

Equality Impact Assessment

Relating to: **South West Sub-Regional ISS/NMSS Flexible Framework Agreement**

Date: **19th June 2012**

Introduction

This Impact Assessment supports the County Council in meeting its legal obligations under the **Public Sector Equality Duty**, now contained in section 149 of the Equality Act 2010. The Equality Duty ensures that public bodies have due regard to the statutory needs referred to in section 149 when exercising their functions.

Section 149 provides that in exercising its functions an authority must have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and others who do not share it; and
- foster good relations between people who share a protected characteristic and those who do not share it.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and others who do not share it involves having due regard (in particular) to the need to:

- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and
- encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and those who do not share it involves having due regard (in particular) to the need to tackle prejudice and to promote understanding.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled person's disabilities.

Compliance with the duties in section 149 may involve treating some persons more favourably than others; but not if that would itself involve conduct which is made unlawful under the Equality Act 2010.

The protected characteristics to which the duty applies are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation, also marriage and civil partnership but only in respect of the requirement to have due regard to the need to eliminate discrimination.

Having **due regard to** means consciously thinking about the statutory needs as part of the process of decision making, when the proposals are still at a formative stage, and before a decision is reached. This means that consideration of those equality issues must influence the decisions reached by public bodies. The Equality Duty must be exercised in substance, with rigour and with an open mind.

Indirect discrimination occurs where a condition criterion or practice is applied which would put people with one of the protected characteristics at a disadvantage, and the imposition of that condition, criterion or practice is not a proportionate means of achieving a legitimate aim, i.e. it cannot be objectively justified.

It is important to understand and consider how different people will be affected by the decisions the Council makes, so that policies and services are appropriate and accessible to all and meet different people's needs.

This assessment will help you think about the potential impact your proposals will have on all sections of the community. Recognising these impacts early on in the process of developing policies will assist good decision making and ensure that the County Council delivers services appropriate to people's needs. Remember that the Equality Duty involves having due regard to the needs to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not, as well as to eliminate discrimination and other conduct which is unlawful under the Equality Act 2010.

1. Person responsible for undertaking this assessment:

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Service: Commissioning: Children & Families - Individual Commissioning Services Team	E-mail: sue.meredith@gloucestershire.gov.uk
	Date of Assessment: 19th June 2012

2. Name and brief description of the policy, service, strategy, procedure or function: (indicate whether new or revised)

To gain approval for Gloucestershire County Council to participate in developing and leading a procurement process (undertaken by Gloucestershire County Council as lead authority) for the creation of a multi supplier Flexible Framework Agreement for the provision of Independent Special Schools / Non Maintained Special School service providers for participating local authorities, to take effect from the 1st June 2013. Participating local authorities are: Bristol, Bath & NES, Gloucestershire (lead authority), South Gloucestershire and Wiltshire, with the possibility of North Somerset and/or Swindon Councils also signing up.

3. Briefly describe its aims and expected outcomes

The aim of the procurement process is to ensure that it results in the participating Local Authorities obtaining a sufficient list of pre-qualified special needs (SEN) providers who can meet each Local Authority's needs (including diversity of provision). In order to achieve this, the market will be involved in supporting the development of the participating local authority's requirements in order to maximise the number and quality of bids.

It is the assessment of the current participating Local Authorities that to procure services on a sub-regional basis will allow further efficiencies as a result of:-

- Encourages providers to be more responsive to the requirements of commissioners thereby improving provision and outcomes for children and young people
- Combined procurement reduces the cost pressure of such an exercise on individual Local Authorities
- It offers a more efficient and cost effective procurement process by requiring Independent Special School/Non Maintained Special School Providers (ISS/NMSS) to undertake only one process and being required to demonstrate one set of quality and performance criteria
- It offers economies of scale in terms of performance monitoring and evaluation
- It enables a more coherent and robust message to ISS/NMSS providers about the needs of the sub region to deliver sufficient placements for children at value for money prices
- It encourages new providers into the sub region, Local Authority areas and "sub areas"
- It incentivises recruitment and retention of carers, including through each Local Authority being able to "band" primary preferred providers who have significant operations within a 20 mile radius of their areas e.g. need for local placements
- By acting as a whole the Local Authorities within the sub-region benefit from scale and market share in negotiating prices

4. Describe how this policy will impact on the Council's duty to:

- Eliminate discrimination, harassment and victimisation
- Advance equality of opportunity
- Foster good relations

Identify what particular groups of people will be affected by this policy.

