



North

Yorkshire County Council

Equality impact assessment (EIA) form: evidencing paying due regard to protected characteristics

(Form updated April 2019)

Adult Social Care Ethical Decision Making Framework Implementation

If you would like this information in another language or format such as Braille, large print or audio, please contact the Communications Unit on 01609 53 2013 or email communications@northyorks.gov.uk.

যদি আপনি এই ডকুমেন্ট অন্য ভাষায় বা ফরমেটে চান, তাহলে দয়া করে আমাদেরকে বলুন।

如欲索取以另一語文印製或另一格式製作的資料，請與我們聯絡。

اگر آپ کو معلومات کسی دیگر زبان یا دیگر شکل میں درکار ہوں تو برائے مہربانی ہم سے پوچھئے۔



Equality Impact Assessments (EIAs) are public documents. EIAs accompanying reports going to County Councillors for decisions are published with the committee papers on our website and are available in hard copy at the relevant meeting. To help people to find completed EIAs we also publish them in the Equality and Diversity section of our website. This will help people to see for themselves how we have paid due regard in order to meet statutory requirements.

Name of Directorate and Service Area	Health and Adult Services
Lead Officer and contact details	Richard Webb Richard.webb@northyorks.gov.uk
Names and roles of other people involved in carrying out the EIA	A Task & Finish group was led by Louise Wallace, Director of Public Health to develop a framework and complete EIA Chris Jones-King, Assistant Director, Care & Support Cara Nimmo, Head of Practice & Personalisation Lisa Moore, HAS Business Manager Sheila Hall, Head of Engagement & Governance Erin Outram, Governance Manager
How will you pay due regard? e.g. working group, individual officer	Officer working group
When did the due regard process start?	December 2021

Section 1. Please describe briefly what this EIA is about (E.g. are you starting a new service, changing how you do something, stopping doing something?)

This EIA relates to the implementation of an Ethical Decision Making Framework as the result of ongoing pressures on the care system due to the Coronavirus Pandemic and rapid spread of the Omicron variant.

The Covid-19 pandemic has put unprecedented pressure on public services and has resulted in significant changes taking place in how social care and NHS services are delivered. Councils have had to introduce major changes into how services are organised, particularly around hospital discharges, which are now undertaken in accordance with the NHS national discharge pathway.

In addition, since July 2021, when many Covid-19 legal restrictions were eased and the economy began to re-open, there has been fierce competition in the labour market, including for jobs in care, hospitality, retail, logistics and other sectors. North Yorkshire is no exception to this situation, although in some respects it is as well-placed as many other councils in the region and across England.

It should be noted that, within this context, the County Council has:

- Increased investment in adult social care, even during austerity, to the point where it is now around 43% of the Council's total budget, including through the pandemic, when it has secured additional NHS funding as well as made hardship payments to care providers
- Invested in practice teams to support frontline teams, as well as mental health services and more staff for Continuing Health Care work and work with people who

are part of the Transforming Care programme and/or have complex life circumstances

- Just approved an additional £6m package for adult social care (£2m of which is recurring) for frontline assessment, review and other staff and hands-on quality improvement support for care providers
- Worked with the NHS to secure an extra £6m for a pay uplift for up to 16,000 care workers across regulated services in North Yorkshire and a further £3m targeted funding for care providers to help with workforce issues
- Built and opened new extra care schemes, even during the pandemic, with at least half a dozen more either being built or planned

However, despite this support, the situation remains challenging, especially as frontline teams have worked tirelessly throughout the pandemic. At the same time, people who did not present to social care or the NHS in the first lockdown have subsequently presented to services with a greater level of need.

Many frontline workers and managers will feel an understandable frustration and personal responsibility if they find that the options for providing care are more limited. However, these issues are not a matter of personal fault: in this situation, the whole Council is working to support effective, timely practice and to ensure that the people that we serve in communities across North Yorkshire are as safe and well as possible.

