

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

(Form updated May 2015)

### *High Needs Block Element 3 Resource Allocation System review and replacement – August 2018*

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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	Children and Young People's Service – NYCC Inclusion Service
Lead Officer and contact details	Jane Le Sage - Assistant Director – Inclusion
Names and roles of other people involved in carrying out the EIA	Nikki Joyce – Head of SEN
How will you pay due regard? e.g. working group, individual officer	This project has been governed through a strategic Project Board and monitored through High Needs Officer Budget Group.  The proposals will be subject to a formal public consultation process during October and November 2018 and this EIA will be monitored during and at the end of this period.

	Following this any changes to the High Needs Block Element 3 Resource Allocation System will be placed for approval by the Council's Executive / Corporate Director of Children and Young People's Services (TBC)
When did the due regard process start?	Initial working group discussions to review the existing Resource Allocation System (RAS) – also referred to as the “Can-Do System” started in Spring 2018. Research and options appraisals have been undertaken and final draft proposals developed ready for public consultation during October and November 2018

**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?)

The local authority has a statutory responsibility, under the Children and Families Act 2014, to keep its special educational provision under review, to ensure sufficiency in placements to meet the needs of children and young people with Special Education Needs/Disabilities (SEND), working with parents/carers, young people and providers.

In order to meet the needs of this group of children, the High Needs Block has an element of “top up” funding (Element 3) which is designed to make provision over and above what could be reasonably expected for a school to deliver within its Notional SEN Budget (Element 2 - £6k per pupil) to individual children with SEND. Across England, Local Authorities adopt different ways to determine what this Top-Up allocation should be for each child. In North Yorkshire this has been the CAN-DO system. This is currently a web-based process through which schools can input details relating to a child's needs and which calculates an amount of funding. However, over the past year there have been issues with the CAN-DO that have resulted in a lack of confidence from both schools and LA staff in relation to the amount of funding allocated, resulting in significant administration time to reassess and validate individual requests.

- We are recommending that we stop using the current ‘CAN DO’ allocation system and apply a new banding system from April 2019.

**Section 2. Why is this being proposed? What are the aims? What does the authority hope to achieve by it?** (e.g. to save money, meet increased demand, do things in a better way.)

The proposal put forward is to ensure that the local authority can deliver its statutory responsibilities in relation to education provision for children and young people with SEND.

The changes aim to:

- Ensure that there is a fair, transparent and equitable method by which the Local Authority allocates the Element 3 resource
- Ensure that funding allocated is sufficient to meet identified needs in the Education Health and Care Plan
- Ensure that schools and settings are able to evidence what provision is required and can continually demonstrate that they are meeting each child / young person's identified needs
- Ensure that there is an efficient process which uses the minimum possible administration time for both the Local Authority and schools / settings.

The authority hopes to achieve:

- Improved efficiency in EHCP administration
- Equity in the distribution of the Element 3 funding which is based on the child's need and not on the ability of any individual to complete the current CAN-DO
- Simplification of the High Needs Funding system so that there is transparency and clarity across special schools, targeted provision, mainstream schools, early years settings and post 16 settings
- Financial assurance that funding allocated to individual's through the E3 is appropriate to meet needs and that the provision can be tracked and monitored

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

With regard to customers (children and young people with SEND) we do not anticipate any reduction in provision, but we anticipate that provision will be better monitored and that outcomes will be more clearly identified and tracked in terms of the benefits from that provision.

With regard to customers (schools and settings) who may wish to apply for Element 3 funding as part of an EHC Assessment request, there will be a new process by which they request this funding. This will include the need for schools and settings to evidence what provision has already been made, to what extent this has and has not met needs, and therefore what additional provision is required to effectively meet each child's needs.

For all schools and settings there will be a consistent funding mechanism for both place and top up funding that will be applied.

The proposed review and reshaping of High Needs Budget allocation and processes will ensure funding is allocated and used as effectively as possible. Proposed changes will ensure SEND education provision is delivered within the available budget. The impact on a child/young person would be mitigated as the Authority will continue to make provision for all assessed needs.