Section 22G of the Children Act 1989 ("the 1989 Act"), requires Local Authorities to take steps to secure, so far as reasonably practicable, sufficient accommodation within the authority's area which meets the needs of children that the local authority are looking after, and whose circumstances are such that it would be consistent with their welfare for them to be provided with accommodation that is in the local authority's area ("the sufficiency duty").

In addition, GCC currently looks to the Independent market in order to ensure diversity of provision to meet the individual needs of children and young people with special needs in Gloucestershire.

5. Provide details of the evidence you have gathered in making this assessment, including data sources, consultation undertaken and the outcome/s of this.

Assessment by the current participating Local Authorities from the current sub-regional Framework(s) for Independent fostering service provision and the previous ISS / NMSS sub-regional Framework.

Details of consultation and outcome

Stakeholders - Agreements from relevant stakeholders, (Commissioning Director: Children & Families, Head of Development and Learning (Agency Budget Holder)

Current participating Local Authorities

Cabinet – Key decision required. Approval for Gloucestershire County Council to participate is to be sought from Cabinet at the 4th July 2012 meeting.

Independent Special Schools/Non Maintained Special Schools– Consultation Event due to be held September 2012

6. Is this Policy affected by, or will it have an impact on other Meeting the Challenge proposals? Yes/No. (If yes, please specify relevant project and indicate how it is affected).

No

7. Where any particular group is affected differently by the policy in either a **negative** or a **positive** way, if you identify a negative impact, explain what actions you have undertaken or you plan to undertake, including consideration of any alternative proposals, to lessen or negate this impact.

	Negative	Positive	Neutral	Evidence	Mitigating actions where a negative impact has been identified	How will the mitigating action be monitored/evaluated, including who will be responsible for monitoring.
Age		√		Services commissioned will be for children & young people aged 0 up to 19		
Disability (indicate different impacts on different types of disability)		√		CYP with disabilities will have a greater choice of local provision		
Gender reassignment			√			
Marriage & civil partnership			√			
Pregnancy & maternity			√			

Race (including Gypsy & Traveller)			√			
Religion or Belief			√			
Sex			√			
Sexual Orientation			√			
Indirect Discrimination			√			
Other groups: e.g. rural isolation, long term unemployed, health inequality, carers			√			
Socio-economically deprived groups			√			
Community Cohesion	Provide details of any ways in which the proposed activity would promote equality in the community between those who share a protected characteristic and those who do not, and how it would promote good relations between such groups			By pre-qualifying providers offering a quality service provision within Gloucestershire's County boundaries (or 20 mile radius), vulnerable children & young people will be enabled to remain wherever possible in touch with their local community.		

	<ul style="list-style-type: none"> • Is there equality between those who will and won't benefit from the proposal? • Are there strong relationships between groups and communities in the area affected and will the proposed action promote positive relationships? • Does the proposal bring groups/communities into increased contact with each other? 			
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Declaration

We are satisfied that an Assessment has been carried out and where a negative impact has been identified, actions have been developed to lessen or negate this impact where possible.

Where the impact on equalities of the policy or proposals is very significant, and mitigating actions do not sufficiently lessen the impact, or mitigating actions cannot be identified, we have considered whether to go ahead with the original proposal at all, or whether to reformulate it.

We understand that the Equality Impact Assessment is required by the County Council and that we take responsibility for the completion and quality of this assessment.

Completed by: Sue Meredith

Date: 19th June 2012

Role Education Officer (SEN), Individual Commissioning Services Team

Countersigned by Head of Service: Simon Bilous



Date: 19th June 2012

Name of relevant Portfolio Holder/Cabinet Member: Cabinet Member for Children & Young People – Cllr Paul McLain

I confirm that I have examined and understood the potential impact of the proposal and confirm that I have had due regard to the needs set out in section 149 of the Equality Act 2010.

A handwritten signature in black ink, appearing to read "Paul McLain", written in a cursive style.

Portfolio Holder/Cabinet Member - Cllr Paul McLain

Date: June 2012