

Equality Impact Assessment

Strategy or Policy Template

Name of the strategy or policy
Education, Health and Care Plans for 16-25 year olds

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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 – Aims and implementation of the proposal, strategy or policy

2.1 What is being assessed?

- a) Proposal or name of the strategy or policy.** New guidance to determine when an Education, Health and Care Plan (EHCP) is appropriate for a young person with special educational needs and disability (SEND)
- b) What is the main purpose or aims of proposal, strategy or policy?** To provide clarity and transparency for families, education providers and professional staff about the issues which will be taken into account by Council staff in deciding when an Education, Health and Care Plan is required for a young person aged 16-25 with special educational needs and disability
- c) Manager(s) and section or service responsible for completing the assessment**

Jane Barker, ISEND consultant

2.2 Who is affected by the proposal, strategy or policy? Who is it intended to benefit and how?

Young people with SEND and their families. Providers of education and other services to young people with SEND and their families. These groups will benefit from the guidance as it will offer clarity about the issues which will inform whether or not they will receive a statutory Education Health and Care Plan as they prepare for and move into adulthood

2.3 How is, or will, the proposal, strategy or policy be put into practice and who is, or will be, responsible for it?

The guidance will be used by staff working in the Assessment and Planning team to inform their conversations with young people, families, and service providers about Education Health and Care Plan reviews and new applications. The guidance will be used by professionals in education and other services working with young people with SEND and their families, to explain the Council's approach to special needs and disability services for young people aged 16-25.

2.4 Are there any partners involved? E.g. NHS Trust, voluntary/community organisations, the private sector? If yes, how are partners involved?

The following partners have been involved in the formation of the guidance- Adults social care transition service, East Sussex Parent and Carer Council representatives, young people with SEND at Sussex Coast College, College representatives, professional education staff. Consultation with all key stakeholders, including schools, will inform the final version of the guidance.

2.5 Is this project or procedure affected by legislation, legislative change, service review or strategic planning activity?

The guidance is being produced following the introduction of the Children and Families Act in 2014 which extended the possibility of maintaining a statutory

Education, Health and Care Plan up to the age of 25 (instead of 19 as under previous legislation). The Council needs to be clear how this is to be implemented.

Part 3 – Methodology, consultation, data and research used to determine impact on protected characteristics.

3.1 List all examples of quantitative and qualitative data or any consultation information available that will enable the impact assessment to be undertaken.

Types of evidence identified as relevant have X marked against them			
	Employee Monitoring Data		Staff Surveys
x	Service User Data		Contract/Supplier Monitoring Data
x	Recent Local Consultations		Data from other agencies, e.g. Police, Health, Fire and Rescue Services, third sector
	Complaints		Risk Assessments
	Service User Surveys	x	Research Findings
	Census Data	x	East Sussex Demographics
	Previous Equality Impact Assessments		National Reports
	Other organisations Equality Impact Assessments		Any other evidence?

3.2 Evidence of complaints against the strategy or policy on grounds of discrimination.

3.3 If you carried out any consultation or research on the strategy or policy explain what consultation has been carried out.

Stakeholder event with key partners invited to attend. Participation event with small group of young people with SEND at local College. Consultation exercise through Council web site and with school/College community

3.4 What does the consultation, research and/or data indicate about the positive or negative impact of the strategy or policy?

Stakeholder event recognised the value of developing guidance and the need to identify flexible education and training pathways for young people with SEND. Stakeholders emphasised the importance of communication, forward planning and integrated approaches across Council and other services. Young people emphasised the importance they attached to their education programme and the ability to have an individual programme to meet their needs

Part 4 – Assessment of impact

4.1 Age: Testing of disproportionate, negative, neutral or positive impact.

a) How is this protected characteristic reflected in the County /District/Borough?

There are potentially 2430 young people with SEND aged between 16 and 25 across East Sussex.

How is this protected characteristic reflected in the population of those impacted by the proposal, strategy or policy?

This is the population group which will be impacted by the proposed guidance

b) Will people with the protected characteristic be more affected by the proposal, policy or strategy than those in the general population who do not share that protected characteristic?

Yes

c) What is the proposal, strategy or policy's impact on different ages/age groups?

