

Equality and Human Rights Impact Analysis Record Form 2018

(replacing the former Equality Impact Assessment)

Introduction

Equality

The purpose of carrying out this equality impact analysis is to provide evidence that you have paid 'due regard' to the different protected characteristics when making your decision upon the policy, service or function. It is also a tool that will enable you to meet and further the 3 aims of the general equality duty:

1. **Eliminating unlawful discrimination**
2. **Advancing equality of opportunity**
3. **Fostering good relations**

Human Rights

It is also important that we consider the Human Rights of decisions on council services, policies or functions. Not all services subject to equality analysis will have relevance to the Human Rights Act. However, for those services that do require it, it is likely to be very important.

The council, under the Human Rights Act, has a duty to make '**Positive Obligations**'. This means the council has a duty to do something in order to protect or promote an individual's human rights as well as its duty to the negative obligation to not interfere with an individual's human rights. This may mean ensuring that an individual receives appropriate care or protection against discrimination.

Department	Children, Young People & Family Services
Service Area	Learning & Skills
Title of policy/ practice/ service or function	Establishment of a new special free school.
Lead Officer	Christine Finnigan

Stage 1 - The team carrying out the analysis

Think about:

- ❖ Who is the responsible manager for that particular service?
- ❖ Which partners and stakeholders are involved in delivering the policy/function/service?
- ❖ Are there any external funders who help ensure the service/function can be delivered?

Name	Service Area/Role
Christine Finnigan	Interim Head of SEND, HCC
Carmen Taylor	Programme Manager Major Projects & Infrastructure, HCC
Nikola Idle	Development Manager, Shared Agenda
Richard Skog	Education Organisation, Governance and Operations Manager, HCC

Stage 2 – Establish relevance to equality

The following questions can help you to determine how relevant your policy, service or function is to equality, this is not an exhaustive list:

- ❖ What is the purpose of the policy, practice, service or function?
- ❖ Do you know who accesses or uses your service?
- ❖ Is your service easy to access and for whom?
- ❖ Is your policy/service important to one or more of the protected groups?
- ❖ Does your policy, service or function relate to an area that has known inequalities (for example, access to public transport for disabled people, racist/homophobic bullying in schools).
- ❖ What is the proposed change to the policy, service or function?
- ❖ Are there any groups of people who could experience a poorer quality of life because of any proposals to change, reduce or withdraw the service or a benefit?

Summary

The purpose of this scheme is to establish a new 125 place special free school for children and young people (aged 4-19) with severe learning difficulties (SLD).

The scheme is based on an understanding of existing and forecast pressures on the special school estate – i.e. the number of children and young people who require this specialist provision.

The scheme is in line with the SEND Strategy 2016-20 and the draft SEND Sufficiency Strategy, and will enable the Council to comply with statutory requirements to ensure that there is a sufficiency of education provision for pupils with SEN in its local area.

This scheme is therefore important to children and young people (equalities age characteristic) who have special educational needs (equalities disability characteristic), and it is anticipated that the proposal will have a positive impact on both areas.

This scheme involves provision of a new school to enable compliance with city-wide sufficiency requirements, and is therefore not a change in provision although it could also be viewed as an extension of SEND sufficiency in the city.

Background

The SEND Strategy 2016 to 2020 has in it an action to review the numbers, age profile and needs of children and young people with SEND to meet future demand. This review has identified that the demand for special school places is predicted to rise in line with the increase in pupils in the school age population in general as well as changes in need. The city is experiencing a disproportionate rise in the number of pupils with an EHC plan compared with the overall rate of population

increase.

Although Hull has a wide range of special school provision, data demonstrates the current special school provision in Hull is over capacity, and that supply is acting as a self-limiting factor of the demand for places. This is resulting in pupils being placed in special schools that do not best suit their needs, a loss of key facilities and other children remaining in mainstream schools when their needs will be best met in specialist provision.

