

What equalities legislation is there?

The [Equality Act 2010](#) is a single legal framework that seeks to provide a clear basis upon which to tackle disadvantage and discrimination. Most of the provisions of the Act came into force in October 2010, replacing and consolidating nine pieces of legislation. The Act seeks to ensure people are not discriminated against because they **share certain ‘protected characteristics’**¹, are **assumed to share** those characteristics or **associate with other people** that share a protected characteristic. It also aims to increase equality of opportunity and foster good relations between groups.

In the Act the Government created a [Public Sector Equality Duty](#). This Duty seeks to ensure public authorities play their part in making society fairer by requiring them to have ‘due regard’ to the need to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- foster good relations between people who share a protected characteristic and those who do not share it.

The Act covers both direct and indirect discrimination². The Act also extended protection to those experiencing associative discrimination. This occurs when a victim of discrimination does not have a protected characteristic but is discriminated against because of their association with someone who does e.g. the parent of a disabled child. It also extended the concept of discrimination by perception, where a victim of discrimination is presumed to have a protected characteristic, whether they do have it or not.

What does ‘due regard’ mean?

Having ‘due regard’ means giving an appropriate level of consideration to equalities issues. The Equality Act 2010 explains that having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

¹ The ‘protected characteristics’ defined in the Act are: age; disability; gender reassignment; pregnancy and maternity; race (including ethnic or national origins, colour or nationality); religion or belief (including lack of belief); sex and sexual orientation. Marriage and civil partnerships is also protected but only with regards to the need to eliminate discrimination.

² Equality Law provides [useful summaries](#) of different types of discrimination.

The Act also states that meeting different needs involves taking steps to take account of disabled people's disabilities. It also describes fostering good relations as tackling prejudice and promoting understanding between people from different groups. Further, it states that compliance with the duty may involve treating some people more favourably than others.

The issue of 'due regard' has been considered in a number of Court cases³. It has been emphasised that there are no "prescribed" steps that public bodies must take to demonstrate due regard. In addition there are no particular outcomes that authorities must achieve for those that share protected characteristics as a result of having had 'due regard'. Rather the test of whether an authority has given due regard is a test of substance not "of mere form or box ticking". The duty therefore must be performed "with rigour and with an open mind" and where it forms part of a decision to be made by Members it is important for officers to "be rigorous in enquiring and reporting to them".

Surrey County Council demonstrates how it has applied 'due regard' to equalities by developing Equality Impact Assessments (EIAs) and incorporating the findings from these assessments into changes it makes to services, functions or policies.

Surrey County Council has also made a wider commitment to fairness and respect, which underpins everything we do. Our [One Council One Team Fairness and Respect Strategy 2012-2017](#) sets out our equality objectives for the organisation. It also demonstrates our commitment to deliver these objectives in partnership with local organisations and public bodies that are best placed to improve services for Surrey's residents.

³ The Equality and Human Rights Commission has produced a summary of the implications of these cases in [The Public Sector Equality Duties and financial decisions](#).

EQUALITY IMPACT ASSESSMENT

1. Topic of assessment

EIA title:	Proposal for a new 2 Form Entry Primary School in North West Horley
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EIA author:	Oliver Gill, School Commissioning Officer
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2. Approval

	Name	Date approved
Approved by	Liz Mills	

3. Quality control

Version number	1	EIA completed	
Date saved	9 November 2016	EIA published	

4. EIA team

Name	Job title (if applicable)	Organisation	Role
Oliver Gill	School Commissioning Officer (South East Surrey)	Surrey County Council	Author
Ginni Smedley	Strategy & Policy Development Manager	Surrey County Council	Advisor

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5. Explaining the matter being assessed

<p>What policy, function or service is being introduced or reviewed?</p>	<p>The Horley Master Plan (HMP) represents a long-term strategy to delivery high-quality, sustainable new development in the town and forms part of Reigate and Banstead Borough Council's 2005 adopted Local Plan. The HMP plans for 2,600 new homes, along with enhanced infrastructure and facilities for local people. The majority of these homes will be provided in the form of two new sustainable urban extensions, which are known as the North East Sector and the North West Sector, as well as on a number of smaller sites in the town.</p> <p>The North West Sector's marketing name is Westvale Park and this development is the second of the two urban extensions to come forward. Outline planning permission for Westvale Park was granted in December 2014, following extensive consultation and the completion of a Section 106 Agreement secures infrastructure and service improvements. Work on the Westvale Park site began in December 2015 and housing units are expected to complete in the period 2016/17 – 2026/17. When complete, Westvale Park will include:</p> <ul style="list-style-type: none"> • 1,510 market and affordable homes (75% and 25% respectively); • A new, 2FE Primary School; • A 'Neighbourhood Centre', comprising a community hall, local shops and sites for a place of worship, medical centre, public house/restaurant and employment use; • Open space and play facilities; and • Two new link roads connecting the development to the A213 and A217.
<p>What proposals are you assessing?</p>	<p>This EIA relates to SCC's plans to seek proposals from authorised free school sponsors to open and operate the new 2FE Primary School, which will be located at the centre of the development, on a dedicated site adjacent to the Neighbourhood Centre. It is proposed that the 'competition' to run the new school will be run between January and June 2017.</p> <p>Funding is secured for the build of this school through the associated Section 106 Agreement, which will be supplemented by SCC Basic Need funding, if required. The school site has also been secured in the terms of the Section 106 Agreement, which was seen to be warranted on the basis of the development's scale and the desire it to be "sustainable" in terms of its supporting infrastructure. It is proposed that the new school should open from September 2020.</p> <p>The strategy of installing a new free school within this development is also in alignment with Surrey County Council's School Organisation Plan 2016/17 – 2025/26</p> <p>Surrey County Council will be responsible for the delivery of the new 420-place school building, after which the operation of the school will</p>

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	be handed over to the successful free school proposer.
Who is affected by the proposals outlined above?	The proposal has the potential to have an impact on the following groups: <ul style="list-style-type: none">• Residents within the Westvale Park development;• Pupils (and their parents/carers) who require a primary school place in the Horley planning area;• Those members of staff who ultimately work at the new Primary Free School; and• Extant primary schools within the Horley planning area.

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6. Sources of information

Engagement carried out
<p>Reigate and Banstead Borough Council sought to involve all stakeholders in the in the process of formulating the Horley Master Plan, with a view to taking account of their concerns and ambitions into the plans as they were formulated. In particular, considerable work was undertaken to ensure that the necessary infrastructure, social and recreation facilities could be secured to meet the perceived needs of the new development, and so as to avoid over-burdening services elsewhere in the town. Consultation and engagement with local residents took the form of printed literature, public exhibitions and meetings with defined stakeholder groups.</p> <p>In formulating the specific proposals for the Westvale Park development (and in advance of the submission of the associated outline planning application), the Horley North West Sector Development Consortium undertook consultation with local stakeholders, which again incorporated printed literature, public exhibitions and meetings with defined stakeholder groups. This consultation was utilised to inform the further development of infrastructure and service proposals for the development.</p>
Data used
<p>The following data sets were used to inform this analysis:</p> <ul style="list-style-type: none">• Edge-ucate pupil forecast data;• Surrey-i JSNA Chapter: Ethnicity; and• Surrey-i JSNA Chapter: Religion and Belief.

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7. Impact of the new/amended policy, service or function

7a. Impact of the proposals on residents and service users with protected characteristics

Protected characteristic	Potential positive impacts	Potential negative impacts	Evidence
Age	<p>Children aged 4-11 will benefit from a greater amount of school places in the Horley planning area.</p> <p>Children in the earlier cohorts will be in a largely empty school for the first years of their education, potentially augmenting the pedagogical focus they receive.</p>	<p>Children in the earlier cohorts will be in a largely empty school for the first years of their education, limiting their social opportunities.</p>	<ul style="list-style-type: none"> • Edge-ucate pupil forecast data.
Disability	<p>The new school will be purpose designed to comply with Disability Discrimination Act (DDA) regulations, meaning that it will be fully accessible for all parents/carers and/or pupils with a disability.</p> <p>Parents/carers and/or pupils with a disability could potentially benefit from having an additional local school, within closer proximity to their place of residence, thereby augmenting service accessibility.</p>	<p>Public transport links are yet to be established in/to the new development of which this school will be part. There is the potential that poor servicing in this respect could serve to undermine the utility of the new school, from the perspective of parents/carers and/or pupils with a disability.</p>	<ul style="list-style-type: none"> • Consultation process. • Edge-ucate pupil forecast data.

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	Children with Special Educational Needs (SEN) whose Education, Health and Care Plan (EHCP) identifies the school as the will gain automatic admittance to the school.		
Gender reassignment	No impact identified.	No impact identified.	<ul style="list-style-type: none"> • N/A
Pregnancy and maternity	<p>Parents/carers will benefit from a greater diversity of school choice, facilitating greater scope for parental preference.</p> <p>Parents/carers will benefit from a greater overall number of local school places, thereby enabling greater flexibility to accommodate demand for school places, as well as in year admissions.</p>	No impact identified.	<ul style="list-style-type: none"> • Consultation process. • Edge-ucate pupil forecast data.
Race	The ethnic composition of Reigate and Banstead broadly aligns with the Surrey average. It is not expected that this proposal will have a differential impact on persons of different ethnicities.	No impact identified.	<ul style="list-style-type: none"> • Surrey-i JSNA Chapter: Ethnicity.
Religion and belief	The proposal may have a differential impact on persons of different religions, depending on the provider that is selected as a result of the Free School competition. Should a faith school proposal be selected, there is the potential for up to 50% of admissions to be determined on the basis of faith. The		<ul style="list-style-type: none"> • Surrey-i JSNA Chapter: Religion and Belief.

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	religious composition of Reigate and Banstead broadly aligns with the Surrey average and, as such, there is no particular overriding need for faith-based provision in the area. As such, the competition will evaluate bids on the basis of educational and operational merit, with no reference to the religious nature of the proposals (or otherwise).		
Sex	The school will be co-educational. As such, no impact is identified in respect of sex.	The school will be co-educational. As such, no impact is identified in respect of sex.	<ul style="list-style-type: none"> • N/A
Sexual orientation	No impact identified.	No impact identified.	<ul style="list-style-type: none"> • N/A
Marriage and civil partnerships	No impact identified.	No impact identified.	<ul style="list-style-type: none"> • N/A
Carers	<p>Parents/carers will benefit from a greater diversity of school choice, facilitating greater scope for parental preference.</p> <p>Parents/carers will benefit from a greater overall number of local school places, thereby enabling greater flexibility to accommodate demand for school places, as well as in year admissions.</p>	No impact identified.	<ul style="list-style-type: none"> • Consultation process. • Edge-ucate pupil forecast data.

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7b. Impact of the proposals on staff with protected characteristics

Protected characteristic	Potential positive impacts	Potential negative impacts	Evidence
Age	No impact identified.	No impact identified.	<ul style="list-style-type: none"> N/A
Disability	<p>The new school will be purpose designed to comply with Disability Discrimination Act (DDA) regulations, meaning that it will be fully accessible for all staff with a disability.</p> <p>Staff residing in the locality with a disability could potentially benefit from having an additional local school, thereby augmenting workplace accessibility.</p>	<p>Public transport links are yet to be established in/to the new development of which this school will be part. There is the potential that poor servicing in this respect could serve to undermine the utility of the new school, from the perspective of staff with a disability.</p>	<ul style="list-style-type: none"> Consultation process.
Gender reassignment	No impact identified.	No impact identified.	<ul style="list-style-type: none"> N/A
Pregnancy and maternity	No impact identified.	No impact identified.	<ul style="list-style-type: none"> N/A
Race	The ethnic composition of Reigate and Banstead broadly aligns with the Surrey average. It is not expected	No impact identified.	<ul style="list-style-type: none"> Surrey-i JSNA Chapter: Ethnicity.

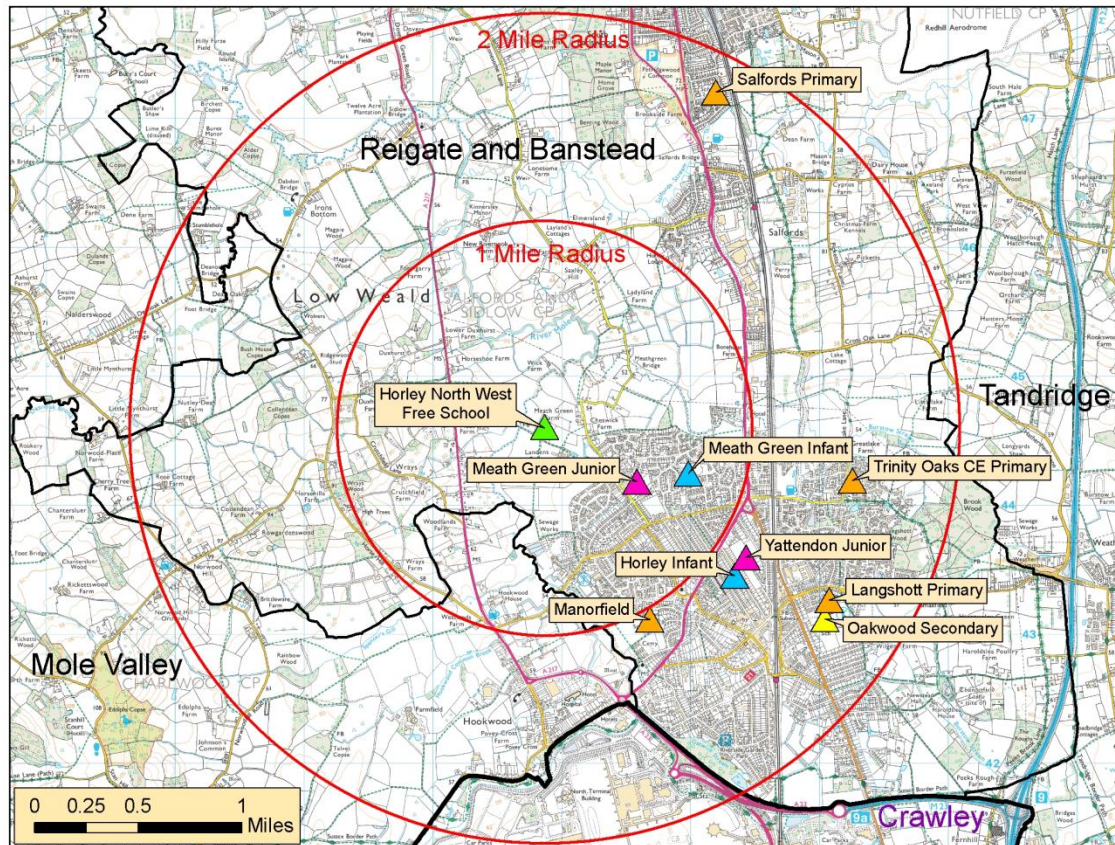
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	that this proposal will have a differential impact on staff of different ethnicities.		
Religion and belief	The ethnic composition of Reigate and Banstead broadly aligns with the Surrey average. It is not expected that this proposal will have a differential impact on staff of different religions.	No impact identified.	<ul style="list-style-type: none"> • Surrey-i JSNA Chapter: Religion and Belief.
Sex	No impact identified.	No impact identified.	<ul style="list-style-type: none"> • N/A
Sexual orientation	No impact identified.	No impact identified.	<ul style="list-style-type: none"> • N/A
Marriage and civil partnerships	No impact identified.	No impact identified.	<ul style="list-style-type: none"> • N/A
Carers	No impact identified.	No impact identified.	<ul style="list-style-type: none"> • N/A

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7c. Impact of the proposals on existing education provision in the local area

The impact assessment conducted with respect to existing education provision in the area extended its focus to primary provision within 1 mile and secondary provision within 2 miles of the proposed development. As can be seen from the below diagram, there are two primary-age schools and a single secondary school that meet these parameters:



The ambition is for the new development is that it should be “sustainable”, in terms of the local infrastructure that is provided to support its residents. As such, the plan is for the development to be relatively self-contained with respect to the primary pupil demand it generates. In line with this, it is estimated that the development itself will generate the majority of the demand for places at the new school, with this being supplemented by additional demand in the wider Horley area, resulting from elevated birth rates in recent years.

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The pupil forecasts for the Horley area were used to provide additional context, with respect to the impact that the proposed Free School may have on existing provision.

The impact assessment for the existing education providers is presented below:

School	Anticipated Impact	Evidence
Meath Green Infant School	Neutral – the school is presently operating at full capacity and it is not anticipated that this fact will be significantly altered by the current proposal. The new Free School is expected to cater for demand arising from the Westvale Park development, as well as accommodate any surplus demand currently forecast for the wider Horley area.	<ul style="list-style-type: none"> • Edge-ucate pupil forecast data.
Meath Green Junior School	Neutral – Meath Green Infant School acts as a “feeder school” to the Junior School and the neutral impact at the infant stage is expected to translate to this school also, for the reasons referred to above.	<ul style="list-style-type: none"> • Edge-ucate pupil forecast data.
Oakwood School	Positive – SCC is currently working with Oakwood School on a potential expansion from 2018 onwards. It is fully expected that, owing to their relative proximity, pupils from the new Free School would feed into Oakwood School in the future, thereby augmenting this school’s long-term sustainability.	<ul style="list-style-type: none"> • Edge-ucate pupil forecast data.

As should be evident from the above, SCC does not anticipate any negative impact on local education infrastructure as a consequence of this proposal. Consequently, this aspect of the Impact Assessment supports the case to proceed with a Free School competition in this instance.

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8. Amendments to the proposals

Change	Reason for change
Evaluation of the Free School competition will be “faith neutral”.	Owing to the fact that no overarching need for faith provision has been identified in the area.

9. Action plan

Potential impact (positive or negative)	Action needed to maximise positive impact or mitigate negative impact	By when	Owner
Children in the earlier cohorts will be in a largely empty school for the first years of their education, limiting their social opportunities.	School to support these children with a targeted range of after-school clubs.	September 2020	Free School Sponsor
Public transport links are yet to be established in/to the new development of which this school will be part. There is the potential that poor servicing in this respect could serve to undermine the utility of the new school, from the perspective of parents/carers, pupils and staff with a disability.	Engage with the wider Horley North West Sector Masterplan process, so as to ensure that sufficiently good public transport links are provided to the new school.	September 2018	SCC School Commissioning

10. Potential negative impacts that cannot be mitigated

Potential negative impact	Protected characteristic(s) that could be affected
N/A	

11. Summary of key impacts and actions

Information and engagement underpinning equalities analysis	<ul style="list-style-type: none"> • Consultation process; • Edge-ucate pupil forecast data; • Surrey-i JSNA Chapter: Ethnicity; and • Surrey-i JSNA Chapter: Religion and Belief.
Key impacts (positive and/or negative) on people with protected characteristics	<p>Positive:</p> <ul style="list-style-type: none"> • Greater school choice. • Building DDA compliant. • Accessible location. <p>Negative:</p>

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	<ul style="list-style-type: none"> • Limited social opportunities for initial cohorts. • Potential for the site to be poorly served by public transport. <p>Neutral:</p> <ul style="list-style-type: none"> • Potential for the selection of a faith school to have a differential impact on persons of different religions.
Changes you have made to the proposal as a result of the EIA	<ol style="list-style-type: none"> 1. Evaluation of the competition to be “faith neutral”.
Key mitigating actions planned to address any outstanding negative impacts	<ol style="list-style-type: none"> 1. After school clubs. 2. Engage with the HNW Masterplan process.
Potential negative impacts that cannot be mitigated	<p>None identified</p>

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