

# Equality Impact Assessment

## Strategy or Policy Template

Name of the strategy or policy
Introduction of a Charging Policy for Children who become Looked After at the request of their parents under Section 20 of the Children Act (1989)

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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.

Introduction of a charging policy for children who become Looked After at the request of their parents under Sec 20 of the Children Act (1989)

#### b) What is the main purpose or aims of proposal, strategy or policy?

To introduce a charging policy in specific and limited circumstances that is legally compliant.

#### c) Manager(s) and section or service responsible for completing the assessment

Locality Services

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

As of 31.1.2020 ESCC is caring for 105 children who are accommodated via Section 20 of the Children Act (1989). Because there has been no charging policy in place thus far, it is not possible to determine how many of these children might have incurred a financial charge to their parents. It is highly likely however that many would be, had the exceptions set out below been applied.

Going forward, the proposal will impact any parent who makes a request to ESCC for their child to be accommodated on a voluntary basis **unless** the following specific exceptions apply i.e:

- they are in receipt of some means tested benefits including Income Support, any element of Child Tax Credit other than the family element of Working Tax Credit, income-based Job Seekers Allowance, or income related Employment Support Allowance.
- they have no personal finance from any source.
- if care is required to support a family with a severely disabled child
- the child is subject to an Interim Care Order, Care Order, Emergency Protection Order or subject to Police Protection.
- the child is remanded into Local Authority foster care, or subject to a Youth Rehabilitation Order with an attached Residence Order (Child Arrangement Order).
- the child is detained under S38(6) of the Police and Criminal Evidence Act 1984, or under S92 of the Powers of Criminal Courts (sentencing) Act 2000
- the accommodation is provided as part of an aftercare service under section 117 of The Mental Health Act
- the child is placed with parents under S22(c) of the Children Act 1989

- the child has been relinquished for adoption

**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 proposal is for consideration of a financial contribution to become part of the process when a child enters care **at the request of their parents**. Parents will be given financial assessment forms to complete by the relevant social worker and thereafter an annual review of financial circumstances will take place within CSD to ensure the contribution remains at a suitable rate in response to any changes in either parental circumstances and/or any adjustments made to the DfE recommended fostering allowance.

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

No

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

A liable parent can be required to contribute a weekly amount to the care of their child, the level of which will be decided after a financial assessment has been completed by ESCC staff in CSD who currently assess carers in receipt of both Adoption Allowances and Special Guardianship Allowances. The proposal is that the amount will not exceed that paid to ESCC foster carers caring for a similar child. This amount is guided by the Department for Education (DfE) recommended minimum fostering allowance rates and East Sussex fostering allowance rates which are reviewed annually.

## 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
	Service User Data		Contract/Supplier Monitoring Data
	Recent Local Consultations	X	Data from other agencies, e.g. Police, Health, Fire and Rescue Services, third sector
	Complaints		Risk Assessments
	Service User Surveys		Research Findings
	Census Data		East Sussex Demographics
	Previous and other organisations' Equality Impact Assessments		National Reports
x	Policies from other local authorities		Any other evidence?

### 3.2 Evidence of complaints against the strategy or policy on grounds of discrimination. No

### 3.3 If you carried out any research on the strategy or policy, please explain.

The manager responsible for the proposal researched the policies of several different local authorities, notably Hampshire and Somerset. Hampshire has implemented a charging policy, and is also a high-performing authority, in terms of its outcomes for children and results of Inspections.

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

Discussions with other local authorities who have introduced similar policies have not indicated that any negative feedback from parents has been received.

## 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?**

Because there has been no charging policy in place thus far it is not possible to determine the age of the children or the parents of the children, who might have incurred a financial charge.

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

Parents can request section 20 accommodation for any child aged 0-18.

**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?**

Only children who enter care under Section 20 will be included within this policy –

However, we are not able to say what age group this might more likely affect, both in terms of the parents or the children.

