity	Support services purchased using the Framework Agreement gives an opportunity to women and young people who are pregnant and who are in receipt of a direct payment to enable them to buy care and support services with their own budget. However, in general the framework is of low relevance to this protected characteristic and will have a neutral impact, as it is matters that relate to disability that are assessed for the payments themselves. Pregnancy is not a disability for the purposes of the Equality Act 2010	L	Neutral
	Race	Advance equality of opportunity by giving more choice and control to people of all races who are in receipt of a direct payment to enable them to buy care and support services with their own budget. However, in general the framework is of low relevance to this protected characteristic and will have a neutral impact, as it is matters that relate to disability that are assessed for the payments themselves.	L	Neutral
	Religion/belief (including non-belief)	Advance equality of opportunity by giving more choice and control to people of all religions and beliefs who are in receipt of a direct payment to enable them to buy care and support services with their own budget. However, in general the framework is of low relevance to this protected characteristic and will have a neutral impact, as it is matters that relate to disability that are assessed for the payments themselves.	L	Neutral
	Sex	Advance equality of opportunity by giving more choice and control to people of both sexes who are in receipt of a direct payment to enable them to buy care and support services with their own budget. However, in general the framework is of low relevance to this protected characteristic and will have a neutral impact, as it is matters that relate to disability that are assessed for the payments themselves. Women are more likely than men to be carers or to need support in older age, and so there may be other indirect benefits to the Framework, in as much as	L M	Neutral Positive

		women would benefit more from the choice and control this offers than men would. As such, this aspect is of medium relevance and is positive.		ve
	Sexual Orientation	Advance equality of opportunity by giving more choice and control to people of different sexual orientations who are in receipt of a direct payment to enable them to buy care and support services with their own budget. However, in general the framework is of low relevance to this protected characteristic and will have a neutral impact, as it is matters that relate to disability that are assessed for the payments themselves.	L	Neutral
<p>Human Rights and Children's Rights</p> <p>Will it affect Human Rights, as defined by the Human Rights Act 1998? No</p> <p>Will it affect Children's Rights, as defined by the UNCRC (1992)? Yes:</p> <ul style="list-style-type: none"> ▪ The right to life, survival and development ▪ The right to have their views respected, and to have their best interests considered at all times ▪ Health and welfare rights, including rights for disabled children, the right to health and health care, and social security <p>These are noted here, as those under 18 are not included in the protected characteristic of Age under the Equality Act 2010</p>				

Section 03	Analysis of relevant data and/or undertake research
Documents and data reviewed	Breakdown of Data on Direct Payment 2010/11. Analysis of service user questionnaires and service user consultation meetings
New research	Equality monitoring requirements will be built into the service providers' contracts. Service providers will be required to meet their obligations under the Equality Act 2010.

Section 04	Undertake and analyse consultation
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Consultation	<p>Service User consultation commenced in June 2010 with Council Commissioning and Procurement officers attending the service user group and informing the members of the Council's intention to re-tender the Direct Payments Support Service and inviting their participation in the process including the designing of the service specification. Three other events have been held since June 2010 including a questionnaire designed with service users and sent to all Direct Payments service users in H&F. This involvement is on going with plans for Service User nominated representatives to be part of the Tender Assessment Panel.</p>
Analysis	<p>This is a new area of commissioning and the procurement exercise it taking place in a new and emerging market. Although organisations have been encouraged to form partnerships and we have been careful to avoid disadvantaging small providers, some small and specialist voluntary sector organisations may not respond well to competition, and may challenge the fairness of the process.</p> <p>Although we have communicated our intentions to commission and procure a framework which will ensure minimum quality standards, there remains some concern amongst service users that the Council is ending the contract with the existing provider for Direct Payment Support Services and procuring a new service.</p> <p>Service users are involved in the commissioning and procurement process. Although we are clearly communicating their remit as part of the tender evaluation there is a concern amongst some service users that they should have even more involvement in the evaluation process.</p> <p>It is important that the TUPE regulations which apply to external staff in the Hammersmith and Fulham Direct Payment Support Service are fully complied with. The process could potentially delay the call off of the Direct Payment Support service.</p>

