

## Equality Impact Assessment Update

Name of the project, policy, service or strategy to be updated
<b>Zest car valeting service</b>

File ref:		Issue No:	
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Managers(s) and section or service responsible for completing the updated assessment	
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Section/service	Learning Disability Commissioning, Adult Social Care
Date	September 2017

## **Part 1      The Public Sector Equality Duty and Equality Impact Assessments (EIA)**

**1.1**      The Council must have due regard to its Public Sector Equality Duty when making all decisions at member and officer level. An EIA is the best method by which the Council can determine the impact of a proposal on equalities, particularly for major decisions. However, the level of analysis should be proportionate to the relevance of the duty to the service or decision.

**1.2**      **This is one of two forms that the County Council uses for Equality Impact Assessments, both of which are available on the intranet. This form is designed for any proposal, strategy or policy. The other form looks at services or projects.**

### **1.3      The Public Sector Equality Duty (PSED)**

The public sector duty is set out at Section 149 of the Equality Act 2010. It requires the Council, when exercising its functions, to have “due regard” to the need to

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. (see below for “protected characteristics”

These are sometimes called equality aims.

### **1.4      A “protected characteristic” is defined in the Act as:**

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race (including ethnic or national origins, colour or nationality)
- religion or belief;
- sex;
- sexual orientation.

Marriage and civil partnership are also a protected characteristic for the purposes of the duty to eliminate discrimination.

The previous public sector equalities duties only covered race, disability and gender.

### **1.5      East Sussex County Council also considers the following additional groups/factors when carry out analysis:**

- Carers – A carer spends a significant proportion of their life providing unpaid support to family or potentially friends. This could be caring for a relative, partner or friend who is ill, frail, disabled or has mental health or substance

misuse problems. [Carers at the Heart of 21st Century Families and Communities, 2008]

- Literacy/Numeracy Skills
- Part time workers
- Rurality

#### **1.6 Advancing equality (the second of the equality aims) involves:**

- Removing or minimising disadvantages suffered by people due to their protected characteristic
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people including steps to take account of disabled people's disabilities
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low

NB Please note that, for disabled persons, the Council must have regard to the possible need for steps that amount to positive discrimination, to "level the playing field" with non-disabled persons, e.g. in accessing services through dedicated car parking spaces.

#### **1.6 Guidance on Compliance with The Public Sector Equality Duty (PSED) for officers and decision makers:**

1.6.1 To comply with the duty, the Council must have "due regard" to the three equality aims set out above. This means the PSED must be considered as a factor to consider alongside other relevant factors such as budgetary, economic and practical factors.

1.6.2 What regard is "due" in any given case will depend on the circumstances. A proposal which, if implemented, would have particularly negative or widespread effects on (say) women, or the elderly, or people of a particular ethnic group would require officers and members to give considerable regard to the equalities aims. A proposal which had limited differential or discriminatory effect will probably require less regard.

1.6.3 *Some key points to note :*

- The duty is regarded by the Courts as being very important.
- Officers and members must be aware of the duty and give it conscious consideration: e.g. by considering open-mindedly the EIA and its findings when making a decision. When members are taking a decision, this duty can't be delegated by the members, e.g. to an officer.
- EIAs must be evidence based.
- There must be an assessment of the practical impact of decisions on equalities, measures to avoid or mitigate negative impact and their effectiveness.
- There must be compliance with the duty when proposals are being formulated by officers and by members in taking decisions: the Council can't rely on an EIA produced after the decision is made.

- The duty is ongoing: EIA's should be developed over time and there should be evidence of monitoring impact after the decision.
- The duty is not, however, to achieve the three equality aims but to consider them – the duty does not stop tough decisions sometimes being made.
- The decision maker may take into account other countervailing (i.e. opposing) factors that may objectively justify taking a decision which has negative impact on equalities (for instance, cost factors)

1.6.4 In addition to the Act, the Council is required to comply with any statutory Code of Practice issued by the Equality and Human Rights Commission. New Codes of Practice under the new Act have yet to be published. However, Codes of Practice issued under the previous legislation remain relevant and the Equality and Human Rights Commission has also published guidance on the new public sector equality duty.