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

Charges related to young people over 16 are excluded from the policy

Remands to care will also be exempt - this covers children aged 10+ and who have reached the age of criminal responsibility

Similarly parents of any child that is relinquished for adoption will not be charged- this most usually applies to very young babies.

**e) How will any mitigation measures be monitored?**

Equality monitoring will be carried out of parents who request assessment, as well as their children, to understand if different age groups are disproportionately affected.



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

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

As the financial charging is not in place now, we are unable to identify if there is a disproportionate number of disabled parents who might, in the future, be subject to a charge.

**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?**

Unknown, as this is not monitored now.

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

No charge will be applied, if care is required to support a family with a severely disabled child or if the accommodation is provided as part of an aftercare service under Section 117 of The Mental Health Act

**d) How will any mitigation measures be monitored?**

Equality monitoring will be carried out of parents who request assessment, as well as their children, to understand if disabled people are disproportionately affected.

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

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

Because there has been no charging policy in place thus far it is not possible to determine the ethnicity of the parents and the children, where the proposed policy might require a charge in the future.

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

Different ethnic groups are not reflected disproportionately in the overall profile of children accommodated via Sec 20 and thus this proposal will not impact them disproportionately.

**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?**

Because there has been no charging policy in place thus far it is not possible to determine the ethnicity of the parents and the children, where the proposed policy might require a charge in the future.

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

Clear information to parents. Signposting to early help and other support services.

- e) Provide details of any mitigation.**

Clarifying and communicating the new charging policy through Single Point of Advice

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

Equality monitoring of the parents of children who become looked after at the request of their parents; and of their children.

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

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

Different genders are not reflected disproportionately in the cohort of children, and of their parents and carers who are accommodated via Sec 20 and thus this proposal will not impact different genders.

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

Equality monitoring and inclusion of the 'trans' question in social care monitoring systems.

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

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

We do not currently record the marital status of parents of children who are subject to Section 20

- b) What is the proposal, strategy or policy's impact on people who are married or same sex couples who have celebrated a civil partnership?**

In cases where parents are separated but are both found to be liable, the proposal is that the charge will be divided equally between the parents.

Where a Maintenance Order is in force in respect of the child, the sum as detailed in the Contribution Agreement will be claimed from the parent who receives the Maintenance Order.

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

Equality monitoring in relation to marital status of the parents of children who become looked after at the request of their parents is currently being developed and improved.

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

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

Families with different religion or belief are not disproportionately represented in this cohort of families covered by this proposal.

**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 population of those impacted by the proposal, strategy or policy?**

We do not currently record the sexual orientation of parents of children who are subject to Section 20

**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?**

Unknown

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

We are developing the capability to record sexual orientation of parents of children subject to Section 20.

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

Low income parents of children subject to Section 20.

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

Parents on low income will not be subject to the proposed charging policy. This includes if:

- they are in receipt of some means tested benefits including Income Support, any element of Child Tax Credit other than the family element of Working Tax Credit, income-based Job Seekers Allowance, or income related Employment Support Allowance.
- they have no personal finance from any source.

**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	<b>A No major change</b> – 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.	The cohort of families that will be covered by the proposal to charge parents will be very small. Attention has been paid to identifying exemptions and to allowing senior staff discretion not to apply the policy, when it is deemed inappropriate to the safety and welfare of the child concerned.
	<b>B Adjust the policy/strategy</b> – This involves taking steps to remove barriers or to better advance equality. It can mean introducing measures to mitigate the potential effect.	
	<b>C Continue the policy/strategy</b> - 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	
	<b>D Stop and remove the policy/strategy</b> – 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?

Annual review will take place on any charges that have been levied as part of the financial review process.

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

# Equality Impact Assessment

<b>Date completed:</b>	<b>24.02.2020</b>	<b>Signed by (person completing)</b>	<b>Liz Rugg</b> 
		<b>Role of person completing</b>	<b>Assistant Director</b>
<b>Date:</b>	<b>24.02.2020</b>	<b>Signed by (Manager)</b>  <b>Signature:</b>	<b>Stuart Gallimore</b> 