Hull City Council and its partners are committed to ensuring the best possible outcomes for children and young people who have SEND. Our vision is for the right provision, at the right time and in the right place, so that the children and young people can achieve well in their early years, in school and at college, and participate in and contribute to the local community in which they live. In March 2017, the DfE announced the High Needs Strategic Review which required LAs, alongside schools, to review provision for pupils with SEND in order to ensure that there are sufficient good school places which meet the changing needs of all young people.

Between 2016 and 2019 the overall number of pupils being educated in Hull state funded schools increased by 2,863 (7.4%) from 38,667 to 41,530. Over the same time frame there was a disproportionate increase in the number of pupils with an EHC plan or statement, from 1,123 to 1,362 - an increase of 239 (21%).

In January 2019 14.3% of pupils in Hull schools were on SEN support, and 3.2% had an EHC plan or statement of SEN. This puts the city slightly above the national average for pupils with an EHC plan and >2% above the national average for pupils on SEN support.

There are no protected groups that could experience a poorer quality of life as a result of this proposal as this is essentially an extension to the range of existing provision available in the city.

Stage 3 - The scope of the analysis

This scoping exercise is probably best done by the whole team, identifying what needs to be considered and agreeing how this can be done. Ideally everyone within the team will end up with a task.

Please can you try and answer all of the following questions?

- ❖ What do you want to achieve from the potential change to your service?
- ❖ Have you consulted recently on people's views of your service and their priorities?
- ❖ Does the service already meet all customers' individual needs? If not why not?
- ❖ What needs to be analysed and what methods will you use to undertake your equality analysis?
- ❖ What will not be considered as part of the equality analysis?
- ❖ Who are the partners involved in the successful delivery of your service to customers?
- ❖ Who will be responsible for what tasks?

This proposal aims to increase specialist education provision for children and young people (CYP) with severe learning difficulties. It is not a change of service as such, but is a proposal to increase

available provision. There has been significant consultation, which is outlined later in this impact assessment.

The proposal is being introduced in order to ensure that sufficient specialist places are available for this cohort of CYP. This analysis will be based on an understanding of current and projected sufficiency needs.

The LA is effectively the commissioner of additional places, not the deliverer of them. Under the 'free school presumption' new schools must be established as free schools, rather than as maintained schools. The process for identifying providers is set out in government guidance, and involves a full tender process involving both the LA and the DfE.

Within Hull special schools 292 pupils (44.7%) have Severe Learning Difficulty as their primary need, contrasting with the national figure of 21.6%. Nationally, the most common primary need within special schools is Autism Spectrum Disorder (29.8%) whereas this only represents 13.0% of the Hull population. The number of pupils attending a special school for pupils with SLD or ASD/SLCN is increasing year on year. The table below shows the increase in numbers at Hull's SLD designated special schools since 2010.

School	2010	2019
Ganton	139	178
Tweendykes	88	149
Total	227	327

In order to begin to address the increasing number of pupils, particularly those with SLD, who have been assessed as being appropriate for a special school but cannot access a place due to a lack of capacity, some alterations and small-scale expansions have taken place in recent years.

During summer 2018 an additional 13 places for pupils with SLD were developed. The SLD places included remodelling of existing provision and the creation of a new Tweendykes satellite base. During spring 2019 an additional 10 specialist places were created for pupils with SLD through the extension of the Tweendykes satellite base.

This analysis is based on a strong understanding of the forecast SEND sufficiency pressures, and a significant amount of intelligence from a range of consultation exercises.

The partners involved are the DfE, who have approved the proposal for the new school, the ESFA who are the funders. The providers of the school will be identified following a full commissioning process in line with statutory guidance. For clarification it is important to understand that the LA, whilst having a duty to ensure a sufficient supply of places, cannot be the provider of the places under the 'free school presumption'.

Stage 4 - Data and consultation feedback

This section forms a critical part of your equality analysis in meeting the requirements of the Equality Act 2010. Therefore, please ensure that there has been adequate and meaningful consultation undertaken with customers from protected groups. Please ensure that when consulting people are fully informed of any decisions that will change, reduce or withdraw a service or benefit.

