

Equalities implications

Following the introduction of the Equality Act 2010 ('the EA') a public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the EA;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic (as defined by the EA) and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The protected characteristics set out in the EA are age, disability, gender reassignment, pregnancy/maternity, race, religion or belief, sex and sexual orientation. Marriage and civil partnership are also protected characteristics for the purposes of the duty to eliminate discrimination. When making decisions the County Council also considers other matters such as the impact of rurality, deprivation, care experience and being a carer, where relevant.

Prior to making a decision on the budget, Members must have due regard to the Equality Duty contained in Section 149 of the EA. Assessing the impact of proposed changes to policies, procedures and practices is not just something the law requires, it is a positive opportunity for ESCC to ensure it makes good decisions based on robust evidence.

Having "due regard" does not necessarily require the achievement of all the aims set out in section 149 of the EA. Instead, it requires that Members understand the consequences of the decision for people with the relevant protected characteristics and consider these alongside other relevant factors when making the decision to pursue one course of action rather than another, alternative, course of action that may have different consequences. The regard which is necessary will depend upon the circumstances of the decision in question and should be proportionate. Where a decision is likely to have an impact on a significant number of people, or where it is likely to have a significant impact on even a small number of people, the regard required will be high. Even though the Council is not making decisions about specific saving proposals, in setting the Budget it is necessary for the Council to begin to understand the potential impacts.

This means that in setting the Budget, the three equality aims set out above must be considered as a relevant factor alongside financial constraints and all other relevant considerations. Members must consider the potential equalities impacts, as identified, of savings proposals (including any proposed amendments). Despite maximising efficiency and exploiting new ways of working, the business planning process for 2025/26 and beyond requires difficult choices to be made both within and between portfolios and services.

It is open to the Council to formulate its budget proposals (having regard to the likely impact on protected characteristics, as set out in the table), and then, at the time of developing the policies, to consider in greater detail the specific impact of the proposed policies that might be implemented within the budgetary framework.

The EA does not require the use of a specific template for an equality impact assessment (EqIA); however, cases considering the public sector equality duty have held that a documented impact assessment is the best way to demonstrate that the equalities impacts have been identified and considered. As such, an assessment of the likely impacts of proposals or policies on those with protected characteristics must be carried out at a formative stage, and before implementation. In this way, the EqIA will form an integral part of the Council's policy setting. Proposals will only be implemented after due regard has been paid to the need to achieve the three aims set out in Section 149 of the EA.

A high level assessment of the equality impacts of the proposed savings is set out within the table attached. Specific executive decisions as to how achieve savings within the agreed budget limit will be taken by the relevant portfolio holders and Directors, and shall be made based on a clear understanding of what the potential equality impacts of doing one thing rather than another will be. It will be open to Directors and Lead Members at the time of taking those decisions to spend more on one activity and less or none on another or, where necessary to go back to County Council and invite it to reconsider the allocation to different service areas.

Members must read the equality impact assessments and take their findings into consideration when determining these proposals.

Findings on possible impact from an overall review of savings proposals

The tables attached show the potential impact of the initial, suggested reductions in budgets for each department and highlights that the budget reductions will broadly impact most on the protected characteristics of age (older people and children / young people) and disability as people with these characteristics are most likely to be accessing the affected services. Other impacts are also identified on carers and people living in rural areas, with fewer impacts identified in relation to the other characteristics.

Members will need to ensure that the impacts on those sharing protected characteristics are considered when either revising or removing current services, or where services transfer to partner organisations. Additional work will be required to identify the

impacts on those sharing protected characteristics, which will take place as policies are developed, following the setting of the revenue budget.

The public sector equality duty set out in the EA is a continuing one, and it will therefore be necessary to monitor the effects of decisions and policies, not only during their formulation, but also after implementation.

In preparing the budget and considering individual savings proposals, Members have, in addition to the Section 149 Public Sector Equality Duty, to consider whether the budget as a whole and the individual savings proposals identified will indirectly discriminate against persons with any of the protected characteristics. Indirect discrimination occurs where a practice, policy or rule of the County Council which otherwise seems neutral (i.e. it applies to everyone affected in the same way) nevertheless places people with one or more of the protected characteristics at a particular disadvantage.

Even where a particular disadvantage has occurred, the proposal will not amount to indirect discrimination if it can be demonstrated that there is an objective justification for the proposal; i.e. that the proposal is a proportionate means of achieving a legitimate aim. Where it can be demonstrated that a particular savings proposal is a proportionate means of achieving a legitimate aim, that proposal will not be indirectly discriminatory. However, if there is no legitimate aim, or if the means of achieving the aim are not proportionate, for a savings proposal which creates a particular disadvantage, that savings proposal would amount to indirect discrimination and would be unlawful under the Equality Act 2010.

The consideration of indirect discrimination has included an analysis of (a) whether there is any particular disadvantage as a result of each relevant proposal, (b) whether there is a legitimate aim and (c) whether the means of achieving the aim is proportionate. The legitimate aims that relate to the savings proposals are:

- the County Council must achieve savings to its budget;
- across the Council's budgets, all areas are facing a reduction in funding (and therefore, looking at the budget more broadly, all protected characteristics will be impacted by reductions in service); and
- the County Council must deliver its statutory services and therefore a significant proportion of the available funding must be used for those statutory services.

Where it has been identified that a proposal may have a particular disadvantage, consideration has to be given as to whether there may be a more proportionate means of achieving these aims. It is considered that both the overall budget, and the specific savings proposals identified are a proportionate means to achieve the Council's legitimate aims set out above.