### **Section 4. Involvement and consultation (What involvement and consultation has been done regarding the proposal and what are the results? What consultation will be needed and how will it be done?)**

Feedback has been received from mainstream school staff, special school Headteachers, SENCOs (through SENCO networks) and SEN staff. This feedback has informed us that the current CAN-DO system is not fit for purpose, resulting in a lack of confidence directly relating to:

- High need for moderation and administration which is inefficient
- A period where the CAN-DO gave incorrect amounts
- Variability and inconsistency in the amounts generated for children and young people with similar needs
- Does not encompass the medical funding

Consultation on the actual proposal will take place once the proposal is agreed through High Needs Sub Group and Schools Forum which meets at the end of September 2018.

This will consist of locality public meetings during October and November 2018 and an online survey.

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

The Council receives around £44.8m million in high needs budget to deliver provision for children and young people with SEND. There is significant pressure on this budget as a result on the increase in numbers of children and young people with SEND and the demand for specialist placements. Currently the budget overspends by around £5.5 million.

To support the delivery of our Strategic Plan for SEND Education Provision 2018-2013 we advised we will review and reshape the systems and processes for allocating this budget in line with the actions in the plan. The review and reshaping of high needs funding will take place through engagement with education sector leaders through the North Yorkshire Schools Forum. The School Forum was established under the Education Act 2002 to provide schools with more involvement in the allocation of funding.

There are no savings targets attached to these proposed changes, but the Local Authority seeks to ensure that Element 3 top-up is allocated fairly, is sufficient to meet needs and that it is spent appropriately for each individual with the ability to ensure schools and settings are accountable for the use of this funding. There may be a cost reduction as a result or it may be cost neutral.

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	✓			<p><b>Customer:</b> Age is not a factor in determining needs either in the current can-do or in the proposed new RAS. The statutory obligations only apply to children aged 0-25. However, age is not a factor in this proposed change as all children aged 0-25 with SEND will be able to access the funding equally according to need.</p> <p><b>Staff:</b> No identified impact.</p> <p>A further mitigation for age, disability and gender is that for those with an EHCP, the LA have a statutory duty to meet the needs contained within the plan and this over-rides any other considerations or policies.</p>
Disability		✓	✓	<p><b>Customer (school or CYP):</b> Things will improve as follows:</p> <ul style="list-style-type: none"> <li>• Requests for assessment will be accompanied by clear evidence of need, interventions and provision making it more clear what provision is required to meet needs. This will ensure that the young person receives exactly the provision they require</li> </ul>

	✓			<ul style="list-style-type: none"> <li>Once an EHCP is issued, it will be easier to ensure that a child is receiving the provision identified to meet needs as the school / setting will need to identify that they are delivering the provision specified at each annual review.</li> </ul> <p>There may, however be negative impact during implementation as follows:</p> <ul style="list-style-type: none"> <li>Some schools / settings have submitted CAN-DOs that have resulted in higher funding allocation than required by the needs. There may then be reductions in the amount generated by a more robust system. This should not impact on the young people but may impact on the school's budget. Once the new bandings have been allocated, we will look at the impact on each individual school budget and will look to mitigate any negative impact through transition funding.</li> </ul> <p><b>Staff:</b> No identified impact.</p> <p>A further mitigation for age, disability and gender is that for those with an EHCP, the LA have a statutory duty to meet the needs contained within the plan and this over-rides any other considerations or policies.</p>
Sex (Gender)	✓			<p><b>Customer &amp; Staff:</b> It is anticipated there would be no identifiable impact on gender as a result of the project. A further mitigation for age, disability and gender is that for those with an EHCP, the LA have a statutory duty to meet the needs contained within the plan and this over-rides any other considerations or policies.</p>
Race	✓			<p><b>Customer &amp; Staff:</b> It is anticipated there would be no identifiable impact on specific ethnic groups as a result of the project.</p>
Gender reassignment	✓			<p><b>Customer &amp; Staff:</b> It is anticipated there would be no identifiable impact in relation to gender reassignment as a result of the project.</p>
Sexual orientation	✓			<p><b>Customer &amp; Staff :</b> It is anticipated there would be no identifiable impact in relation to sexual orientation as a result of the project.</p>