Section 05	Analysis of impact and outcomes
Analysis	<p>There is no risk of unlawful discrimination relating to the framework agreement. However this is a new area of commissioning and the procurement exercise it taking place in a new and emerging market. Although organisations have been encouraged to form partnerships and we have been careful to avoid disadvantaging small providers, some small and specialist voluntary sector organisations may not respond well to competition, and may challenge the fairness of the process.</p> <p>Although we have communicated our intentions to commission and procure a framework which will ensure minimum quality standards, there remains some concern amongst service users that the Council is ending the</p>

	<p>contract with the existing provider for Direct Payment Support Services and procuring a new service.</p> <p>Service users are involved in the commissioning and procurement process. Although we are clearly communicating their remit as part of the tender evaluation there is a concern amongst some service users that they should have even more involvement in the evaluation process.</p>
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Section 06	Reducing any adverse impacts
Outcome of Analysis	<p>The procurement process will continue to take measures to ensure fairness and transparency in the treatment of all providers including small providers. For example we have had discussions with finance about financial checks on small providers and we have answered questions about how providers can form consortia. We will also allow small specialist providers to indicate that they want to apply to provide support to particular groups of service users only.</p> <p>The procurement process will ensure that only providers with the essential minimum quality standards are awarded a place on the Framework.</p> <p>Commissioners are in discussion with Direct Payment service users regarding the remit and scope of service user involvement in the tender assessment. Service users from the H & F Direct Payment Service User Group and from other boroughs will evaluate 50% of the quality questions as part of the tender appraisal process.</p>

Section 07	Action Plan
Action Plan	See outcome of analysis above

Section 08	Agreement, publication and monitoring
Chief Officer sign-off	<p>Name: Benedict Hefford Position: Assistant Director Email: benedict.hefford@lbhf.gov.uk</p>

	Telephone No: 020 8753 2588
Key Decision Report	Date of report to Cabinet - 11/ 07/ 2011 (for Cabinet Briefing on 18/7/2011 – for 5 th September Cabinet) Confirmation that key equalities issues found here have been included: Yes
Opportunities Manager for advice and guidance only	Name: Carly Fry Position: Opportunities Manager Date advice / guidance given: 12 July 2011 Email: PEIA@lbhf.gov.uk Telephone No: 020 8753 3430

Full Equality Impact Analysis Guidance

Section 02	Scoping of EIA
What is the policy, strategy, function, project, activity, or programme looking to achieve?	<p>Hereafter, 'policy' means policy, strategy, function, project, activity, or programme</p> <p>Disability Service providers also have an anticipatory duty to make reasonable adjustments for disabled people. These two duties frequently overlap and it is sensible to consider them together. For example, can you:</p> <ul style="list-style-type: none"> ▪ Provide accessible communications? ▪ Change how you collate and use data? ▪ Revise how you involve service users? <p>Analyse the impact of the policy on the protected characteristics with due regard to the Public Sector Equality Duty.</p> <p>Use your reasoning in order to determine whether the policy will be of high, medium or low relevance to the protected characteristics. What do we mean by these terms?:</p> <p>High</p> <ul style="list-style-type: none"> ▪ The policy, strategy, function, project, activity, or programme is relevant to all or most parts of the general duty, and/or to human/children's rights ▪ There is substantial or a fair amount of evidence that some groups are (or could be) differently affected by it ▪ There is substantial or a fair amount of public concern about it <p>Medium</p>

- The policy, strategy, function, project, activity, or programme is relevant to most parts of the general duty, and/or to human/children's rights
- There is some evidence that some groups are (or could be) differently affected by it
- There is some public concern about it

Low

- The policy, strategy, function, project, activity, or programme is not generally relevant to most parts of the general duty, and/or to human/children's rights
- There is little evidence that some groups are (or could be) differently affected by it
- There is little public concern about it

Use your reasoning to determine whether the impact will be positive, neutral, or negative. There are three possible outcomes:

- **Positive:** The EIA shows the policy is not likely to result in adverse impact for any protected characteristic and does advance equality of opportunity, and/or fulfils PSED in another way
- **Neutral:** The EIA shows the policy, strategy, function, project or activity is not likely to result in adverse impact for any protected characteristic and does not advance equality of opportunity, and/or fulfils PSED in another way
- **Negative:** The EIA shows the policy, strategy, function, project or activity is likely to have an adverse impact on a particular protected characteristic(s) and potentially does not fulfil PSED, or the negative impact will be mitigated through another means.

Should your policy not be applicable, you must note this and state why.

