

## North Yorkshire County Council

### Corporate and Partnerships Overview and Scrutiny Committee

19 March 2012

#### Review of Equality Impact Assessment Process

##### **1.0 Purpose of Report**

- 1.1 To provide the Committee with an overview of how effective the Council's Equality Impact Assessment (EIA) process is in 3 key areas:
- Enabling decision makers to pay due regard to the impact of decisions on people with protected characteristics as defined in the Equality Act 2010.
  - Informing proposals for budget savings and identifying cumulative impacts of service changes on people with protected characteristics.
  - Identifying adverse impacts before changes are made.
- 1.2 If any areas of weakness are identified to suggest process improvements to reduce the risk of failing to identify adverse impacts before decisions are taken.

##### **2.0 Background**

- 2.1 At its meeting of 14<sup>th</sup> November 2011 your Committee agreed that this review should be undertaken by giving detailed consideration to a selection of EIAs.

Five EIAs were chosen:

- Reablement (START)
- Proposed bus service reduction 2011
- Residential disabled parking bays provision
- Adoption procedures: prospective adopter policies
- Credit control

- 2.2 Members also asked the review to look at how the EIA process had linked to two of the budget lines for year 3 and 4 savings.

- 2.3 The two budget lines were:

- Transforming learning disability services
- Home to school transport – changes to policy, procurement and charges

- 2.4 The range of EIAs selected illustrates the developing role of EIAs. Some historical background may be helpful here. From the 1960s onwards environmental impact assessments have been used to identify unintended consequences, and in particular, negative consequences or adverse impacts of a proposed project on the environment. Over time this technique was employed in equalities work.

- 2.5 Legislation then began to play a role. The Race Relations Amendment Act 2000 introduced a requirement for public authorities in England, Scotland and Wales to produce a race equality scheme and to consult and assess how existing functions and any proposed policies might adversely impact the promotion of race equality. Consultation and assessment results had to be published. The Commission for Racial Equality published guidance on how to conduct a race equality impact assessment in 2002. The Disability Discrimination Act 1995 introduced a requirement to make reasonable adjustments for disabled people and the Disability Discrimination Act 2005 required a disability equality scheme and disability impact assessments. The Equality Act 2006 introduced a requirement for gender equality schemes and gender impact assessments from April 2007. In anticipation of the Equality Act 2010 a number of authorities, including North Yorkshire County Council, brought together the 3 equality schemes (race, gender and disability) which they were required to produce every 3 years and added other diversity strands (age, sexual orientation, religion and belief). Equality Impact Assessments then began to consider impacts on all equality and diversity strands through a single process.
- 2.6 The Equality Act 2010 identified 9 protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation and marriage and civil partnerships). Government guidance has indicated that there is no requirement for a public authority to produce an equality scheme or schemes or to carry out equality impact assessments. However, officers or members making decisions about policies or actions must be able to show that they have understood the possible impacts of proposals on people with protected characteristics before making a decision. As the Council carries out its functions it must always have regard to its duty to eliminate unlawful discrimination, advance equality of opportunity and promote good relations – the Public Sector Equality Duty. In common with many other authorities the Council considers that the best way of demonstrating that we are meeting our responsibility towards people with protected characteristics is to conduct an equality impact assessment which can be presented to decision makers to inform the decision making process.

### **3.0 Current Legal Risk**

- 3.1 Members will recall that the report brought to your Committee on 14th November 2011 made specific reference to the increasing willingness by members of the general public or representative groups to have recourse to legal challenge in the face of difficult budget decisions (section 2.2). Challenges are being made on the grounds that local authorities have failed to meet their obligations under equalities legislation when making decisions. The Council's legal services consider that that the risk of challenge on equality issues on major decisions is very significant at the present time.
- 3.2 Earlier this year the High Court ruled that Birmingham City Council had acted unlawfully in cutting care provision to disabled people. Although the Council had consulted extensively and considered the needs of disabled people their consultation had been flawed and they had failed to ask the right questions. The High Court was clear that the council had failed to give "due regard" to the needs of disabled people. Work had been undertaken which identified a risk

of adverse impacts on people with substantial care needs. However, the further work required to assess how serious these impacts might be was not undertaken. There was no consideration given to adopting a different course of action. The court was clear that decision makers need to understand what the law requires and assess the information they are given in that light. The Court also made it clear that the due regard required is very high if a decision may affect a large number of people within a protected group or groups.