This proposal specifically relates to young people with SEND aged 16-25

d) What actions are to/ or will be taken to avoid any negative impact or to better advance equality?

The impact of the guidance on the education outcomes being achieved by young people with SEND will be monitored

e) Provide details of the mitigation.

The guidance relates to new rights acquired by young people with SEND, so mitigation is not relevant. The impact of the guidance on the number of young people receiving an Education, Health and Care Plan and the educational outcomes they achieve will be kept under review and compared with outcomes (as far as possible) which were being monitored prior to the change in legislation.

f) How will any mitigation measures be monitored?

See above

4.2 Disability: Testing of disproportionate, negative, neutral or positive impact.

a) How is this protected characteristic reflected in the County/District/Borough?

All the young people affected by this proposal have special educational needs and/or disability. Not all young people will be registered disabled, and not all registered disabled are impacted by the guidance. It is estimated up to 2430 young people aged between 16 and 25 with special educational needs will be affected.

b) How is this protected characteristic reflected in the reflected in the population of those impacted by the proposal, strategy or policy?

All the young people affected by this proposal have special educational needs and/or disability. This is estimated to be up to 2430 young people aged between 16 and 25

c) Will people with the protected characteristic be more affected by the proposal, policy or strategy than those in the general population who do not share that protected characteristic?

Yes

d) What is the proposal, strategy or policy's impact on people who have a disability?

To provide clarity about when a statutory Education Health and Care Plan is appropriate

e) What actions are to/ or will be taken to avoid any negative impact or to better advance equality?

The impact of the guidance on the education outcomes being achieved by young people with SEND will be monitored

f) Provide details of any mitigation.

The guidance relates to new rights acquired by young people with SEND, so mitigation is not relevant. The impact of the guidance on the number of young people receiving an Education, Health and Care Plan and the educational outcomes they achieve will be kept under review and compared with outcomes (as far as possible) which were being monitored prior to the change in legislation.

g) How will any mitigation measures be monitored?

See above

4.3 Ethnicity: Testing of disproportionate, negative, neutral or positive impact.

- Nationality e.g. being a British, Australian or Swiss citizen
- Ethnic or national origins e.g. being from a Roma background or of Chinese Heritage

a) How is this protected characteristic reflected in the County/District/Borough?

Figures from the 2011 census show that 4.7% of the population aged 15-29 in East Sussex is from an ethnic minority background compared with 6.2% of young people with Statements of Special Educational Need aged 15-19. No direct comparator statistics are available

b) How is this protected characteristic reflected in the population of those impacted by the proposal, strategy or policy?

There is likely to be a slightly higher proportion of children /young people from an ethnic minority background amongst the population aged 16-15 with special educational needs and disability, than in the general young person population.

c) Will people with the protected characteristic be more affected by the proposal, policy or strategy than those in the general population who do not share that protected characteristic?

Slightly

d) What is the proposal, strategy or policy's impact on those who are from different ethnic backgrounds?

In its application the guidance should be applied consistently across the 16-25 population. The legislation requires a personalised approach which should take account of any specific needs arising from ethnicity

e) What actions are to/ or will be taken to avoid any negative impact or to better advance equality?

The impact of the guidance on the education outcomes being achieved by young people with SEND will be monitored, including a breakdown of outcomes by ethnic background

f) Provide details of any mitigation.

The guidance relates to new rights acquired by young people with SEND, so mitigation is not relevant. The impact of the guidance on the number of young people receiving an Education, Health and Care Plan and the educational outcomes they achieve will be kept under review and compared with outcomes (as far as possible) which were being monitored prior to the change in legislation.

g) How will any mitigation measures be monitored?

See above

4.4 Gender/Transgender: Testing of disproportionate, negative, neutral or positive impact

a) How is this protected characteristic target group reflected in the County/District/Borough?

b) How is this protected characteristic reflected in the population of those impacted by the proposal, strategy or policy?