Religion or belief	✓			<b>Customer &amp; Staff:</b> It is anticipated there would be no identifiable impact on specific religious groups or beliefs as a result of the project.
Pregnancy or maternity	✓			<b>Customer &amp; Staff:</b> It is anticipated there would be no identifiable impact as a result of the project.
Marriage or civil partnership	✓			<b>Customer &amp; Staff:</b> It is anticipated there would be no identifiable impact as a result of the project.

<b>Section 7. How will this proposal affect people who...</b>	<b>No impact</b>	<b>Make things better</b>	<b>Make things worse</b>	<b>Why will it have this effect? Provide evidence from engagement, consultation and/or service user data or demographic information etc.</b>
..live in a rural area?	✓  ✓			<b>Customer:</b> It is anticipated there would be no identifiable impact as a result of the project.  <b>Staff:</b> No identified impact.
...have a low income?	✓  ✓			<b>Customer:</b> It is anticipated there would be no identifiable impact as a result of the project.  <b>Staff:</b> No identified impact.

<p><b>Section 8. 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.</b></p> <p>It is anticipated proposed changes to the current provision will impact more on the following: Young people with special educational needs and disabilities</p> <p>These groups are more likely to find change challenging if changes are made to current services they will need support to make the transition. We will ensure that if any child or young person receives less funding as a result of the proposed changes that there is a transition plan to ensure required provision to meet needs is maintained.</p> <p>Further work will be undertaken, once proposals have been through the decision making process.</p>
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<p><b>Section 9. 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)</b></p>	<p><b>Tick option chosen</b></p>
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1. <b>No adverse impact - no major change needed to the proposal.</b> There is no potential for discrimination or adverse impact identified.	
2. <b>Adverse impact - adjust the proposal -</b> 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. <b>Adverse impact - continue the proposal -</b> 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)	
4. <b>Actual or potential unlawful discrimination - stop and remove the proposal</b> – The EIA identifies actual or potential unlawful discrimination. It must be stopped.	
<p><b>Explanation of why option has been chosen.</b> (Include any advice given by Legal Services.)</p> <p>Initial analysis of the implementation of proposed changes indicate minimal impact on children and young people with SEND.</p> <p>However, actual impact will not be known until consultation and decision on proposals is made.</p> <p>During the consultation and decision making process there will be ongoing consideration to any equality impacts that arise, and how these can be mitigated.</p> <p>A further mitigation for age, disability and gender is that for those with an EHCP, the LA have a statutory duty to meet the needs contained within the plan and this over-rides any other considerations or policies.</p>	

**Section 10. 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?)

If proposals are approved we will monitor and review via:

- Annual reviews for individual EHCPs to ensure that provision is still sufficient to meet need;
- Feedback from SENCOs on an ongoing basis and through regular SENCO Network Meetings to understand the user experience;
- Budget monitoring at High Needs Officer group to understand any impact on funding allocation;
- LA staff feedback in relation to improved efficiency in EHCP administration.

**Section 11. 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
Formal consultation	Jane Le Sage	Oct/Nov 2018		Through the Programme Board / HNB OG.

Review of implementation / impact	Jane Le Sage	Sept 2019		Through the Programme Board / HNB OG.  Through SENCO Network Meetings
Review of RAS	Jane Le Sage	TBC		TBC

**Section 12. 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.

This section will be updated during and following consultation to ensure any unidentified impacts can be considered.

### Section 13. Sign off section

This full EIA was completed by:

**Name: Nikki Joyce**

**Job title: Head of SEND**

**Directorate: CYPS Inclusion**

**Signature: N Joyce**

**Authorised by relevant Assistant Director (signature):**

**Signature: J Le Sage**

**Date: 4.10.18**