#### **4.0 The EIA for Credit control**

- 4.1 The initial EIA for credit control was started in June 2005. At this stage the required approach was for all service units to identify functions and sub-functions including policies, procedures, projects etc. Service units were then asked to prioritise these functions with regard to equality and diversity issues and then carry out EIAs over time starting with those having most relevance.
- 4.2 The EIA was conducted by an individual officer. As was often the case for EIAs conducted when the focus was on disability, race and gender much emphasis is made on actions to improve physical access and to meet the need for e.g. support for people with hearing impairments or speakers of other languages. The fact that 80% of the service's work came from ACS (now HAS) meant that reference was made to vulnerability due to age etc and a need for liaison with social care officers. The EIA has been refreshed on an annual basis, the most recent occasion being 31 March 2011.
- 4.3 This EIA was not used to inform any decision making process. The EIA identified actions around the training of staff and the embedding of monitoring of equality issues and EIAs through management structures. These actions have been carried out.

#### **5.0 The EIA for Adoption procedures: prospective adopter policies**

- 5.1 The EIA relating to adoption procedures: prospective adopter policies was produced in 2008. It was undertaken because some changes were being made to existing procedures. It sought to consider impacts on race and ethnicity, sexuality, gender, culture, disability and age
- 5.2 The EIA was carried out by an officer focus group. National data informed the EIA. Feedback gathered routinely from prospective adopters also informed the proposals and the EIA. Changes were made to the procedures being developed as a result of the EIA process. There was a recognition that more work could be done to gain input from prospective adopters from particular equality strands e.g. sexual orientation, disability, ethnicity (gypsies and travellers). The very small numbers of adoption cases in North Yorkshire meant that some of this input would be from analysis of national or regional knowledge.

#### **6.0 The EIA for Reablement (START)**

- 6.1 The reablement (START) EIA was completed in May 2010. It was carried out to identify impacts of the START project prior to roll out of the first pilot in Selby in July 2010. These dates predate the implementation of the Equality Act 2010. The EIA was carried out by a project group. It drew on national

data and existing data about service users including satisfaction surveys. Multiagency workshops took place across the county including representatives of older people and carers to inform development of the reablement service model.

- 6.2 The EIA influenced the development of the project and helped shape the project recommendations and evaluation. It informed decisions made at Directorate management board level.
- 6.3 The change made is achieving savings. Officers are following up on the action plan produced through the EIA process. Actions include work to improve access to interpreters and translators, putting measures in place to ensure that people understand START at the initial contact point and developing the capacity of specialist teams. Engagement with main user groups is being undertaken – reports have gone to the Learning Disability and Physical and Sensory Impairment Partnership Boards and officers will attend the Older People’s Partnership Board. Checks have been made which have found no increased financial burden on full cost payers purchasing services from the independent sector.
- 6.4 Since roll out of the service, evaluations were undertaken in December 2010, May 2011 and January 2012. No unforeseen impacts have been identified but the service has evolved to respond to different needs. An example of this is the extension of the START period for some learning disabled people. Further evaluation will be undertaken as part of a full service review which is likely to commence in summer 2012. The EIA will be reviewed at this point.

## **7.0 The EIA for Residential parking bay provision**

- 7.1 The EIA for residential parking bays provision was prepared by an individual officer. A review was being undertaken of the provision of residential disabled parking bays. The EIA took into consideration the fact that local transport authorities now have a specific duty to “have regard to the needs of disabled people”. The North Yorkshire Physical and Sensory Impairment Board was consulted on the new process and eligibility procedure, on 1<sup>st</sup> September 2011, prior to implementation. The Board were supportive of the proposed approach.
- 7.2 The EIA informed a decision taken by BES Executive Members on 18 August 2011 as to what the County Council’s procedure for the provision of residential disabled parking bays should be. Members were made aware of the need to balance the needs of disabled people and highway safety. The EIA presented members with a range of options and made clear the potential funding implications for both the County Council and disabled people. Members decided to provide only enforceable residential disabled parking supported by a Traffic Regulation Order. They also agreed that the County Council would fund this provision.
- 7.3 The review was not seeking to make a saving. In fact, there was an expectation that the decision would require increased expenditure from the Highways budget.

7.4 Officers were asked to “implement a consistent policy that complies with legislation.” This process has now been developed by BES in conjunction with Health and Adult Services and the Customer Services Centre.