As a result of current pressures, people who use our services and their families are understandably frustrated when the services they were expecting to receive may not be their first choice, or delivered as they expected, or where waiting times are longer than expected. This situation means that Adult Social Care staff are regularly having conversations with individuals and families about potential alternatives and about how best to keep safe and well whilst awaiting for the preferred service. Sometimes, these conversations can be challenging for all involved.

As the pressures on the care sector continue to grow it is unlikely that the current issues we are facing will be resolved quickly. It is therefore important that we are honest with those people using our services, and their families and carers, in order to help them to manage their lives and health and to take practical steps which help them. This means being realistic about expectations and looking creatively at what might help within the local community or through family support, as well as through traditional services.

A key part of our practice is, and remains, looking at individual and community strengths, to help people live as well as possible within the place that they call home. Where possible we should start with what informal support is available in the local community and, then, what services may be required. Direct payments and carer grants are a good way of helping people to get the support they need and we should always discuss these options to see if they can help find solutions.

It is also important that we continue to support each other as colleagues through this time and ensure that we look after our own health and wellbeing and look out for our colleagues. The Health and Adult Services Leadership Team continues to monitor referrals, service activity, caseload sizes and sickness across all teams and localities every week, working with managers to take action when and where it is needed. At this time, more than ever, it is important that teams continue to have regular team meetings

and 121 (or, if necessary, group) supervisions, to help manage workload and to provide mutual support.

At a senior level, there is an expectation that all managers and frontline workers will:

- Meet regularly to plan their work and offer mutual support and help
- Escalate concerns and problems to more senior managers for help where they cannot resolve an issue

The Council's intranet also has advice for all managers and staff on keeping well and managing stress at work.

It should also be noted that senior managers also keep the Council's Management Board and senior Elected Members informed of key pressures within adult social care services.

Section 2. Why is this being proposed? What are the aims? What does the authority hope to achieve by it?

To ensure that the Council meets its statutory duties to the best of its abilities, and are able to meet the needs of those most at risk during a time of reduced resource (staffing and provision) and increased demand, a clear framework of decision making is required to support a consistent approach across the county in relation to making difficult decisions.

The framework is underpinned by the National Ethical Framework, <https://www.gov.uk/government/publications/covid-19-ethical-framework-for-adult-social-care/responding-to-covid-19-the-ethical-framework-for-adult-social-care> which provides the key ethical principles and consideration of Human Rights. By recording all considerations and factors that inform the decision, we will be able to demonstrate our best/reasonable endeavours to meet need and, with a clear governance structure, we will demonstrate appropriate accountability throughout the Directorate.

In summary, the introduction of an Ethical Decision Making Framework which will provide the following:

- A clearly mapped out process to help decide what ASC can and cannot do in relation to the provision of care and services.
- A support mechanism to frontline staff e.g. script/guide to making difficult decisions
- A clear process outlined for temporary closure of services and redeployment of staff
- Identify ways to capture where care provided although safe is not 'optimal' and a review process is put into place
- As part of the governance process, establish a regular reporting mechanism to Management Board and Executive Members
- Ensure links to the NHS where necessary & national/local best practice
- Establish a robust, regular review process as part of the framework

We are anticipating Omicron could see a reduction in staffing levels between 10-30-50% over the coming weeks and, as a result, services will need to be further reduced and adapted to support the increase in pressures on the care system. Current data

and modelling indicates that the impact of the Omicron Covid-19 variant on demand and capacity is as follows:

Demand:

- Whilst lower than areas such as London and Birmingham, numbers of people within North Yorkshire diagnosed with the Omicron strain of COVID-19 are increasing daily and it is likely that we will see a significant increase in cases throughout the first part of 2022.
- North Yorkshire has a higher proportion of older people, including those who are 85 years plus, than many areas of the country, and we know that this virus disproportionately affects older people. However, older people within the County also have a high level of vaccination uptake, including booster uptake
- North Yorkshire is the largest County Council in the country, and therefore the Authority needs to ensure that it is able to provide services across a range of footprints including the 5 which it share with NHS acute and community trusts and with 2 mental health trusts
- Rurality within North Yorkshire also adds to the complexity and challenges within the care market

Currently bed occupancy is very high across all North Yorkshire hospital sites, with South Tees the only site under 90% across the 3-week period. For much of the last 10 weeks all of the other sites have regularly recorded weekly occupancy above 90%, with South Tees being the outlier, only recording over 90% once.