Please remember to contact the Corporate Business Intelligence Team to register with them any consultation you may wish to undertake, and to find any existing consultation and sources of data that the council may have which could assist your equality analysis. Please also contact the Equality Policy Team for contacts for groups within the community for engagement/consultation.

When gathering information from data and consultation it is important that you provide a picture with your analysis on:

- ❖ Who currently uses your service?
- ❖ Are there differences in demand for your service within the community?
- ❖ Is it easy for protected groups to access your service?
- ❖ Are there any different experiences in those accessing the service and if so for whom?
- ❖ Do all your existing communication methods reach all groups of people?
- ❖ Will any protected groups experience a poorer quality of life because of the proposals of change, reduce or withdraw of the service or benefit?

Sources of data and consultation used

Source	Reason for using
Consultation on the draft SEND Sufficiency Strategy	<p>The need for a new special free school is driven by an understanding on current and forecast pressures on the estate. Therefore a draft SEND Sufficiency Strategy has been produced and fully consulted on to ensure that the views of parents/carers, CYP and education partners have been taken into account when developing proposals to manage the forecast pressures.</p> <p>330 people completed the questionnaire. When asked the question if they agreed with a proposal to <i>“Increase places for pupils with severe learning difficulties by building a new 125 place free school for pupils with severe learning difficulties”</i> responses were:</p> <ul style="list-style-type: none"> • Agree/strongly agree – 85% • Neither – 7% • Disagree/strongly disagree – 8%
We have corresponded with our neighbouring Local Authorities - East Riding of Yorkshire, North Yorkshire, North Lincs and North East Lincs.	<p>Places at special schools are sometimes taken by pupils from neighbouring local authorities. Therefore they were consulted regarding commissioning intent.</p> <p>East Riding of Yorkshire County Council provided a letter of support for the scheme. They are not committing to commissioning places in the free school but will request them on an individual basis as required</p>
Information has been sent to all Headteachers and SENCOs in	HCC engages with all education partners in order to ensure that future provision is in line with the wishes of

Source	Reason for using
Hull mainstream and special schools and presented at Headteacher meetings.	key partners. In addition, under the 'free school presumption' HCC is not the provider of new schools, and therefore engagement with potential providers was essential All feedback has been supportive of the application
Schools Forum representatives have been made aware of the application.	All feedback has been supportive of the application
Consultation has taken place with the Parents Forum via a survey and at a focus group. Meetings have also taken place with parents at the SLD schools.	All feedback has been supportive of the free school application. Of the written feedback responses received via informal drop ins, all were supportive of the application. No mention of location was made on the questionnaire however 2 respondents added comments requesting a central location. The questionnaire was also shared on a parents social media support group and the post received 90 responses in support.
Information has been sent partners in health, education, social care, early help and the voluntary sector. The free school application addresses some of the strategic outcomes referred to in the written statement of action, which is the co-responsibility of Hull CCG.	Representatives of KuHCC attending a support group meeting of a local SEND charity. All attendees (18) voted in support of a new school however also queried whether more ASD places were required in additional to SLD.
Consultation has also taken place at the multi-agency SEND Accountability Forum	All feedback was positive

Do your customers and stakeholders agree with your findings and proposed response? If not, why not?

The response to the proposal has been overwhelmingly positive and supportive.

If analysis suggests that people from a protected group will not be affected, an attempt should be made to 'check this out' and this should not be solely based on objective information. If this cannot be achieved within the time frame of the analysis, then it should become an action to be taken in the future and included within the action plan.