## Part 2 - Scope of original EqlA and reasons for revision

### 2.1 What is being assessed?

- a) Name of the proposal.

On 9 February 2016, at a full Council meeting, a decision was taken to “*Delete the savings proposal of £0.093m for the Zest social enterprise car valet service*”. The decision was not time limited and no review date was set.

As part of regular reviews of all our contracts and services, it has become apparent that Zest has not been effective in assisting clients to move into work, which was the original intention when the grant was awarded.

A report has been prepared for the Lead Member for Adult Social Care & Health, setting out the current staffing structure, costs and profile of the Zest service, including performance outcomes.

### Proposal

Given the high unit costs, and the limited achievement of the outcomes stipulated in the Service Specification, it is recommended that the Zest car valet service ceases to operate in its current form. The proposal herein, offers a positive alternative to closing the service.

To better achieve the strategic aims of the project, arrangements have been considered that will offer more effective support and lead to greater opportunities for clients of the service to move on to employment, whilst retaining the positive aspects that include a visible and valued service.

The Adult Social Care & Health, Learning Disability provider service now offers a structured Skills Development Pathway, from St Nicholas Centre in Lewes, as well as the countywide ChoicES supported employment service. Management oversight of the car valet operation could be absorbed within current resources.

Initial HR advice has been sought which confirms that 'Transfer of Undertakings (Protection of Employment) Regulations 1981'(TUPE) would apply if the service is transferred to another organisation. As such, a process of due diligence would be required within which the actual terms and conditions of the existing staff would be scrutinised, including for example pension and redundancy rights. This work will require legal advice, HR and senior management time.

- b) What is the name of the original EqlA?

### **Commissioning Grants Prospectus: De-commissioning Learning Disability and Autism outcomes**

- c) What date was it completed?

January 2015

d) What project, policy, service or strategy was covered in the original EqIA?

Background: In 2015, due to spending reviews, Adult Social Care had to reduce budgets allocated to projects and services. Within this context Adult Social Care had sought to protect, as far as possible, statutory services for vulnerable adults. However, the department knew that withdrawal of funding from services may have significant impact on the lives of current and potential users. The service understood that funding being reduced or taken away completely may mean that the projects may have had significant impact on the lives of current and potential users. As a service, there was an understanding that this may mean that the projects may be delivered in a different way or not at all.

Adult Social Care had to consider the impact of potential loss of funding. The proposal centred around decommissioning a number of services for people with Learning Disabilities and autism, of which Zest was one.

e) What was the scope of the original EqIA?

The functions within the scope of the original EQIA were primarily targeted at people with learning disabilities and Autism (and potentially other disabilities), their families and/or carers.

There was an increased likelihood that a proportion of them would live in the community without the support they need. It is likely that some service users may have required statutory care services as a result of these services being de-invested in.

This group may also have fallen within other protected characteristics: Age, Gender, Gender reassignment, Sexual orientation, Race, Religion or belief Pregnancy and maternity, Marriage and civil partnership.

There would also be an impact on the projects and the project staff themselves.

On its own, the Zest project (as with others covered in the original EIA) represented a medium to low risk where a reduction in service provision may absorb the loss through other providers or provision. However, collectively all these services being de-invested in at the same time would have meant a serious gap in service provision. An alternate provision would need to be considered to avoid increased levels of isolation, reduced levels of well-being and reliance on other service providers and their carers.

Without these preventative activities or alternate provision this would have resulted in increased reliance on other services such as mainstream health services such as Primary Care and Mental Health and also impact Adult Social Care. This would have resulted in increased levels of social isolation, reduction in aspirations to get

paid employment, increased use of Short Breaks, increased levels of carers' physical and mental ill health.

Zest was funded through the CGP (Commissioning Grants Prospectus) - a mechanism to release funding previously known as Learning Disability Development Fund (LDDF) – a funding stream from central government to develop innovative provision following the publication of Valuing People.