7.5 The process was only introduced in December 2011 so has not yet been evaluated. However, both demand and the number of parking bays introduced will be monitored.

## **8.0 The EIA for Proposed bus service reduction 2011**

8.1 This EIA was carried out to inform a decision about a proposed change to an existing service, namely the withdrawal of bus subsidies, prompted by austerity measures. It was done by an individual officer. A 3 month consultation was held to identify the impact of withdrawing identified services. The consultation was aimed at all residents and promoted through the Council’s website and NY Times as well as by targeted approaches to County Councillors, affected Parish Councils, bus and community transport providers and stakeholders including Age Concern, Learning Disability Partnerships, Older People’s Forums and Harrogate Physical and Sensory Improvement Co-ordinator. 378 responses were received including 8 petitions with 1,946 signatures.

8.2 The EIA shaped officer recommendations made in the proposed reduction in bus subsidy report which went to the Transport, Economy and Environment Overview and Scrutiny Committee on 24th November 2010. The EIA was appended and referenced in the report. The Corporate Director, in consultation with Executive Members, took a key decision on 1st February 2011 which was confirmed by Members of Full Council at their meeting on 16th February 2011 when they set the 2011/12 budget. The EIA was available to members in advance of that meeting.

8.3 The proposal was intended to make a budget saving of £600,000 per annum and this was achieved.

8.4 The EIA action plan committed the Council to continue to work with bus operators and community transport providers to identify opportunities to retain services losing their subsidy. Meetings were held. Some services are continuing on a commercial basis and the Council has supported some community led initiatives.

8.5 Post implementation evaluation of impact has been carried out through surveys of use on remaining services. In some cases e.g. Selby these show increased use of daytime services. Officers have not been made aware of any adverse impacts which were not identified through the EIA.

8.6 No further evaluation is planned. Should funding changes result in the possibility of further reductions or increases to service subsidies a further EIA would be required.

## 9.0 The EIA for Transforming learning disability services

9.1 The “Transforming Learning Disability Services” budget line is made up of a number of interdependent projects. There is no single overarching EIA but EIAs have been or will be produced for the following projects:

- Community lives
- Learning disability staffing restructure
- Adult social care vision book 2 (draft)
- 3 x local transformation projects (Skipton, Scarborough, Selby)
- Learning disability services – commissioning and procurement
- Complex needs

9.2 Project delivery is being co-ordinated by a programme manager.

9.3 The savings target of £378k for 2011/12 was achieved through efficient brokerage for purchasing services from external providers. The previous target of £1.4m for 2011/12 has been changed to £3.2m by 2014/15 to reflect all the budget lines in the programme.

9.4 The status of the various EIAs at 23rd January 2012 was as follows:

<b>EIA</b>	<b>Status</b>
Community lives	Completed
Learning disability staffing restructure	At final approval stage. Updated with union & staff feedback following restructure consultation.
Adult social care vision book 2	Draft.
Local transformation projects	Drafts.
Learning disability services – commissioning and procurement	New: current target for EIA to be completed is 31 <sup>st</sup> March 2012.
Complex needs	New: current target for EIA to be completed is 31 <sup>st</sup> May 2012.

9.5 There were various prompts for production of the individual EIAs. The community lives EIA assessed an ongoing transformation which started some years ago with the Government strategy “Valuing People”. Further Government strategies “Valuing People Now” and “Valuing Employment Now” further shaped transformation. This EIA covered all groups protected by the Equality Act 2010 and, in addition, gave consideration to carers, and offenders with learning disabilities. Proposals to restructure learning disability staffing required an EIA to assess the potential impact on staff. The other EIAs were all triggered by proposals to change services / procurement for strategic reasons.

9.6 Decisions about the learning disability staffing restructure did not require member level approvals. Officers used the EIA process to inform their proposals. The community lives EIA was submitted to the Executive with the

report “Learning disability community lives” on 26<sup>th</sup> July 2011. The report included a paragraph referring to the EIA and agreed capital funding for the 3 local projects in Skipton, Scarborough and Selby. EIAs relating to each of the local transformation projects are now being drafted and are informing local decision-making. The remaining EIAs will also inform decision making processes at the appropriate level.