- c) Will people with the protected characteristic be more affected by the proposal, policy or strategy than those in the general population who do not share that protected characteristic?**

48.8% of the population aged 16-25 is female and 51.2% is male

- d) What is the proposal, strategy or policy's impact on different genders?**

Boys and young men are more likely to be assessed as having special educational needs requiring a Statement or EHCP. 74.1% of the population aged 15-19 with a Statement of SEN is male

- e) What actions are to/ or will be taken to avoid any negative impact or to better advance equality?**

Understanding the reasons for the gender balance of young people with disability is complex. It is thought there is a greater prevalence of certain types of SEN, such as autism within the male population, which is reflected in the figures. On the other hand there is some evidence that females with SEN may be under recognised because their presenting behaviours may be less concerning in a classroom environment. Understanding the impact of these issues form a part of professional practice within the Assessment and Planning service and the Educational psychology service. On-going awareness raising with schools, colleges and professionals re gender issues is provided.

- f) Provide details of any mitigation.**

The guidance relates to new rights acquired by young people with SEND, so mitigation is not relevant. The impact of the guidance on the number of young people receiving an Education, Health and Care Plan and the educational outcomes they achieve will be kept under review and compared with outcomes (as far as possible) which were being monitored prior to the change in legislation.

- g) How will any mitigation measures be monitored?**

See above

4.5 Marital Status/Civil Partnership: Testing of disproportionate, negative, neutral or positive impact.

- a) How is this protected characteristic target group reflected in the County/District/Borough?**

This is largely inapplicable as very few young people with SEND who are continuing education will be married or in a civil partnership. Individual cases would be considered on an individual basis as required by legislation.

- b) How is this protected characteristic reflected in the population of those impacted by the proposal, strategy or policy?**

- c) Will people with the protected characteristic be more affected by the proposal, policy or strategy than those in the general population who do not share that protected characteristic?**
- d) What is the proposal, strategy or policy's impact on people who are married or same sex couples who have celebrated a civil partnership?**
- e) What actions are to/ or will be taken to avoid any negative impact or to better advance equality?**
- f) Provide details of any mitigation.**
- g) How will any mitigation measures be monitored?**

4.6 Pregnancy and maternity: Testing of disproportionate, negative, neutral or positive impact.

- a) How is this protected characteristic target group reflected in the County/District/Borough?**

This is largely inapplicable as very few young people with SEN aged 16-25 are affected by pregnancy or maternity services. Individual cases would be considered on an individual basis as required by legislation.

- b) How is this protected characteristic reflected in the population of those impacted by the proposal, strategy or policy?**
- c) Will people with the protected characteristic be more affected by the proposal, policy or strategy than those in the general population who do not share that protected characteristic?**
- d) What is the proposal, strategy or policy's impact on pregnant women and women within the first 26 weeks of maternity leave?**
- e) What actions are to/ or will be taken to avoid any negative impact or to better advance equality?**

- f) Provide details of the mitigation**
- g) How will any mitigation measures be monitored?**

4.7 Religion, Belief: Testing of disproportionate, negative, neutral or positive impact.

- a) How is this protected characteristic reflected in the County/District/Borough?**
- b) How is this protected characteristic reflected in the population of those impacted by the proposal, strategy or policy?**
- c) Will people with the protected characteristic be more affected by the proposal, policy or strategy than those in the general population who do not share that protected characteristic.**
- d) What is the proposal, strategy or policy's impact on the people with different religions and beliefs?**
- e) What actions are to/ or will be taken to avoid any negative impact or to better advance equality?**
- f) Provide details of any mitigation.**
- g) How will any mitigation measures be monitored?**

4.8 Sexual Orientation - Gay, Lesbian, Bisexual and Heterosexual: Testing of disproportionate, negative, neutral or positive impact.

a) How is this protected characteristic reflected in the County/District/Borough?

b) How is this protected characteristic reflected in the population of those impacted by the proposal, strategy or policy?

As above

c) Will people with the protected characteristic be more affected by the proposal, policy or strategy than those in the general population who do not share that protected characteristic?

No

d) What is the proposal, strategy or policy's impact on people with differing sexual orientation?

No specific impact

e) What actions are to/ or will be taken to avoid any negative impact or to better advance equality?

staff training

f) Provide details of the mitigation

not applicable

g) How will any mitigation measures be monitored?

not applicable

4.9 Other: Additional groups/factors that may experience impacts - testing of disproportionate, negative, neutral or positive impact.

a) How are these groups/factors reflected in the County/District/Borough?