The likely increased levels of infections over the next couple of weeks is anticipated to lead to increased hospital admissions to a system that already has very high occupancy levels. Given the challenges in the provider market, it is likely the percentage of “stranded” patients (those with a length of stay (LOS) of seven days or more) will significantly increase

Capacity:

In addition to usual sickness and vacancy levels, Covid-19 is impacting on available staff capacity within the Authority’s Adult Social Care Teams due to:

- A) Staff absence caused directly by diagnosis or symptoms of COVID-19
- B) Reduction in people able to carry out their usual job role due to health conditions, including colleagues who are required to be shielded

Sickness absence amongst Care & Support staff increased to 8.9 days per FTE at the end of December against a target of 5.8 days. Data for November 2021 published by Skills for Care, indicated a national absence rate of 7.4 days per FTE and a regional average of 8.9 days per FTE for the Yorkshire & Humber Region. The pre-covid rate included for the region in the data set was 6.7 days per FTE.

The Q2 performance report to the Executive indicated that vacancy levels across social care services were running at 11-26%, when normal operational planning assumptions are based on 7%. The Skills for Care data reported vacancy levels of 9.2% for both England and the Yorkshire & Humber region, with a pre-covid vacancy level of 8.0%. Capacity Tracker data for the end of December 2021 for care homes in North Yorkshire indicated 8% of registered nurses and 10% of care providing staff were absent.

Overall, there is estimated to be 10-30-50% pressure on the workforce and this is expected to rise over the coming days and weeks. This does not take into account the concurrent reduction in capacity in the commissioned care market, which is likely to increase the pressure on the Authority.

Mitigation of capacity pressures:

Practical steps that are being taken include:

- Major, ongoing recruitment campaigns for provider services (in-house and independent) and assessment teams - to fill vacancies and increase capacity: www.makecarematter.co.uk
- Maximising the “grow our own” model for social workers (apprenticeships, student to practitioner pathway etc.)
- Widening the scope for recruiting more Social Care Co-ordinators and other community practitioners
- Developing a separate team of review practitioners, to ensure people with long term care needs get regular reviews of their care
- Expanding the Quality Improvement Team, which supports care providers where they are struggling or may need assistance
- Improved Induction programmes for new starters.
- Increases in Business Support, where we cannot recruit to social care roles, to enable practitioners to focus on work only they can do
- Managing demand by utilising Agency staff (while we recruit to posts) and procuring outside social work and OT services for specific pieces of work (such as some care reviews and home adaptations work)
- Amending the Deprivation of Liberty Safeguarding rota to give more capacity back to teams
- Service developments: including more extra care schemes; earmarked funding for grants for family carers; exploration of alternative options for non-regulated services; expanded voluntary sector services (such as Home from Hospital), bringing forward an April 2022 pay uplift for care workers in regulated services; hardship payments to struggling care providers

Section 3. What will change? What will be different for customers and/or staff?

It is important that we continue to be honest with members of the public in our conversations with them, and to help them to think about different ways that we, and they themselves, can help. We need to be realistic and consistent in the messages we give. It is also important to remember in every conversation that the person may be worried, anxious or concerned about their own care or that of a loved one, that they may not appreciate the current pressures on health and social care, and need some reassurance and for their views to be heard – even if a solution cannot immediately be found. Equally, they may have seen TV or other media coverage that has worried them and need re-assurance. Taking the time to listen and provide an empathetic response will support a better outcome for the person.

Throughout this period we will endeavour to provide the following to the people who use our services, their families & carers:

- Effective triage and prioritisation of incoming demand
- Increase capacity of current workforce to meet statutory duties
- Consistent and equitable approach to how ASC discharge their duties
- Consistent approach to decision making that impact on people of NY ensuring their Human rights are protected
- Accountability and transparency in decision making
- We are able to evidence our best endeavours in meeting need
- Assurance of how we discharge our duties appropriately
- Ensure that we fully consider how people or groups of people are impacted by the decisions we make.