Human Rights, Children's Rights

Additionally, demonstrate here that the impact on **Human and/or Children's Rights** arising from the policy has been considered.

Human Rights

Public authorities have an obligation to act in accordance with the European Convention on Human Rights. These are:

- Article 2: [Right to life](#)
- Article 3: [Freedom from torture and inhuman or degrading treatment](#)
- Article 4: [Right to liberty and security](#)

- Article 5: [Freedom from slavery and forced labour](#)
- Article 6: [Right to a fair trial](#)
- Article 7: [No punishment without law](#)
- Article 8: [Respect for your private and family life, home and correspondence](#)
- Article 9: [Freedom of thought, belief and religion](#)
- Article 10: [Freedom of expression](#)
- Article 11: [Freedom of assembly and association](#)
- Article 12: [Right to marry and start a family](#)
- Article 14: [Protection from discrimination in respect of these these rights and freedoms](#)
- Article 1 of Protocol 1: [Right to peaceful enjoyment of your property](#)
- Article 2 of Protocol 1: [Right to education](#)
- Article 3 of Protocol 1: [Right to participate in free elections](#)

(Article 1 of Protocol 13 is: Abolition of the death penalty)

Each of the above links takes you to explanations and examples provided by the EHRC. Further, the [EHRC](#) and the [Ministry of Justice](#) both provide guides for public authorities.

Children's Rights (UNCRC)

All children and young people up to the age of 18 years have all the rights in the Convention. Some groups of children and young people - for example those living away from home, and young disabled people - have additional rights to make sure they are treated fairly and their needs are met.

Every child in the UK has been entitled to over 40 specific rights. These include:

- The right to life, survival and development
- The right to have their views respected, and to have their best interests considered at all times
- The right to a name and nationality, freedom of expression, and access to information concerning them
- The right to live in a family environment or alternative care, and to have contact with both parents wherever possible
- Health and welfare rights, including rights for disabled children, the right to health and health care, and social security
- The right to education, leisure, culture and the arts
- Special protection for refugee children, children in the juvenile justice system, children deprived of their liberty and children suffering economic, sexual or other forms of exploitation

	<p>The rights included in the convention apply to all children and young people, with no exceptions.</p> <p>More information on UNCRC can be found at Direct Gov.</p>
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Section 03	Analysis of relevant data and/or undertake relevant research
Documents and data reviewed	Data on Direct Payment 2010/11. Analysis of service user questionnaires and service user consultation meetings.
New research	

Section 04	Analyse or undertake consultation
Consultation	<p>Service User consultation commenced in June 2010 with Council Commissioning and Procurement officers attending the service user group and informing the members of the Council's intention to re-tender the Direct Payments Support Service and inviting their participation in the process including the designing of the service specification. Three other events have been held since June 2010 including a questionnaire designed with DP service users and sent to all direct payments users in H&F. This involvement is on going with plans for Service User nominated representatives to be part of the Tender Assessment Panel.</p> <p>Commissioning and Procurement have also hosted a briefing for providers on 27th May 2011 which include a presentation and a question and answer session about the Framework. This information has been widely circulated.</p> <p>The Transfer of Undertakings (TUPE) will apply to staff in the externally provided Hammersmith and Fulham Direct Payment Support Service and they have been made aware of this. It is important that the TUPE regulations are fully complied with. The process is could delay the call off of the Direct Payment Support service.</p>
Analyse	<p>This is a new area of commissioning and the procurement exercise it taking place in a new and emerging market. Although organisations have been encouraged to form partnerships and we have been careful to avoid disadvantaging small providers, some small and specialist voluntary sector organisations may not respond well to competition, and may challenge the fairness of the process.</p> <p>Although we have communicated our intentions to commission and procure a framework which will ensure minimum quality standards, there remains some concern amongst service users that the Council is ending the contract with the existing provider for Direct Payment Support Services and procuring a new service.</p>

Service users are involved in the commissioning and procurement process. Although we are clearly communicating their remit as part of the tender evaluation there is a concern amongst some service users that they should have even more involvement in the evaluation process.

It is important that the TUPE regulations which apply to external staff in the Hammersmith and Fulham Direct Payment Support Service are fully complied with. The process could potentially delay the call off of the Direct Payment Support service.