- 9.7 The community lives EIA included an action plan and actions against the plan are either completed or underway with clear monitoring arrangements in place. The EIAs for the individual projects all include action plans and actions are being implemented where appropriate as part of ongoing project-planning and implementation. The EIA for the staffing restructure did not identify any adverse impacts. The EIA for the adult social care vision – book 2 has yet to be finalised and the EIA for learning disability services – commissioning and procurement and complex needs have not been completed and therefore do not yet have action plans.
- 9.8 Evaluation of the community lives project is ongoing through the Learning Disability Partnership Board and local groups. This evaluation has informed the development of the vision for adult social care book 2 and the local transformation projects and ongoing engagement around these projects will provide additional feedback. Changes to local services through the three local transformation projects will be reviewed as part of the evaluation and monitoring arrangements. The commissioning and procurement of services will also be informed by the community lives EIA. A post-implementation review of the new staffing structure for learning disability will be conducted.

## **10.0 The EIA for Home to School Transport: changes to policy, procurement and charges**

- 10.1 An EIA of proposed changes to the home to school and college transport policy was undertaken between September 2010 and January 2011. The proposed changes contributed to budget savings and were:
- To charge students aged 16-19 with special educational needs for transport to school or college.
  - To cease provision of equivalent journeys where parents choose a school other than the local or nearer school.
  - To charge for transport to denominational schools and progressively withdraw the network or infrastructure of provision by September 2016 for secondary pupils and by 2018 for primary pupils.
- 10.2 A small group of officers from the Children and Young People’s Service and Business and Environmental Services carried out the EIA. Data was available on current service use and current pupils who would be affected. A public consultation on the proposals was conducted from 4 October 2010 to 17 January 2011. The consultation ran for slightly longer than 3 months to compensate for Christmas and New Year holidays falling during the consultation period. The consultation was available online on the Council’s website. NY Times was used to raise awareness of the consultation. Targeted consultation took place with parents of existing and potential service users, head teachers and governors of NY schools, neighbouring local

authorities and denominational schools, representatives of Church dioceses, County and District Council Members and MPs. The EIA was revised following the consultation. Religion and disability were identified as the protected characteristics affected. Mitigation to reduce impacts included the appeals process and the provision of advice for transport providers and affected schools wanting to make alternative arrangements. Reference was also made in the EIA to The Equality Act 2010 Schedule 3, part 2 which provides an exemption to discrimination on grounds of religion and belief in relation to transport to and from school

10.3 The reports taken to Full Council in February 2011, when the budget was agreed, included the draft EIA. This was because the proposal contributed to the budget savings for years 3 and 4. The revised, post consultation, EIA was one of the appendices to the report taken to the Executive on 22 March 2011 and was referenced in the body of the report. Another appendix included the consultation results which were also referenced in the report. The minutes of the meeting evidence extensive discussion. The proposal to charge pupils aged 16-19 with special educational needs had been dropped from the proposals taken to the Executive. The Executive made decisions to:

- Charge pupils starting at a denominational school from September 2012 for an annual permit. A cap was placed on the charge to be levied on a family with two or more children.
- Provide free transport for primary age pupils entitled to free school meals attending a denominational school between 2 and 5 miles from home.
- Maintain the network of transport provision for denominational transport until September 2016 (secondary) and 2018 (primary).
- Remove the equivalent cost provision and offer parents the option of a paid permit, where available.

10.4 The policy will be implemented in September 2012 and is likely to be reviewed in April 2013 when eligibility assessments will take place for transport for 2013/14. Budget monitoring meetings and the annual performance monitoring report to Executive Members will be used to identify impacts on transport loadings and admissions to schools.

## **11.0 Commentary**

11.1 The primary focus in the remainder of this report is on those EIAs which have informed decision making in the context of the Equality Act 2010. This is because these reports will demonstrate most clearly how effective our current process and practice is in meeting current legislative requirements. The relevant EIAs are:

- Proposed bus service reduction 2011
- Transforming learning disability services
- Changes to home to school and college transport policy

11.2 Consideration has been given to the EIA on residential parking bays which reflects the requirements of the Equality Act 2010 although the legislation was not in force.



- 11.3 Identifying adverse impacts on people with protected characteristics if a particular course of action is followed does not prevent members from pursuing that action. The EIA for the proposals to reduce bus subsidies identified that younger and older people and disabled people were most likely to be affected. The EIA also made clear what other options had been considered e.g. raising fares and explained how the planned changes had been designed to maintain access to essential services. Further actions to work with commercial and community transport operators to identify ways to retain services were identified as part of the EIA action plan. The EIA provided members with an understanding of why the proposal was being made, what the impacts were likely to be and what could be done to reduce the harm of these impacts.
- 11.4 The number of EIAs which informed the budget line for transforming learning disability services shows the complexity of identifying the links and interdependencies of some proposals which incorporate a range of projects. The proposals about home to school transport required liaison between BES and CYPs. The credit control EIA looked very specifically at the administrative process which credit control staff undertake but did not reflect the link to the then ACS as a key internal client. The more recent EIAs indicate a growing understanding of these interdependencies and the need to reflect them.
- 11.5 The parking bay EIA represents a very tight and focused EIA looking at a relatively simple decision impacting on a small number of people but with the potential to make quite substantial improvements to their lives. It was conducted by a single officer, drawing on existing data, including practice in other authorities.
- 11.6 The level of consultation undertaken also varies from very targeted consultation to the full blown public consultation for the proposals around home to school transport.
- 11.7 Work to understand the impacts of a proposal on people with protected characteristics should be conducted alongside the development of the proposal to start or change a service, policy or procedure. This is why the timespan for production of an EIA can be quite lengthy.
- 11.8 The EIA needs to be proportionate. Where a proposal is likely to have a considerable impact – particularly a negative impact – on people with protected characteristics there will be need to be more detailed research, possibly including consultation with protected groups, to understand those impacts fully. Where a proposal is considered to be unlikely to have a major impact and there is evidence to support this e.g. from a parallel process elsewhere, from existing feedback or input from local representative groups there may not be a need for extensive consultation.
- 11.9 Feedback from officers who prepared or were involved in the EIAs shows that once approved and implemented the policy, service or process is evaluated. This may take the form of business as usual reporting, feedback from clients using the service or an in-depth evaluation after a service has been running for some time. Where a concern has been identified about a particular protected group an action may be identified to undertake some detailed follow-up work to check impacts.

- 11.10 It is important to mainstream actions identified in an EIA action plan into business as usual action planning and monitoring processes rather than it being a separate task. This should eliminate the risk of actions not being carried out or of monitoring not being undertaken.
- 11.11 The identification of any unforeseen impacts would come through this type of monitoring, through observation of service providers, comments from service users or their representatives. We do not, as a matter of course, revisit the EIA.

## **12.0 Conclusions: Effectiveness of the EIA process in supporting decisions**

- 12.1 EIAs are now provided to members to assist with the decision making process. Reports going to members for decisions incorporate a section on “Equalities Implications” in the same way as they have sections for “Financial Implications” and “Legal Implications”. The purpose of this section is for officers to highlight the main equality implications from their EIA and in particular to make clear any adverse impacts identified and what mitigation has been identified. Members will be referred to the full EIA which will be included as an appendix but the hope is that by including the key findings of the EIA in the main body of the report we assist decision makers to pay “due regard” to our equality duties in making their decision.
- 12.2 There are clear examples of the information provided in the EIA shaping proposals and decisions:
- The proposal to charge 16-19 year olds with special educational needs was dropped from the proposed changes to Home and School Transport Policy.
  - The EIA for residential parking bays made clear the impact of being recharged full costs of a parking bay would be likely to have on disabled people who tend to be less affluent than non-disabled people. Members agreed that the Council would fund any parking bays created.
- 12.3 The EIA for the proposals to reduce bus subsidies identified that younger and older people and disabled people were most likely to be affected. The EIA also made clear what other options had been considered and rejected e.g. raising fares and explained how the planned changes had been designed to maintain access to essential services. Further actions to work with commercial and community transport operators to identify ways to retain services were identified as part of the EIA action plan. The EIA provided members with an understanding of why the proposal was being made, what the impacts were likely to be and what could be done to reduce the harm of these impacts.
- 12.4 Members are still able to adopt a proposal even where the EIA identifies adverse impacts on people with protected characteristics. In a situation where no mitigation can be identified members would be given information explaining why officers are still proposing the action and would need to take a view as to whether the proposed action was the only way or a proportionate way in which a legitimate aim could be achieved. Our survey did not consider any examples of this kind. Where an EIA is produced which identifies significant

adverse impacts and is unable to identify ways to reduce them officers are told to seek legal advice as to whether the adverse impact can be justified. Any proposal brought to members should incorporate this legal advice.