Stage 5 - Analysing the impact or effects

When arriving at a judgment about the levels, if any, of impact, you should consider:

- ❖ Equal opportunity
- ❖ Accessing in its widest sense and methods used to regulate access to a service or employment
- ❖ Treatment (the experiences people have when trying to use services)

Your data and your information can come from a wide range of sources including:

- ❖ Local or national census data
- ❖ Satisfaction surveys, complaints
- ❖ Specific Research carried out locally and nationally
- ❖ Research carried out by organisations such as Stonewall, Government Equalities Office etc
- ❖ Trade Unions
- ❖ Consultation with residents and customers
- ❖ Feedback or discussions with partner organisations
- ❖ Feedback and consultations from staff
- ❖ Benchmarking data
- ❖ Self assessments and reports
- ❖ Performance reports

a. What does the 'quantitative' data tell you? Such as:

- ❖ The **number** of different protected groups accessing the service?
- ❖ Are there different **outcomes** for any particular groups accessing the service?
- ❖ Is there any unwanted adverse impact to any particular group/s
- ❖ Is there unlawful prohibited conduct? (discrimination, harassment, victimisation or a failure to make reasonable adjustments)
- ❖ Is there no impact? (no relationship between policy/service/function and people)
- ❖ Neutral impact (no noticeable harmful effects)

Protected Group	Findings
Age	Positive impact, as this proposal is aimed at ensuring sufficient places for CYP aged 4-19
Disability	Positive impact. This cohort, SLD, is SEND by definition. This assessment outlines the overall increase in the SLD cohort population requiring specialist education provision and the resultant pressures on a sufficient supply of available places. This proposal will address those pressures by creating additional capacity for SLD pupils
Gender (Sex)	No impact, as the proposal will support CYP who have an assessed SEND need.

	<p>However, when gender is considered, there is a noticeable disproportionality between males and females both with EHCPs and on SEN-support when compared to the overall school population. Across the city's schools, there is a 51.5%:48.5% split in favour of males to females. However when the same analysis is undertaken for pupils with SEND the results are as follows:</p> <table border="1"> <thead> <tr> <th></th> <th colspan="2">Hull 2019</th> <th colspan="2">UK 2019</th> </tr> <tr> <th></th> <th>Male</th> <th>Female</th> <th>Male</th> <th>Female</th> </tr> </thead> <tbody> <tr> <td>EHCP</td> <td>74.0%</td> <td>26.0%</td> <td>72.9%</td> <td>27.1%</td> </tr> <tr> <td>SES-S</td> <td>64.4%</td> <td>35.6%</td> <td>64.8%</td> <td>35.2%</td> </tr> <tr> <td>All SEND</td> <td>66.1%</td> <td>33.9%</td> <td>66.5%</td> <td>33.5%</td> </tr> </tbody> </table>		Hull 2019		UK 2019			Male	Female	Male	Female	EHCP	74.0%	26.0%	72.9%	27.1%	SES-S	64.4%	35.6%	64.8%	35.2%	All SEND	66.1%	33.9%	66.5%	33.5%
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Gender reassignment	No data is available.																									
Marriage and civil partnership	No data is available.																									
Pregnancy and maternity	No data is available.																									
Race	<p>No impact, as the proposal will support CYP who have an assessed SEND need. Trends can be observed from reviewing the ethnicity of pupils within the city and with SEND specifically. Across the city's overall school population 18.9% of the pupils are from a minority ethnic background, compared to 31.9% of the national school population.</p> <p>When the whole SEND population is examined, the prevalence of pupils from a minority ethnic background represents 12.7% of this cohort, and for pupils with an EHC plan, the minority ethnic population of this cohort is 10.9%. Nationally minority ethnic pupils make up 29.8% of the SEND population, and 30.3% of the number of pupils with EHCPs.</p>																									
Religion and belief including non-belief	No data is available.																									
Sexual orientation	No data is available.																									