Section 4. Involvement and consultation

Given the current rapid spread of Omicron and the implementation of Plan B across England and the time-critical nature of these proposals, it has not been possible to conduct public consultation as the Authority would normally endeavour to do.

However, it is subject to oversight and scrutiny by elected members, and will be monitored by Health and Adult Services Leadership Team and the Council’s Management Board in order to capture, understand and report on impact.

Section 5. What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?

The financial impact is very difficult to ascertain at this stage. The main risk is escalating agency costs for staffing if there is widespread disruption. In addition, there may be additional costs for providing alternative services (e.g. if day and respite services are redeployed and additional support has to be provided for people using those services). The Council does have access to COMF (Contain Outbreak Management Fund) and other funds to manage contingency situations and cost pressures are reviewed regularly with the Section 151 Officer.

Section 6. How will this proposal affect people with protected characteristics?	No impact	Make things better	Make things worse	Why will it have this effect? Provide evidence from engagement, consultation and/or service user data or demographic information etc.
Age		X	X	North Yorkshire has a greater number of older people than other counties and this is reflected in the make-up of people accessing social care support from the Authority.

				<p>61.9% of people in receipt of some form of care and support from the council are 65+, and 38.1% are younger than 65.</p> <p>In addition, older people are more vulnerable to serious illness caused by COVID-19.</p> <p>Given the current state of emergency, if the proposals are implemented, it is anticipated to have a positive impact by allowing the Authority to adapt service provision in order to continue to provide services to those most in need of support. This has to be the priority for the Authority.</p> <p>However, the proposals will have some negative impact, as it is likely that assessment, support planning and the nature of support will be reduced in comparison to the usual standards and individuals will not be provided with the level of choice or individualised care that they may have received previously.</p> <p>This is likely to be heightened by the unavoidable reduction in services caused by continued social distancing measures and staff reductions and absences caused by the pandemic— although partially mitigated by alternative arrangements including the significant effort around community support.</p>
Disability		X	X	<p>In terms of primary support reason, 46.8% of people in receipt of some form of care and support are receiving support with personal care, 21.6% due to learning disability, 9% for mental health support, and 7.2% for memory and cognition, 10.5% other reasons and 4.8% as support to unpaid carer.</p> <p>As outlined for Age, above. Evidence points towards COVID-19 having a greater effect on people with certain health conditions and therefore disabled people are likely to be at higher risk, as well as having a greater need for social care support than non-disabled people.</p>

				<p>People with learning disability may be at higher risk, as they are already at higher risk of death due to respiratory causes; the most recent North Yorkshire Learning Disability Mortality Review report indicated that in 2018/19, the medical conditions most frequently cited in Part I of the Medical Certificate of Cause of Death were pneumonia (34%) and aspiration pneumonia (25%). These are higher than the nationally reported cases in 2018 of pneumonia (25%) and aspiration pneumonia (16%).</p> <p>As with older people, individuals with a Disability will be negatively impacted by the framework as services, both individual care, and community services will be reduced and individuals may not be given choice or control over their care arrangements.</p>
Sex		X	X	<p>59.1% of people in receipt of some form of care and support are female and 40.9% are male.</p> <p>Of those aged 65+, 66.8% are female and 33.2% are male.</p> <p>As the age profile for North Yorkshire and NYCC social care is weighted towards the older age-range and because of the longer lifespan of women, it is likely that more women will be impacted by the proposals.</p>
Race	X			<p>92% of people in receipt of some form of care and support are White British, 2.2% are White Other/ Black, Asian and Minority Ethnic, and for 5.9% ethnicity is not recorded.</p> <p>The proposals should not have any substantially greater impact on any ethnicity</p>
Gender reassignment	X			<p>There may be some adverse impact caused by the unavoidable reduction in services as a result of pressures currently placed on the system.</p>
Sexual orientation	X			<p>As for gender reassignment</p>