Not applicable

b) How is this group/factor reflected in the population of those impacted by the proposal, strategy or policy?

c) Will people within these groups or affected by these factors be more affected by the proposal, policy or strategy than those in the general population who are not in those groups or affected by these factors?

d) What is the proposal, strategy or policy's impact on the factor or identified group?

e) What actions are to/ or will be taken to avoid any negative impact or to better advance equality?

f) Provide details of the mitigation.

g) How will any mitigation measures be monitored?

4.10 Human rights- Human rights place all public authorities – under an obligation to treat you with fairness, equality, dignity, respect and autonomy. **Please look at the table below to consider if your proposal, policy or strategy may potentially interfere with a human right.**

Articles	
A2	Right to life (e.g. pain relief, suicide prevention)
A3	Prohibition of torture, inhuman or degrading treatment (service users unable to consent, dignity of living circumstances)
A4	Prohibition of slavery and forced labour (e.g. safeguarding vulnerable adults)
A5	Right to liberty and security (financial abuse)
A6 & 7	Rights to a fair trial; and no punishment without law (e.g. staff tribunals)
A8	Right to respect for private and family life, home and correspondence (e.g. confidentiality, access to family)
A9	Freedom of thought, conscience and religion (e.g. sacred space, culturally appropriate approaches)
A10	Freedom of expression (whistle-blowing policies)
A11	Freedom of assembly and association (e.g. recognition of trade unions)
A12	Right to marry and found a family (e.g. fertility, pregnancy)
Protocols	
P1.A1	Protection of property (service users property/belongings)
P1.A2	Right to education (e.g. access to learning, accessible information)
P1.A3	Right to free elections (Elected Members)

Part 5 – Conclusions and recommendations for decision makers

5.1 Summarise how this proposal/policy/strategy will show due regard for the three aims of the general duty across all the protected characteristics and ESCC additional groups.

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
- Advance equality of opportunity between people from different groups
- Foster good relations between people from different groups

5.2 Impact assessment outcome Based on the analysis of the impact in part four please mark below ('X') with a summary of your recommendation.

X	Outcome of impact assessment	Please explain your answer fully.
x	A No major change – Your analysis demonstrates that the policy/strategy is robust and the evidence shows no potential for discrimination and that you have taken all appropriate opportunities to advance equality and foster good relations between groups.	
	B Adjust the policy/strategy – This involves taking steps to remove barriers or to better advance equality. It can mean introducing measures to mitigate the potential effect.	
	C Continue the policy/strategy - This means adopting your proposals, despite any adverse effect or missed opportunities to advance equality, provided you have satisfied yourself that it does not unlawfully discriminate	
	D Stop and remove the policy/strategy – If there are adverse effects that are not justified and cannot be mitigated, you will want to consider stopping the policy/strategy altogether. If a policy/strategy shows unlawful discrimination it <i>must</i> be removed or changed.	

5.3 What equality monitoring, evaluation, review systems have been set up to carry out regular checks on the effects of the proposal, strategy or policy?

(Give details)

5.6 When will the amended proposal, strategy or policy be reviewed?

Equality Impact Assessment

Date completed:		Signed by (person completing)	
		Role of person completing	
Date:		Signed by (Manager)	

Part 6 – Equality impact assessment action plan

If this will be filled in at a later date when proposals have been decided please tick here and fill in the summary report.

The table below should be completed using the information from the equality impact assessment to produce an action plan ☐ 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 actions fill in separate summary sheet.**

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

Area for improvement	Changes proposed	Lead Manager	Timescale	Resource implications	Where incorporated/flagged? (e.g. business plan/strategic plan/steering group/DMT)

(a) 6.1 Accepted Risk

From your analysis please identify any risks not addressed giving reasons and how this has been highlighted within your Directorate:

Area of Risk	Type of Risk? (Legal, Moral, Financial)	Can this be addressed at a later date? (e.g. next financial year/through a business case)	Where flagged? (e.g. business plan/strategic plan/steering group/DMT)	Lead Manager	Date resolved (if applicable)