### **13.0 Conclusions: Effectiveness in informing proposals for budget savings and identifying cumulative impacts of service changes on people with protected characteristics**

13.1 As members will be aware the Budget Proposals for 2011/12 and the Medium Term Financial Strategy 2011-14 put forward a large number of proposals for savings. The budget was accompanied by a large number of EIAs relating to these proposals. Two of these EIAs were considered as part of this report:

- Transforming Learning Disability Services
- Changes to Home to School and College Transport Policy

13.2 The provision of EIAs relating to budget savings reflected the requirements of the Equality Act 2010 and the necessity for decision makers to understand the equality implications of any decisions.

13.3 The Report for 2012/13 Budget and the Medium Term Financial Strategy 2012/15 came to Full Council on 15<sup>th</sup> February 2012. It was not accompanied by a large number of EIAs and the report explained why in the section on "Equalities Implications":

- There are no significant new savings proposals in this report, compared to the comparable report last year. EIAs were undertaken and provided to decision makers in respect of all significant proposals in the comparable report last year and are still available online at [www3.northyorks.gov.uk/n3cabinet\\_cc/reports\\_/20110216\\_/06executiverepo/06executiverepo.pdf](http://www3.northyorks.gov.uk/n3cabinet_cc/reports_/20110216_/06executiverepo/06executiverepo.pdf).
- Some of the proposals outlined last year are undergoing further development and, where appropriate, the EIAs will be revised and provided to decision makers, for example as part of the relevant report to the Executive. Where the potential for adverse impact has been identified, services are seeking to mitigate this in a number of ways including developing new models of service delivery, partnership working and by helping people to develop a greater degree of independent living.

13.4 The budget lines for transforming learning disability services and home to school transport both reflect this iterative process. Further EIA work was undertaken as the proposals developed following the budget decisions.

13.5 The challenge of identifying cumulative impacts is significant. As part of the EIA process officers are asked to identify related policies or services and then to consider EIAs for those services. This should assist in identifying cumulative impacts of an individual decision. Shared working on EIAs such as that done by BES and CYPS for the home to school transport policy should support this process.

- 13.6 The consultation process with protected groups and general customer feedback about proposals or indeed implementation can assist in identifying cumulative impacts.
- 13.7 A spreadsheet was produced to try to identify which protected characteristics were affected by the budget proposals 2011/12. However, this somewhat simplistic approach will not identify complex interactions.
- 13.8 Identifying the cumulative impacts of decisions on people with protected characteristics emerged as a particular concern for local authorities as they prepared budget proposals for 2011/12 onwards. Budget proposals reflected a need to deliver efficiency savings as central government sought to tackle the national budget deficit in part by reducing public sector spending. This meant that services were presenting decision makers with large numbers of proposals with varying potential to impact on people with protected characteristics, both customers and staff. In North Yorkshire we provided Members with individual EIAs relating to proposals identified as having such impacts. The high volume of proposals meant that Members were required to absorb a lot of information over a short period of time.
- 13.9 Some authorities tried to find ways to understand and express what the cumulative impacts of proposals might be. Research through the relevant community of practice (consisting of officers and members involved in this area of work) indicates that authorities undertaking this work seemed to have teams or units dedicated to equalities work. The capacity requirement for identifying cumulative impacts was clearly substantial.
- 13.10 One officer commented that

***“We are doing an EqIA on virtually every line of the budget, using the EHRC guidance on making fair financial decisions as a starting point. It is an incredibly complex process and I was hoping to come on here and share approaches, but I think I need to ask another question as well; who is actually doing undertaking this work!”***

- 13.11 The latter comment reflects this officer’s discovery that not all authorities seemed to be attempting this work.

- 13.12 Another officer commented that

***“We are finding the cumulative process more complex, and would be really interested to hear from others who are further along than us. Our cumulative approach is focusing on strands (including socio-economic) and geography so we are planning to map service reduction proposals where possible.”***

- 13.13 A couple of Equality Units were adopting a process of screening proposals to identify which were likely to impact on protected groups. One description of such an approach follows:

***“The Equalities Unit is screening all savings proposals to ensure cumulative impact is measured & this screening information with risks is been given to CST/Cabinet to inform their decisions. Full EIAs are then***

***conducted on service areas so the savings proposals as well as other areas of the service are seen as whole (what's still been done, what's been cut and what's been done differently). We are also cross checking EIAs and proposals at a strategic level to ensure that cross-cutting themes and risks are managed and mitigated wherever possible."***