Religion or belief	X			As for gender reassignment
Pregnancy or maternity	X			As for gender reassignment
Marriage or civil partnership	X			No evidence of impact

Section 7. How will this proposal affect people who...	No impact	Make things better	Make things worse	Why will it have this effect? Provide evidence from engagement, consultation and/or service user data or demographic information etc.
...live in a rural area?		X	X	<p>The Ethical Decision Making framework will enable ASC to ensure that those with the highest level of need receive the care and support required to keep them safe, including those in rural areas where it can be challenging to source social care.</p> <p>However those in rural areas with a lower level of care and support need may be negatively affected due to a reduction in services, including community provision and day services in their area. They will also have a reduced level of choice over the care and support provided.</p>
...have a low income?		X	X	As above, the Ethical Decision Making framework will assess provision of services based upon level of need, and as a result some individuals on a low income may see a reduction in services.
...are carers (unpaid family or friend)?		X	X	<p>In the 2011 census there were approximately 65,000 people who identified as being an unpaid carer, however we know the real number is likely to be significantly higher. This is higher than the average both nationally and through the Yorkshire and Humber region.</p> <p>The 2011 Census also identified that almost one in four (24.3%, 15,538 people) of the female population aged 50-64 are providing unpaid care, which rises to 25% in Ryedale and 26.6% in</p>

				<p>Craven, compared with a national average of 23.5%.</p> <p>In terms of age, over a quarter of carers in North Yorkshire are over the age of 65. There are also over 18,000 carers aged 25-49 and over 3,000 under the age of 25, including young carers under the age of 18.</p> <p>NYCC Health and Adult Services completed 1716 carers assessments during 2019/20, of which 1200 (70%) were for female carers and 516 (30%) for male.</p> <p>Potential for positive impact by the proposals allowing the Authority to continue to provide a service by redirecting capacity to priority areas</p> <p>Potential for adverse impact by necessarily reducing input into assessments and support plans for the cared-for person which may increase pressure on carer; however, practice will continue to be person-centred.</p> <p>Potential for adverse impact as the result of isolation and social distancing measures. Limited ability for carers to have a break from their caring role if they share the household with the cared for person. There may be increased pressures on carers if services are further reduced and more is expected of carers/community provision for respite is not in place.</p> <p>Potential for adverse impact by reduced capacity for carer assessments; however, the Authority continues to commission carer support via the carers centres, and additional community support via the voluntary sector partnership / Universal + offer.</p>
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Section 8. Geographic impact – Please detail where the impact will be (please tick all that apply)	
North Yorkshire wide	X

Craven district	
Hambleton district	
Harrogate district	
Richmondshire district	
Ryedale district	
Scarborough district	
Selby district	
If you have ticked one or more districts, will specific town(s)/village(s) be particularly impacted? If so, please specify below.	

Section 9. Will the proposal affect anyone more because of a combination of protected characteristics? (e.g. older women or young gay men) State what you think the effect may be and why, providing evidence from engagement, consultation and/or service user data or demographic information etc.

Older people with underlying health conditions are more likely to be seriously affected by COVID-19, and the available data so far suggests that men are at higher risk of mortality than women.

The demography of North Yorkshire and of people currently accessing adult social care is weighted towards older people, with a higher proportion of women than men.

Unpaid carers in North Yorkshire are predominantly female, and it should also be noted that the social care workforce is predominantly female.

It is reasonable to conclude, therefore, that the proposals will have a greater impact, whether positive or negative, on older people particularly those with underlying conditions. For women, there may be greater impact due to higher numbers of older women requiring social care support, higher numbers of unpaid female carers, and higher numbers of female workers in the social care workforce.