Section 05	Analysis of impact and outcomes			
Analysis	Regarding the Public Sector Equality Duty the Framework Agreement will enable the council to buy services which will aim to advance equality of opportunity by giving more choice and control to people in the protected groups below, regarding the care and support services they purchase with their own budget.			
	Age	The proposed Framework Agreement will advance equality of opportunity by giving more choice and control to people of all ages in receipt of a direct payment to enable them to buy care and support services with their own budget.	L	Neutral
	Disability	The proposed Framework Agreement will advance equality of opportunity by giving more choice and control to disabled people in receipt of a direct payment to enable them to buy care and support services with their own budget. Disabled people are more likely than non-disabled people to be in receipt of a Direct Payment, and as such, the proposal is of high relevance to Disability and is positive, as it gives disabled people more control over their care.	H	+
	Gender reassignment	The proposed Framework Agreement may advance equality of opportunity by giving more choice and control to people undergoing gender reassignment in receipt of a direct payment to enable them to buy care and support services with their own budget. However, in general the framework is of low relevance to this protected characteristic and will have a neutral impact, as it is matters that relate to disability that are assessed for the payments themselves.	L	Neutral
	Marriage and Civil	Support services purchased using the Framework Agreement gives the same opportunity to partners, whether married or in a Civil Partnership, who are in	L	Neutral

	Partnership	receipt of a direct payment to enable them to buy care and support services with their own budget. However, in general the framework is of low relevance to this protected characteristic and will have a neutral impact, as it is matters that relate to disability that are assessed for the payments themselves.		
	Pregnancy and maternity	Support services purchased using the Framework Agreement gives an opportunity to women and young people who are pregnant and who are in receipt of a direct payment to enable them to buy care and support services with their own budget. However, in general the framework is of low relevance to this protected characteristic and will have a neutral impact, as it is matters that relate to disability that are assessed for the payments themselves. Pregnancy is not a disability for the purposes of the Equality Act 2010	L	Neutral
	Race	Advance equality of opportunity by giving more choice and control to people of all races who are in receipt of a direct payment to enable them to buy care and support services with their own budget. However, in general the framework is of low relevance to this protected characteristic and will have a neutral impact, as it is matters that relate to disability that are assessed for the payments themselves.	L	Neutral
	Religion/belief (including non-belief)	Advance equality of opportunity by giving more choice and control to people of all religions and beliefs who are in receipt of a direct payment to enable them to buy care and support services with their own budget. However, in general the framework is of low relevance to this protected characteristic and will have a neutral impact, as it is matters that relate to disability that are assessed for the payments themselves.	L	Neutral
	Sex	Advance equality of opportunity by giving more choice and control to people of both sexes who are in receipt of a direct payment to enable them to buy care and support services with their own budget. However, in general the framework is of low relevance to this protected characteristic and will have a neutral impact, as it is matters that relate to disability that are assessed for the payments themselves. Women are more likely than men to be carers or to need support in older age, and so there may be other indirect benefits to the Framework, in as much as women would benefit more from the choice and control this offers than men would. As such, this aspect is of medium relevance and is positive.	L M	Neutral Positive

	Sexual Orientation	Advance equality of opportunity by giving more choice and control to people of different sexual orientations who are in receipt of a direct payment to enable them to buy care and support services with their own budget. However, in general the framework is of low relevance to this protected characteristic and will have a neutral impact, as it is matters that relate to disability that are assessed for the payments themselves.	L	Neutral
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Section 06	Reducing any adverse impacts
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Outcome of Assessment

This is a new area of commissioning and the procurement exercise it taking place in a new and emerging market. Although organisations have been encouraged to form partnerships and we have been careful to avoid disadvantaging small providers, some small and specialist voluntary sector organisations may not respond well to competition, and may challenge the fairness of the process.

Although we have communicated our intentions to commission and procure a framework which will ensure minimum quality standards, there remains some concern amongst service users that the Council is ending the contract with the existing provider for Direct Payment Support Services and procuring a new service.

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It is important that the TUPE regulations which apply to external staff in the Hammersmith and Fulham Direct Payment Support Service are fully complied with. The process could potentially delay the call off of the Direct Payment Support service.

For further help please view the intranet, EHRC [website](#), or contact the Opportunities Manager at:

PEIA@lbhf.gov.uk

020 8753 3430

<http://theintranet/Departments/Finance%5Fand%5FCorporate%5FServices/Equality%5Fand%5FDiversity/>