- 13.14 Discussion of this issue of measuring cumulative impacts seems to have ended once budgets for 2011/12 were approved. A brief trawl of a number of Council Budget proposals 2012/13 suggests that it was the front loading of efficiency savings last year which caused the huge peak in proposals to change or reduce services and the accompanying requirement to produce EIAs.
- 13.15 We are able to identify at least some cumulative impacts through the normal EIA process. For example, the EIA and related consultations around changes to the delivery of library services raised concerns about public transport changes which would affect people's ability to travel to less local libraries. As members are aware the proposals to library service delivery were modified considerably following consultation.
- 13.16 We provide summary EIAs on our website so officers can look for any obvious links. However, as we move towards one council working and reduce silo thinking both senior managers and operational staff should find it easier to identify opportunities for joint working and also to identify where a piece of work being proposed in one area might impact on another. Co-ordinated planning and identification of key projects should assist in this process.

#### **14.0 Conclusions: Effectiveness in identifying adverse impacts before changes are made**

- 14.1 Officers and Members taking decisions demonstrate a growing awareness of the need to identify adverse impacts on people with protected characteristics. There is an increasing understanding of the role which EIAs play in that process.
- 14.2 Officers conducting an EIA draw on existing information, ask questions of service providers, service users and stakeholders to make a predictive judgment about the expected results of implementing a proposal. The effectiveness of the EIA will depend on a range of factors which include:
- The resources in staff / time to develop the EIA.
  - The availability of existing data.
  - The ability to obtain feedback and input from people with protected characteristics.
  - The integration of the EIA process from the beginning of the project.
- 14.3 As the EIA process unfolds those involved should have a developing sense of how much of an impact the proposal is likely to have on people with protected characteristics. This judgment will inform the level of resource committed to the EIA.

- 14.4 Initiating the EIA at the earliest possible stage of a project means that potential impacts of proposals on protected characteristics will be identified at the point when it is easiest to change and adapt elements of the project to reduce or remove any adverse impacts. Getting it right from the start is more efficient and effective than trying to make changes at a later stage of development. By including equality risks and issues in main project issue and risks list will ensure that they are considered as part of mainstream project work. This iterative process demonstrates “paying due regard” in action. The inclusion of equality risks in core project documentation will provide additional evidence of paying due regard.
- 14.5 As with any area involving judgments and analysis and which seeks to read the future, albeit with the aid of evidence, the EIA process cannot provide certainty or absolute guarantees that we have got things right.
- 14.6 The feedback from officers who carried out the EIAs considered show that evaluations of the implemented projects or policies are conducted. Mitigating actions identified in EIA action plans are carried out. The degree to which feedback is sought specifically from people in protected groups varies with the service. As one would expect HAS will gather much more detailed feedback from individual customers affected by their community lives project than BES will for their changes to bus services. This indicates a proportionate approach.
- 14.7 Once decisions are implemented Members have a significant role in identifying issues emerging within their communities and concerns arising about unforeseen impacts. Frontline staff providing services direct to customers will also be key to spotting any problems and providing feedback through normal line management arrangements.
- 14.8 The acid test of whether or not an EIA is adequate is provided through the courts. Obviously, the Council does not want to find itself in this position. Our management of this risk includes:
- Providing guidance on the intranet for officers undertaking an EIA.
  - Embedding the EIA process into planning to introduce or change a service, process or procedure means that those with the best understanding and knowledge of the customers, the service, the data supporting the proposal are charged with developing the EIA.
  - Having officers within Directorates who can provide additional support and guidance. However, the majority of these officers are neither legal nor equality experts, and hold this remit as a varying proportion of their role. They can provide challenge and advice and point colleagues to additional resources.
  - Having an officer at Assistant Director, or equivalent, level sign-off the completed EIA. This emphasises the responsibility level required for this area of risk and provides a level of quality control.
  - Including information about “Equalities Implications” within the main body of a report as well as providing the full EIA as an appendix. This should assist in demonstrating that decision makers have taken “due regard” of their equality duty.