Non-statutory protected group

Socio-economic	
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a. What does the qualitative data tell you, such as:

- ❖ Customer feedback
- ❖ Comments
- ❖ Complaints
- ❖ Discussions or meetings with stakeholder groups about the impact of the policy, practice, service or function on the protected characteristic groups (e.g. minutes of those meetings)

Protected Group	Findings
Age	<p>All qualitative consultation data shows that the proposal will have a positive impact based on age as the proposal is aimed at CYP aged 4-19 with SLD</p> <p><i>“I think more schools need to be built for children with disabilities. You can only provide so much at a mainstream school and regardless on how much you do to involve a SEN child they will most of the time stand/stick out and feel isolated in mainstream.”</i></p>
Disability	<p>All qualitative consultation data shows that the proposal will have a positive impact based on age as the proposal is aimed at CYP aged 4-19 with SLD</p> <p><i>“Definitely more facilities needed for special needs education including more schools and units needed.”</i></p> <p><i>“We need more SLD special schools in Hull”</i></p>
Gender (Sex)	No impact, subject to the disparities in the existing cohort that are outlined above
Gender reassignment	No data is available.
Marriage and civil partnership	No data is available.
Pregnancy and maternity	No data is available.
Race	No impact, subject to the small disparities in the existing cohort that are outlined above
Religion and belief including non-belief	No data is available.
Sexual orientation	No data is available.

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Non-statutory protected group

Socio-economic	No data is available.
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b. Are there any other groups of people who may experience an adverse impact because of the proposals to the change of policy or service who are not listed above?

No

c. Gaps in data

What are your main gaps in information and understanding of the impact of your changes to policy/function/service on customers? Please indicate whether you have identified ways of filling these gaps.

For instance you may have little or no data on sexual orientation and therefore you should propose to carry out some focused consultation with that specific community through their LGBT Forum (contact the Equality Policy Team for their details)

Gaps in data	Action to deal with this
All settings provide data in line with education processes and the SEND Code of Practice	

Please remember to also record any **positive** impacts that may occur as a direct result of changing a services or a policy that further the three aims of the general duty:

- 1. eliminate discrimination**
- 2. advance equal opportunity**
- 3. foster good relations between groups**

An example of this could be that as a result of taking elderly people to local community centres for support services which can no longer be delivered in their homes, it has improved good relations between young and old people who now share the community centre.

d. Remember - It will be useful to produce a summary of information that captures the impacts and analysis on both quantitative and qualitative data. This summary of information should be displayed in a graphical format, using charts or graphs if possible. It will also provide an audit trail for how you have arrived at your findings.

Human Rights Impacts

The Human Rights Act 1998 (HRA) was brought into force in the UK in October 2000. It is formed of a series of sections that have the effect of placing the protections in the European Convention on Human Rights into British law.

Human rights are founded on core principles such as equality, fairness, respect, autonomy and dignity. They protect people's freedom to control their own lives, effectively take part in decisions made by public authorities which impact upon their rights, and get fair and equal services from public authorities. The Act applies to all public authorities and other bodies providing public functions.

Part 1: The Convention – Rights and Freedoms

Article 2: Right to Life	No impact
Article 3: Right not to be tortured or treated in an inhuman or degrading way	No impact
Article 4: Right not to be subjected to slavery/forced labour	No impact
Article 5: Right to liberty and security	No impact
Article 6: Right to a fair trial	No impact
Article 7: No punishment without law	No impact
Article 8: Right to respect for private and family life	No impact
Article 9: Right to freedom of conscience and religion	No impact
Article 10: Right to freedom of expression	No impact
Article 11: Right to freedom of assembly and association	No impact
Article 12: Right to marry	No impact
Article 14: Right to be not discriminated against	

Part 2: The First Protocol

Article 1: Protection of property/peaceful enjoyment	No impact
Article 2: Right to education	This proposal will increase the supply of sufficient educational provision for SLD CYP
Article 3: Right to free elections	No impact

Stage 6 - Mitigation and promotion

When considering whether there is a mitigating action which could be taken, you may wish to consider the following questions?

- ❖ Have you identified any adverse impact upon the different protected groups as a result of your policy/service which are either unlawful or unwanted?

- ❖ What are the ways you can implement your mitigating actions against those adverse impacts.
- ❖ Are there different ways of delivering the service?
- ❖ Could the service be promoted better with those under represented groups accessing your services?
- ❖ Could application forms and methods of requesting a service be improved or altered to make them easier for the public?
- ❖ If you cannot mitigate unlawful or adverse impact can you please explain why?
- ❖ What can you do to improve and promote equality of opportunity or good relations between different groups in your community as a direct result of your policy/function or service?