Section 10. Next steps to address the anticipated impact. Select one of the following options and explain why this has been chosen. (Remember: we have an anticipatory duty to make reasonable adjustments so that disabled people can access services and work for us)	Tick option chosen
1. No adverse impact - no major change needed to the proposal. There is no potential for discrimination or adverse impact identified.	
2. Adverse impact - adjust the proposal - The EIA identifies potential problems or missed opportunities. We will change our proposal to reduce or remove these adverse impacts, or we will achieve our aim in another way which will not make things worse for people.	
3. Adverse impact - continue the proposal - The EIA identifies potential problems or missed opportunities. We cannot change our proposal to reduce or remove these adverse impacts, nor can we achieve our aim in another way which will not make things worse for people. (There must be compelling reasons for continuing with proposals which will have the most adverse impacts. Get advice from Legal Services)	X
4. Actual or potential unlawful discrimination - stop and remove the proposal – The EIA identifies actual or potential unlawful discrimination. It must be stopped.	
<p>Explanation of why option has been chosen. (Include any advice given by Legal Services.)</p> <p>There is potential for adverse impact due to the changes in assessment and support planning, and the decision to reduce or delay care provision to those deemed not to be most at risk.</p> <p>However, it must be noted that this adverse impact is outweighed by the potential for adverse impact should no action be taken, given the expected increase in demand and pressure on capacity and reduction in staffing levels; if this is not managed, it is possible that the care needs of those most at risk will not be met.</p> <p>Legal Advice The Council will continue to meet its duties under the Care Act 2014, specifically to meet the care and support of those who are eligible.</p> <p>The ethical framework does not relieve the Council’s duties under the Care Act 2014, however it will allow the Council to prioritise more effectively where necessary. It will only be used where there is evidence to support its use and the relevant process is followed.</p>	

Section 11. If the proposal is to be implemented how will you find out how it is really affecting people? (How will you monitor and review the changes?)

Reviews of service provision, prioritisation and data every two weeks led by Corporate Director for Health and Adult Services and Chief Social Care Practitioner – with regular monitoring via Management Board and key Elected Members. In addition, a monthly report will be given to the Chair of the Independent Safeguarding Adults Board.

- Complaints and commendations will also be monitored

Section 12. Action plan. List any actions you need to take which have been identified in this EIA, including post implementation review to find out how the outcomes have been achieved in practice and what impacts there have actually been on people with protected characteristics.

Action	Lead	By when	Progress	Monitoring arrangements
Consider data and feedback on protected characteristics when reviewing / monitoring the changes	Chief Social Care Practitioner (Chris Jones King) Worker	Every two weeks		
Ensure requirement to contribute towards social care costs, including retrospectively, is clearly communicated at earliest opportunity	AD Strategic Resources (Anton Hodge)	Ongoing		
Continue to work in partnership with statutory and community sector to provide community-based support to reduce pressure on Adult Social Care and mitigate against reduction in services	Richard Webb	Ongoing		
Management Board and	Richard Webb	Monthly		

<p>Members – routine reporting (details to be agreed) with Management Board and with key Elected Members (notably the Executive Member for Adult Social Care and Health Integration) Chair of Independent Safeguarding Board</p>				
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Section 13. Summary Summarise the findings of your EIA, including impacts, recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

The proposals considered in this EIA are made in order for the Authority to be able to continue to meet the needs of those in receipt of or requiring social care, in the context of a national emergency which will put considerable upward pressure on demand and at the same time reduce capacity.

There is potential for adverse impact due to the changes in assessment and support planning, and the power to reduce or delay care provision to those deemed not to be most at risk.

However, it must be noted that this adverse impact is outweighed by the potential for more severe adverse impact should no action be taken, given the expected increase in demand and pressure on capacity; if this is not managed, it is possible that the care needs of those most at risk will not be met.

Both positive and negative impact is most likely to be experienced by older people with underlying health conditions, and by disabled people. Women may experience more negative impact than men.

The provisions under the Ethical Decision Making Framework will be monitored for impact and mitigations have been outlined above.

Section 14. Sign off section

This full EIA was completed by:

Name: Erin Outram

Job title: Governance Manager

Directorate: Health and Adult Services

Signature: E Outram

Completion date: 6th January 2022

Authorised by relevant Assistant Director (signature): Chris Jones King

Date: 6th January 2022