## **15.0 Actions to address any identified weaknesses**

- 15.1 Members asked that if weaknesses were identified in the process recommendations be made to address these.
- 15.2 The process itself was not seen as ineffective. The recommendations which follow propose ensuring that the existing process is further embedded. Opportunities to improve the process as a result of ongoing work are identified.
- 15.3 Consideration of the various EIAs and discussions with officers carrying them out indicates that the process is becoming increasingly embedded and understood. The simplified template for conducting an EIA, which has been in place since August 2010, has proved easier for officers to use. A checklist of questions to consider when starting to think about conducting an EIA is available on the intranet and the Corporate Equalities and Engagement Group made a decision at its meeting on 28th February 2012 to review this checklist with a view to actively encouraging officers to use it at the point where they first start to develop the business case for a proposed change or development. Use of the checklist could give officers a more accessible route to gathering data required to produce an EIA.
- 15.4 The development of STREAM (Statistics, research and mapping for North Yorkshire and York), our new local information system is a useful aid for finding data to support EIAs. Work is about to start on seeing whether additional information relating to equalities can be included.
- 15.5 Work is underway to support officers involved in One Council workstreams to carry out EIAs for their projects. As many of those involved have a background in process improvement they have been asked to provide informal feedback if they can identify process improvements.
- 15.6 Consultation is often a major source of data to inform an EIA. However, we know that members of the public can be “over-consulted”. This is a particular risk for members of small groups representing some protected characteristics within North Yorkshire. This is true of e.g. minority ethnic communities and gay/lesbian/bisexual groups. The one council strategic support workstream is likely to assist in this area with its principles of:
- Adopting a corporate approach to research, intelligence and consultation.
  - Locating all research and consultation activity in the shared service which will approve and manage any activities carried out in services.
  - Making sure that information is gathered once and used many times.
- 15.7 As efficiency savings are identified and resources become tighter senior managers will need to manage the risk of failing to provide adequate resource in staff expertise and capacity, or project time to produce EIAs which are fit for purpose. Our approach to embedding the process within “business as usual” should help to ensure that expertise is spread throughout the organisation as service practitioners rather than equality “experts” lead on the EIA process. The quality of the EIA process depends on officers identifying and using appropriate evidence to back up assertions about probable impacts. This may

mean identifying gaps in understanding and taking action to address these through further research or consultation. Our EIA template contains prompt questions to help officers understand the requirement for evidence. Officers undertaking EIAs need to provide challenge to assumptions about how a change might affect protected groups. Considering our customers as individuals and being ever more willing we are to accept challenge from customers and representatives of people with protected characteristics should help officers to act as the advocate of people with protected characteristics. Training to deepen understanding of protected characteristics can also help.

- 15.8 We hope that as the process of carrying out EIAs become ever more familiar officers will become more confident and the quality of EIAs will increase and become more consistent. Officers responsible for specific EIAs can get support from Directorate equality representatives who will read draft EIAs and provide challenge. However, Directorate representatives will not have the capacity to handhold through the process. The Corporate Equalities and Engagement Group has considered whether some form of peer review or quality checking of EIAs might be possible but the individual members of the group do not have sufficient capacity to undertake this work at present. A further consideration is that introducing a further process would add to the timescale required for decision making. The guidance provided in the EIA template is detailed and Assistant Director sign-off for EIAs is a further signal to officers that the EIA is a significant piece of work.
- 15.9 There is a challenge is about identifying cumulative impacts in a “crisis” type situation such as that precipitated by the budget cuts of last year. Should we face a similar situation in the future we could consider pulling together a team with equalities’ expertise to carry out a screening process of the type adopted by other areas to provide a summary of probable cumulative impact on protected groups. There would be an issue of resource capacity in terms of staff time and senior managers would need to take a view of the risks and value of this approach which would pull staff from other work.
- 15.10 A second challenge is around identifying cumulative impacts over a longer time period. The Corporate Equalities and Engagement Group is undertaking a piece of work to bring together all our detailed Equality Impact Assessments into one place on the intranet. As part of this work we will look at whether we can introduce some sort of indexing or listing by protected characteristic to assist officers in identifying cumulative impacts. Front line staff and community groups are also likely to assist in identifying cumulative impacts. A range of forums facilitated by the Council such as North Yorkshire Advice Services Partnership also provide feedback which could help. A way forward might be to use a form of “issues list” of the type used in project management to collate such input and ensure that we consider it and respond appropriately. It will be necessary to assess the likely capacity requirement of such work as we progress. If this work is likely to exceed current capacity managers will need to take a view on a proportionate response to the risk of failing to identify cumulative impact.
- 15.11 The role of Members (and officers) making decisions will continue to have a key role in providing challenge to the quality and conclusions of EIAs.



## **16.0 Recommendations**

16.1 That Members note the findings of the report.

16.2 That Members indicate whether they wish to undertake any further work in this area.

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