No negative impacts have been identified. The proposal will have a positive impact on two of the protected characteristics – age and disability. Therefore there are no mitigations required.

Stage 7 and 8 - Objectives setting/ implementation

Having finalised your findings and proposals for changes or improvement, you need to produce an action plan to demonstrate:

- ❖ What you plan to achieve (your objective)
- ❖ What you intend to do
- ❖ The methods you intend to use
- ❖ The timescale for carrying out actions
- ❖ How success will be monitored

The following action plan must be **SMART** and ensure that success can be measured, and include a way in which further action to deal with partial success can be implemented. The plan must be approved and agreed by senior equality steering groups or the equality programme board. By making the plan public it will also ensure where there are cases of different teams needing to carry out specific actions then this can be achieved, and that performance of others in delivering their part can be monitored.

<i>Objective</i>	<i>Planned action</i>	<i>Who</i>	<i>When</i>	<i>How will this be monitored?</i>

Stage 9 - Monitoring and review/ mainstreaming into business plans

Please indicate whether any of your objectives have been added to service or business plans and your arrangements for monitoring and reviewing progress/ future impact?

Yes – this proposal is a key part of the SEND sufficiency strategy, and also the SEND Improvement Plan.

Processes are in place to continually monitor sufficiency requirements, as well as educational outcomes for CYP with SEND.

Currently reporting is undertaken at the SEND Accountability Forum and the Strategic SEND Board.

Stage 10 – Quality assurance and publishing the completed analysis

Please ensure that before the finalised analysis is signed off by an officer of at least Assistant Head of Service level that it has been quality assured by a member of the Equality Team. The completed analysis will then need to be published on the council's website.

Quality assured by Richard Bartlett

Completed analysis approved by Jo Moxon

Where and when published?

Published on the Hull Special Free School site of the Hull City council Website, December 2019

Decision-making processes

Where linked to decision on proposals to change, reduce or withdraw service/ financial decisions/ large-scale staffing restructures

Attached to report (title): Schools Basic Need Report – 2019/2020, the further report will be entitled Schools Basic Need Report – 2020/2021

Date of report: February 2019 (initial Cabinet approval). A further report will be presented to Cabinet in February 2020 for final approval.

Author of report: Corporate Director of Children, Young People & Family Services & City Manager Major Projects & Infrastructure

Audience for report e.g. Cabinet: Cabinet

Outcome from report being considered

The proposal does not relate to a proposal to change, reduce or withdraw a service. Cabinet approval for the proposal is in place, this EIA has been produced in line with the DfE Free School process requirements. Approval was given:

- To enter into a grant funding agreement with the ESFA for the provision of a 125 pupil place Special Needs School for pupils with severe learning disabilities (SLD).
- That, if requested by the governing academy trust and ESFA, the City Manager Major Projects & Infrastructure and Town Clerk be authorised to procure and subsequently award a construction contract using either existing delivery vehicle or public sector framework, dependent upon best value and funding requirements, to design and build a Special Needs Free School on the existing Frederick Holmes Special School site, or a site to be identified by the proposer and agreed as viable by the City Manager Major Projects & Infrastructure, in the centre of Hull subject to the terms and conditions of the ESFA funding.
- That in the event the Free School bid is unsuccessful, the Corporate Director of Children, Young People & Family Services in consultation with the City Manager Major Projects & Infrastructure be authorised to review the pupil place strategy and formulate plans to remodel and/or extend the existing education estate to create 125 SLD places in order to meet the demand identified.
- That the combination of new build, remodelling of existing sites and delivery of a Special Needs Free School as detailed in the recommendations be approved as the strategy to address pupil place sufficiency 2019-2020.

The final approval, following the commissioning process, to award the contract to the successful MAT will be in January 2020, and this impact assessment will inform that decision.

Details of follow-up action or monitoring of actions/ decision undertaken

The procurement process for identifying the provider is underway.

Updated by:

Date: