

People Scrutiny Commission

27th September 2023



Report of: Reena Bhogal-Welsh, People

Title: Education Health & Care (EHC) Performance Update

Officer Presenting Report: Reena Bhogal-Welsh, Director Education & Skills

Recommendation:

For the People Scrutiny Commission to note the report.

The significant issues in the report are:

2023 has seen a 20.1% rise in number of EHC Needs Assessment requests received by the service.

1,372 EHC Needs Assessment requests anticipated in the next calendar year (2024).

Between January & October (2023) 43.2% of EHCP's finalised for the first time, within the set statutory timeframe.

This year's 3rd quarter demonstrates an improvement in EHC Needs Assessments meeting the 20-week statutory timeframe on last year (2022); by 17.4 ppt.

Average wait time for EHC Needs Assessments superceding 20 weeks, at the end of October 2023, was 32 weeks. This has increased from 30 weeks since July 2023.

The demand for Educational Psychology contributions (Appendix D) is currently exceeding the services capacity.

71 First Tier Tribunal appeals lodged in 2023. This is a decrease of 28% when compared to the same period last year (99). Bristol is 0.8ppt below the national average (2.3%).



1. Summary

As we reach the last quarter of the calendar year (2023) the demand within all the services statutory domains continues to remain high.

The service, alongside partners, continues to plan, monitor, and allocate resource to ensure those most vulnerable are prioritised, as well as those children and young people whose assessments reach beyond the 20-week timeframe.

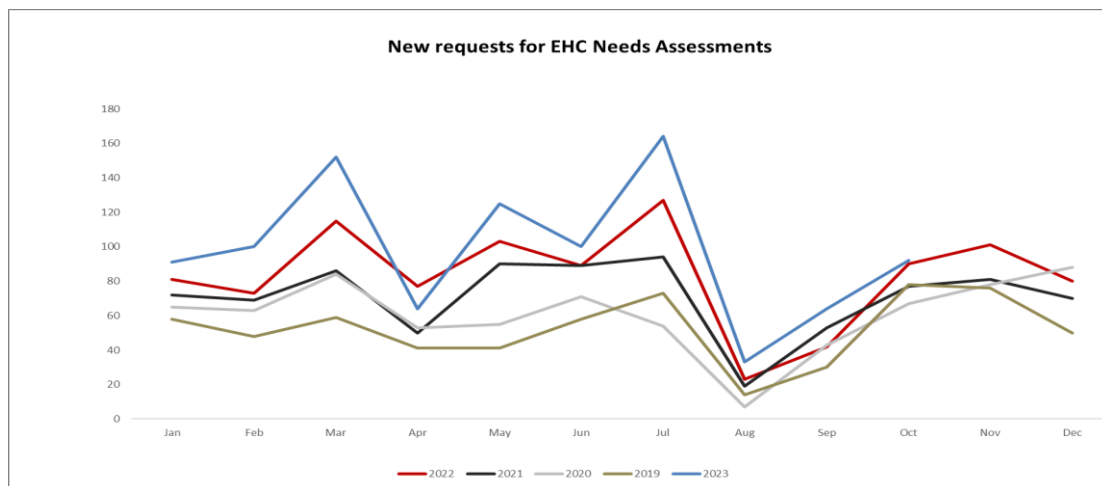
The services priorities remain centered on timeliness, quality within process, and continuing to strengthen partnerships across the local area continuing to foster shared ownership. We work towards a proactive service that aspires to promote and build trust with all partners so children and young people with SEND, and their families, have confidence we are working towards the same objectives and, most importantly, the best possible outcomes for all Bristol children and young people with SEND.

2. SEND Assessment, Planning & Review Team Performance

2.1 EHC Needs Assessment Requests

Bristol has seen a continued upward trajectory in the number of EHC Needs Assessments (EHCNA) requests received, since 2019.

The team have received on average 99 EHCNA requests, per month, this calendar year.



- 2019 - 626 EHCNA requests received
- 2020 - 728 EHCNA requests received (16% increase on 2019)
- 2021 - 850 EHCNA requests were received (17% increase on 2020)
- 2022 - 1001 EHCNA's were received (18% increase on 2021)
- 2023 - 985 EHCNA requests have been received.

At the end of October 2023, the SEND Assessment, Planning & Review Team have seen a 20.1% increase in EHC Needs Assessment requests when compared to the same period timeframe in 2022 (820).

Nationally, there has been a 23% increase in EHCNA requests on last year.

Since 2019, on average the team receive 838 EHC Needs Assessments each year which, overall, equates to an average 17% rise in requests received year on year.

By the end of 2023, it is anticipated we will receive in the region of 1,172 EHC Needs Assessments. Therefore, it is expected we will receive 1,372 EHCNA requests in the next calendar year (2024).

EHC Needs Assessment requests by phase.

EHCNA requests made for primary aged children account for just over 50% of all requests received. EHCNA requests for children within this phase of education remain the highest in 2022 through to 2023.

There has been a 9ppt rise, in EHCNA requests, for pupils within the secondary phase of education when compared to 2022.

EHCNA requests for, both, children within the early years and young people post 16 have seen a small decrease on last year (3%/1%).

However, the service typically receives a higher number of early years phase EHCNA requests in the latter end of each calendar year, in preparation for transition to primary school the following September. Therefore, we anticipate this % to rise by 31 December 2023, in line with 2022.

Requests by phase	2022	2023
Primary	57%	53%
Secondary	23%	32%
Early Years	17%	14%
Post 16	3%	2%

The continuing volume of EHCNA requests presents significant risk to the service in meeting the statutory 6-week decision timeline. The service continues to control this risk through Decision & Moderation Group 1 resource allocation with partners.

The Educational Psychology Services' (EPS) capacity to support decision making at Decision & Moderation Group 1 has decreased, over the past two months, due to recruitment and retention difficulties affecting the service. This issue is not localised to Bristol.

This decrease in support over a prolonged period coupled with the high number of EHCNA requests, likely to be received in 2024, will significantly increase the risk of EHCNA request decisions superseding the statutory 6-week decision date, in the first quarter of 2024. To mitigate this risk Local Authority representatives from other teams will support on an interim basis, where capacity allows.

Recent recruitment, within the EPS, has been successful and two additional Educational Psychologist's will be in post by September 2024. The service still carries vacancies and remaining posts are to be readvertised.

**2023 figures, as at the end of October 2023.*

2.2 EHC Needs Assessments (live)

The service has 596 open live EHCNA Needs Assessments.

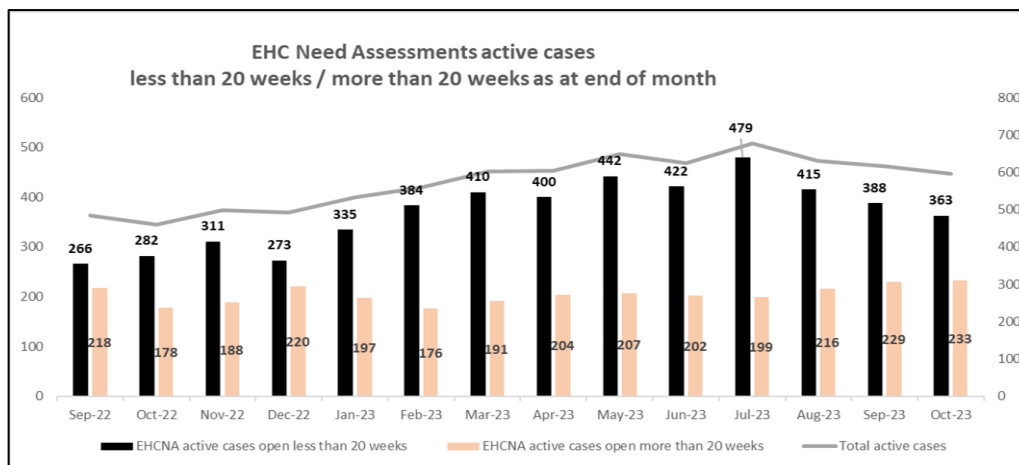
363 within the 20-week timeframe
233 outside the 20-week timeframe.

In 2023, the number of live EHC Need Assessments has averaged 609 each month. January 2023 was the lowest month (582) and July 2023 the highest (678). There has been a decrease in live EHC Need Assessments since July 2023 reducing to 596 in October 2023.

This calendar year on average 33.8% of live EHC need assessments were outside the 20-week timeframe.

Of those cases outside the 20-week timeframe the average number of weeks open reduced from 35 weeks in January 2023 to 32 weeks in October 2023.

The average number of weeks reduced to the years lowest point in July 2023 at 30 weeks.



The continued increase in requests for a Needs Assessment, means there are more assessments in process and in the system, at any one time. This increases the risk of a higher number of EHCNA assessments being open for longer periods, beyond the 20-week timeframe. This meaning the identification of a child or young person’s needs and outcomes remain unknown and the delivery of required special educational provision is prolonged.

**2023 figures, as at the end of October 2023.*

2.3 Finalising Education, Health & Care Plans

(Including mediation, tribunal & exception cases)

- 579 EHCP’s were finalised for the first time during the calendar year 2021.
- 791 EHCP’s were finalised for the first time during the calendar year 2022 (37% increase on 2021).

Between January and October 2023, 688 EHCP’s have been finalised for the first time.

This is a 1% increase when compared to the same period in 2022 (683) and a 47% increase when compared to the same period in 2021 (464).

Of those finalised between January and October 2023

- 297 were within the statutory 20-week timeframe.
- 391 exceeded the 20-week timeframe.

This meaning, January to October 2023 saw overall 43.2% of EHCP’s finalised for the first time, within the set statutory timeframe.

By the end of the calendar year 2023, it is anticipated 751 EHCP’s will have been finalised in total; 366 within the 20 week timeframe.

2.4 Timeliness

Figures using the DfE KPI (*which excludes mediation, tribunal cases & exceptions*).

The DfE’s KPI’s align to the statutory timetable and are used to monitor local operational performance. Performance is measure quarterly.

2023 Performance by quarter

Quarter 1 (01 January - 31 March 2023)

159 EHCP’s were finalised.

63 within the statutory 20-week timeframe

End of 1st quarter on time at 39.6%.

Quarter 2 (01 April - 30 June 2023)

182 EHCP’s were finalised.

80 within the statutory 20-week timeframe

End of 2nd quarter on time at 44%.

Quarter 3 (01 July – September 2023)

190 EHCP’s were finalised.

108 within statutory 20 -week timeframe

End of 3rd quarter on time at 56.8%

(Predicted) Quarter 4 (01 October – December 2023)

220 EHCP’s expected to be finalised.

115 within the statutory 20-week timeframe

Expected end of 4th quarter on time at 52.2%.

Therefore, the overall yearly average is expected to be 48.7%, a 10.8ppt increase on last year.

0 finalised EHCP’s breached 52 weeks between 01 January to 31 October 2023.

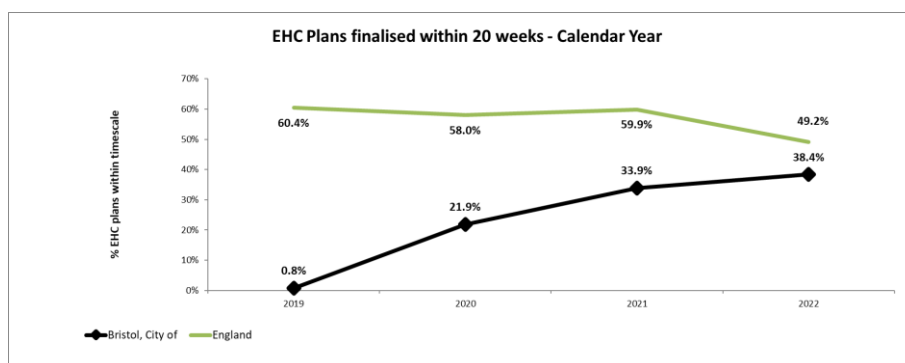
Quarter 1, 2 & 3 periods demonstrate improvement on last year (2022); 1st quarter up by 6.1 ppt, 2nd quarter up by 5.8 ppt, 3rd quarter up by 17.4 ppt.

4th quarter expected to be up by 12.3ppt on 2022.

The services percentage for finalising EHCP’s, for the first time, on time remains steady.

Nationally, the rate of first time EHC Plans issued within 20 weeks is 49.2%. Bristol is currently performing at 56.8%, at the end of quarter 3, above average for the region and currently 7.6ppt above the national average.

We expect to finish the year 0.5ppt below the national average.



In 2022, Bristol finalised 37.9% of first time final EHCP’s within 20-week timeframe. This saw Bristol the third lowest of core cities.

In review, Bristol is one of only two core cities showing improvement each year, albeit incremental. The other six core cities show a less steady picture although their output on time, is in the majority, more positive than that of Bristol.

New EHC Plans issued within 20 weeks				
Core Cities	Excluding Exception Cases			
	% EHCPlans issued within 20 weeks			
	2019	2020	2021	2022
Bristol, City of	0.8	21.9	33.9	37.9
Birmingham	71.6	39.9	59.7	65.6
Leeds	96.1	88.8	88.7	12.3
Liverpool	7.5	9.2	59.7	92.0
Manchester	66.7	51.0	72.6	57.5
Newcastle upon Tyne	51.4	43.9	15.3	12.8
Nottingham	98.1	83.4	81.7	45.5
Sheffield	69.1	82.6	50.2	80.1

2.5 Legacy

As the service sees continued rise of Needs Assessments in process, there remains a tension between finalising new EHCNA requests (within the 20-week timeframe), finalising those already outside 20 weeks (legacy) and reducing the number of weeks open for assessments superceding the 20-week timeframe.

This pressure has remained, throughout 2023, and will continue for as long as there are overdue assessments in the system.

Legacy cases are currently finalised, on average, within 32 weeks.

Timeliness KPI - Rolling 12 months			
New EHC Plans finalised within 20 weeks (excluding exceptions)			
<i>DfE cohort - excludes those with a mediation and/or tribunal before the final plan is issued . Includes all requests irrespective of year received</i>			
	2022/23		
	Finalised EHC Plans in month	Finalised EHC Plans in month <u>within 20 weeks</u>	% finalised EHC Plans in month <u>within 20 weeks</u>
Jan-23	41	10	24%
Feb-23	48	24	50%
Mar-23	70	29	41%
Apr-23	50	27	54%
May-23	55	23	42%
Jun-23	77	30	39%
Jul-23	66	37	56%
Aug-23	58	38	66%
Sep-23	66	33	50%
Oct-23	78	46	59%
Nov-22	51	17	33%
Dec-22	50	24	48%
Total	710	338	48%

The demand for Educational Psychology contributions (Appendix D) is currently exceeding the capacity of the Educational Psychology Service. This is a national challenge and not localised to Bristol.

Without increased EP capacity our ability to complete EHC Needs Assessments within 20 weeks will reduce and the number of those superceding 20 weeks will increase, as will the weeks cases are open.

This will result in an overall reduction in timeliness of first time EHCP’s at the end of quarter one, 2024.

The service is reviewing all options to alleviate this pressure and deliver upon our statutory duty in addition to advertising vacancies and reviewing activities undertaken by the EPS.

The weekly monitoring of all EHC Needs Assessments, with key officers from Children’s Social Care and Specialist Health Advisors (SHAS) for SEND (*monthly*) will continue. As will joint allocation planning as this will be integral to agreeing priorities going forward, for example, Children in Care, those approaching Key Stage Transfer, Children and Pupils Missing Education.

2.6 Development

Priorities for 2023/2024

EHCP Process Improvement

The service has been working alongside a commissioned delivery partner to identify areas that could be developed and implement improvements, within the EHCP process, to reduce manual effort with the aim of reducing pressure within the system and supporting timeliness in processing undertaken.

The team, working alongside the SEND Assessment, Planning & Review Team, has identified four opportunities for robotic process automation:

- Email audit trail logging in which will process key emails.
- An automation aimed at populating pre-panel reports, currently completed by the SEND Assessment Coordinators.
- Annual Review processing where it has been identified that no changes to the EHCP are required.
- Letter creation and send (including attachments) for high-volume letters currently processed by SEND officers.

The implementation of these opportunities is underway.

Two non-automated opportunities will also be implemented aiming to improve EHCP process communication and developing the wider use of web forms.

Sufficiency

In early 2020, Cabinet approved a programme of works to create additional capacity, within the SEND estate, to deliver sustainable sufficiency of specialist places, as far as possible, within the city for children and young people with SEND.

The project has delivered a total of 288 specialist places, including projects at Elmfield School for Deaf Children, Knowle DGE Learning Centre and City of Bristol College Hawking House.

The delivery of an additional 130 placements is underway and further opportunities are being explored.

The DfE has accepted Bristol City Councils application for a special free school, which will deliver, at least, an additional 164 places for the city. This provision is forecasted to open in academic year 2026.

SEND Strategy

Bristol is developing a new SEND and inclusion strategy, due for consultation in the spring. This will be based on a rigorous partnership wide self-evaluation, which will include a number of activities to ensure the voices of children and young people, parent carers and educational professionals are heard.

All partners are fully engaged in the process and coproduction events in January 2024 will facilitate the agreement of strategic priorities and high-level actions needed to achieve the identified priorities.

2.7 Annual Reviews

The SEND Assessment, Planning & Review Team has 18 full time equivalent Senior Inclusion Officers (SIO), split between Pre 14 and Post 14 Inclusion Teams.

Bristol currently has 4,619 EHC plans in service which must be reviewed at least every 12 months and for those under 5 years of age, reviewed every 3- 6 months. Of these, 83% (3522) EHC plans issued more than 12+ months, with 2321 (66%) annual reviews meetings held in the last 12 months.

1,048 have had an annual review decision letter (notification of the decision as to whether to retain, cease or amend the plan following the annual review meeting) sent within the previous 12 months (30%).

Children and Young People at risk of placement breakdown and/or Permanent Exclusion is high in service, taking considerable SEND Officer time affecting the timeliness of statutory processing in team.

The Local Authority does not have capacity to attend all Annual Reviews and currently prioritises attendance for children and young people, in specific circumstances for example; children/young people in care, those with Youth Justice involvement, when families or schools request support, at emergency annual reviews - where there is risk of placement breakdown, a child is classified as either 'pupil missing education' or 'child missing education' or there is a significant change of need and at Key Stage Transfer.

The team continue to provide support and guidance to schools and professionals to improve the quality of the Annual Review process and timeliness.

2.8 First Tier SEND Tribunal

Appeals lodged (*SENDIST Registration letter received by the Local Authority*)

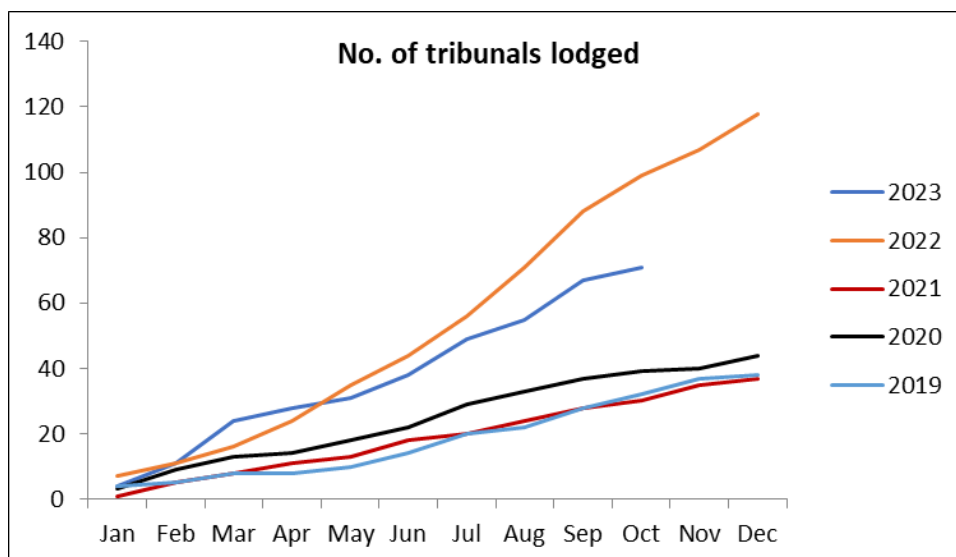
2021- 37 appeals lodged

2022- 118 appeals lodged.

Between January and 01 November 2023, Bristol has had 71 appeals lodged. This is a decrease of 28% when compared to the same period last year (99).

Of the 71 lodged this year, 52 have concluded and 19 are ongoing.

Hearings can be held up to 12 months+ after the tribunal is lodged. Consequently, the team have 5 ongoing Tribunal Appeals lodged in 2022.



The number of appeals will be a reflection of the volume of work against appealable decisions being made by the assessment (EHCNA) and Inclusion (annual review) teams, within the SEND Assessment, Planning & Review team.

Current factors acerbating the volume of appeals are availability of specialist provision places, and parental confidence in the statutory process, including the identification of the specialist educational provision and level of support and/or therapy required to meet a child or young person’s needs.