## **2.2 Reasons for the revision**

On 9 February 2016, at a full Council meeting, a decision was taken to “*Delete the savings proposal of £0.093m for the Zest social enterprise car valet service*”. The decision was not time limited and no review date was set.

In the light of current performance and costs of the operation, on 4 July 2017 Adult Social Care & Health Departmental Management Team requested further work be undertaken to look at future options for the service including the possibility of transferring the service to an alternative organisation in order to enhance outcomes for individuals and to reduce costs.

## **2.3 Scope of the update**

This EIA looks specifically at the impact of the proposal to cease the Zest car valet service in its current form and how the transition to move management of services to sit with the East Sussex County Council Adult Social Care Skills Development Pathway for Learning Disabilities.

The service primarily supports adults who have a learning disability or autism. The majority of clients live in the community and receive a range of care services.

This group may also fall within other protected characteristics: Age, Gender, Gender reassignment, Sexual orientation, Race, Religion or belief, Pregnancy and maternity, Marriage and civil partnership.

There would also be an impact on the project staff themselves.

The proposal has been developed to ensure that clients currently attending the Zest service would continue to do so. It is anticipated that if the service was run within the East Sussex Skill Development Pathway existing sessions would continue with the potential for more to be added. Therefore existing clients should be able to attend the same sessions as they currently access, and it is envisaged that – should the proposal be approved – the current project staff could be transferred under existing TUPE arrangements, as outlined in the proposal.

## **2.4 Has there been any change to who is affected by this revised EqIA?**

No

## **2.5 Main differences between original EqIA and the update**

The original Equality Impact Assessment's scope examined the impact of ceasing the Zest service, amongst other identified services which served the same people with learning disabilities and autism.

The current proposal is focussed solely on the Zest service and the impact being assessed is of a change to the structure of the service to improve outcomes as identified in the service specifications.



### Part 3 - Consideration of additional data and research

#### 3.1 List any examples of additional quantitative and qualitative data or any consultation information available for the update

Please mark the relevant boxes below with an 'X'

<b>Census</b>	
<b>Consultation</b>	
<b>Complaints</b>	
<b>ESiF</b>	
<b>Other</b>	<b>X</b>
<b>Staff survey</b>	

There are currently between 12 and 14 clients using the Zest car valeting service.

#### 3.2 Have you carried out any additional consultation or research to complete this update?

A review of quarterly performance information and a desktop review of the service's cost benefit analysis was undertaken.

#### 3.3 What does the consultation, research and/or data indicate about the negative impact of the project, policy, service or strategy update?

Because the proposal is based on a continuation of the service we anticipate that there will be a neutral impact on clients who currently attend, and their carers and families. Within that, we recognise that there may be perceived anxieties about changes and managing communication with everybody involved will be important.

This also relates to employees of the current service, and the concerns they may have about their employment status in light of the proposal to transfer the service to sit within East Sussex County Council.

#### 3.4 What does the consultation, research and/or data indicate about the positive impact of the project or update?

The proposal for the service to continue will be positive for the clients, families and carers who currently have contact with Zest. We know from anecdotal feedback that clients have a positive experience of the service.

The proposal also outlines potential additional benefits through positioning the Zest service within East Sussex County Council Directly Provided Services (DPS) there will be broader benefits to a wider client group across the county.

Outcomes are likely to improve for existing clients due to closer links with the East Sussex County Council supported employment services.

## Part 4 – Changes to assessment of impact

### 4.1 From the evidence available, does the update affect or have the potential to affect equality groups differently?

Please mark the relevant boxes below with an 'X'

	Yes	No	No change
Age			X
Disability	X		
Ethnicity			X
Gender/transgender			X
Marriage and Civil Partnership			X
Maternity and Pregnancy			X
Religion, belief			X
Sexual orientation			X
Others (please state e.g carers/ruralityetc): Carers	X		

### 4.2 If yes, do any of the differences amount to? Please duplicate this box for each equality group that you identify will have a changed impact.

	Reason, evidence, comment
<b>Barriers, negative impact or unlawful discrimination</b>	N/A
<b>Neutral Impact</b>	<p>Although there may be natural anxieties about any change process, because the proposal centres on the continuation of the activities that Zest provides, we anticipate that there will be a neutral impact for the people with learning disability and autism who currently use the service, and their carers and families.</p> <p>Existing employees (including Directors) of the service may have concerns about the proposals, specifically the transition of the service to sit within East Sussex County</p>

	Council.
<b>Positive impact</b>	We also anticipate possible positive impact with the additional opportunities that may come of having the service more strongly aligned with the County Council's Supported Employment services.

- a) If there is a negative impact, can it be justified on the grounds of promoting equality of opportunity for one group over another or for another legitimate reason?

N/A

**4.3 Specify measures that can be taken to remove or minimise the disproportionate or negative effect identified in Section 3. If none were identified in Section 3; identify how disproportionate impact or adverse effect could be avoided in future.**

The current service operates as Community Interest Company (CIC) and has been supported by funding from the Commissioning Grants Prospectus (as outlined in 2.1) A stronger link with East Sussex County Council's Supported Employment Service may reduce future concerns from employees and current clients, their carers and families about the resilience and long term sustainability of the service.

**4.4 How will any amended project, policy, service or strategy be implemented, including any necessary training?**

The proposal will be discussed by the County Council's cabinet and a decision will be made at when they meet. During that process the proposal will be made public and Adult Social Care will share information with clients, carers and their families as well as the Directors and employees of Zest.

If approved, we will undertake any necessary consultation process as advised by the County Council's Human Resources team with the Directors and employees of Zest.

Concurrently, we will develop clear and appropriate communication for the current clients of Zest, their carers and families. Ensuring that there is adequate time for people to absorb the proposed changes will be paramount, as will allowing space for questions to be asked and answered.

## **Part 5 - Conclusions and recommendations**

### **5.1 Does the project, policy, service or strategy comply with equalities legislation?**

Yes

### **5.2 What are the main areas requiring further attention?**

Addressing the possible and perceived anxieties around change of service with everyone involved – especially existing clients, their carers and families is paramount.

### **5.3 Summary of recommendations for improvement**

We will prepare an action plan – including communications and engagement support – which addresses the issues identified in this Equality Impact Assessment.

In addition we will take advice from our Human Resources and Legal departments to inform a clear and timely process for consultation.

### **5.4 Is there a plan in place to carry out regular checks on the effects of the project, policy, service or strategy?**

(Give details)

All Learning Disability services that are provided by the Council are reviewed regularly with performance data and outcomes reported to managers and discussed on a quarterly basis by the management team.

### **5.5 When will the updated project, policy, service or strategy be reviewed?**

A review of the effectiveness of the service will be completed 12 months from the start date of the transferred service. This will be undertaken by the Head of Service for Learning Disability Services.

## Part 6 – Revised equality impact assessment improvement plan

The table below should be completed using the information from the updated equality impact assessment to produce an action plan for the implementation of the proposals to:

1. Lower the negative impact, and/or
2. Ensure that the negative impact is legal under anti-discriminatory law, and/or
3. Provide an opportunity to promote equality, equal opportunity and improve relations within equality target groups, i.e. increase the positive impact
4. If no action complete summary form on intranet page.

**Please ensure that you update your service/business plan within the equality objectives/targets and actions identified below:**

If the proposal is approved:

Area of negative/neutral impact	Changes proposed	Lead Manager	Timescale	Resource implications	Comments
Continuation of service for existing clients and anxiety about change	Clear and appropriate communications to be developed, and opportunities to ask questions to allay anxieties about change	Richard Lewis			
Continuation of service for carers and families of existing clients and anxiety about change					
Concerns about employment and HR processes with staff involved in the project	Timely information and support for employees to respond to a consultation process.	Richard Lewis			