Reasons for appeals (grounds of appeal):

	2019	2020	2021	2022	2023
Refusal to Assess	12	5	<5	46	26
Refusal to Issue	6	7	8	10	10
Content of EHCP	15	29	28	61	31
Decision not to amend after review	0	0	0	0	<5
Decision to Cease	5	<5	0	0	0
Transfer of appeal from other LA	0	<5	0	0	0

**Where the number of cases is less than 5 the data has been suppressed to preserve confidentiality.*

Content appeals (Section B, F & I of the EHCP) still account for the highest proportion of lodged appeals (31) mirroring 2022. Typically, appeals received peak in March, each academic

year, following the Key Stage Transfer window.

Of these 31, ‘content’ appeals 29 include Section I (placement) and 7 of which are extended appeals’ involving health and social care.

Refusal to Assess is the second highest reason for appeals lodged (26).

So far in 2023, 985 EHC Needs Assessment requests have been received and 190 were declined to proceed to assessment. Therefore, the percentage of appeals lodged after receiving a refusal to assess is 13.7%.

Of these 26 appeals, all have been completed. 24 were resolved prior to hearing and resulted in an assessment for the child or young person, 2 went to a paper hearing and were upheld in favour of the appellant.

There is a continued emphasis on reaching resolution prior to hearing. The Tribunal Managers remain committed to this approach; with full consideration of each case undertaken with the link SEND Officer, early contact and working with parent/carers and young people to avoid progression to appeal wherever possible.

Of cases that do go to appeal, there is a continual emphasis on ongoing negotiation to reach full agreement or to reduce the outstanding points of dispute to be decided in hearing.

The Tribunal Managers remain committed to fostering a knowledge sharing environment and key learning points are shared widely through scheduled Learning & Development sessions.

Of the total Tribunals lodged (71) in 2023:

- 47 have been resolved prior to hearing.
- 5 have been to hearing, upheld (in favour of the young person/parent or carer)
- 19 remain live, currently.

Of those that have been to hearing regarding content (Sections B & F) it is often the case that agreement on outstanding points of dispute are negotiated between parties during the hearing.

Rate of Appeals

The DfE calculates appealable decisions using the SEN2 data. The Total Appealable Decisions figure is calculated as the sum of the following:

Number of initial requests for Education, Health and Care (EHC) assessments refused.

Number of assessments completed, and a decision made not to issue an EHCP.

Number with an EHCP as of January each year.

Number of EHCP’s ceased because the special educational needs of the child or young person are being met without an EHCP.

In 2022, the rate of appeals in Bristol was 3%, above the national average of 2.3%; Bristol was

the third highest of core cities for rate of appeals.

For Bristol, this rate was calculated using a record of 118 appeals lodged in 2022 and 4,015 appealable decisions.

Core Cities	SEND Tribunal Appeal Rate	
	2021	2022
Bristol, City of	1.0%	3.0%
Birmingham	3.3%	4.9%
Leeds	1.5%	1.5%
Liverpool	2.7%	3.7%
Manchester	0.6%	0.7%
Newcastle upon Tyne	0.3%	0.5%
Nottingham	1.3%	2.5%
Sheffield	2.1%	2.6%

Tribunals lodged year to date is lower at 1.5%, and mirrors Leeds’ position 12 months ago.

Currently, Bristol is 0.8ppt below the national average of 2.3%.

For Bristol this rate was calculated using a record of 71 appeals lodged so far in 2023 and 4,619 appealable decisions.

It is important to recognise that whilst, Bristol’s rate of appeals has decreased, our appealable decisions have risen by 13% (604) on 2022.

Core city data for 2023, unavailable at this time.

3. Policy

Not applicable

4. Consultation

a) Internal

Not applicable

b) External

Not applicable

5. Public Sector Equality Duties

- 5a) Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion

or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:

- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
- ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to --
 - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
 - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
 - tackle prejudice; and
 - promote understanding.

5b) < Insert a note on how the public sector equality duties are relevant to the proposals and how these duties have been taken into account in developing the proposals. Where an equality impact assessment has been undertaken, summarise its findings here and provide link to full document, or include the equality impact assessment as an appendix. Where no equality impact assessment has been undertaken, give reasons why not>.

Appendices:

None

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

None