

Meeting of the Council – 2nd March, 2009

Supplementary Report of the Interim Chief Executive and Director of Finance

Revenue Budget Strategy and Setting the Council Tax 2009/10 - Ethnic Minority Achievement Service

Purpose of Report

1. To provide a report on the responses received to the Ethnic Minority Achievements Service (EMAS) Consultation and to consider the recommendations of the Cabinet regarding the budget for the EMAS for 2009/10.

Background

2. A Consultation on the Future of the EMAS Service was undertaken from 8 September 2008 to 8 December 2008.
3. All responses to this consultation have now been read and analysed by the Directorate of Dudley Children's Services. A summary of the consultation is attached to this report. A copy of all consultation responses are available in the Member's Library and in the Council Chamber.
4. Key Outcomes

The following Key Outcomes were noted.

Decisions regarding the answering of two questions were heavily influenced by:

- the Council's decision to close all the supplementary schools.
Many respondents believe they were a significant factor in raising pupil attainment, promoting social cohesion, and were centres well run by experienced EMAS staff who acted as positive role models for young people;
- the Council's decision to withdraw the community funding aid.
Many individuals and voluntary organisations emphasised the benefits derived from this funding, and how EMAS have effectively supported out of hours activities for young people in many ethnic minority communities;

- the proposals to continue the community language programmes have been interpreted as a further diminishing of community support. Once again, the overriding comments of respondents stress the effectiveness and quality of the experienced and qualified EMAS staff;
- a further factor that influenced the responses was the belief that the consultation was driven by a political decision to reduce budgets and that a thorough, rigorous, and objective review of EMAS was needed and that the needs of young people in Dudley's communities, and the outcomes achieved to date were of secondary importance. Some respondents further commented that the lack of performance data for all groups and communities was a significant weakness in the consultation. In essence there was a feeling that as a respondent they could not effectively engage with the consultation due to the exclusion of the data.
- a solicitor's letter was received raising issues with the consultation process and stating the view that there were flaws in the consultation process and in the Equality Impact Assessment rendering them invalid. Further detail as to those allegations is contained in the solicitor's letter of 11 November 2008, attached to this report. The legal department has considered those issues and its response of 11 December 2008 is also attached to this report.

5. **Question One - Level of Council's Budget for EMAS**

Option A - Reducing the Council's central budget for EMAS for the financial year 2009/10 to £320,700.

Comments provided in support of this option tended to agree with the consultation document, or agree that if central government allocations are reducing then the Council should follow the pattern set.

Option B - Setting the Council's central budget for EMAS for the financial year 2009/10 - at its previous level (£611,800) or some higher level.

The overwhelming number of responses supported option B as their preferred choice.

Responses from community groups and individuals not included above cited a range of factors that influenced their selection. In summary they included:

- the success of existing arrangements due to the positive links with EMAS and their well qualified staff;
- that more funding be dedicated to supporting existing groups and other groups not in receipt of such support e.g. Chinese, Bangladeshi communities;

- that the growing numbers of new arrivals and refugees coming to Dudley need support and that this is best achieved through a centralised service.

Option C - Setting the Council's central budget for EMAS for the financial year 2009/10 at a lower level.

Comments in support of this option cited the reduction in national funding as one reason why the budget should be reduced. Another respondent cited the present economic climate as a further justification for reduction.

No preferred Option stated

Comments within this group indicated preferences for either raising or lowering the budget. Reasons to increase the budget reflect comments in option B, whilst those for cutting the budget reflect Option C. Some respondents felt further information was needed before they could state a preference. For example, information about salary costs and the number of young people being supported over the past 5 years.

6. ***Question Two - Consultees are invited to comment on any aspect of this proposed restructuring, and also to put forward their own suggestions as to how the structure of EMAS may be improved, including changing the EMAS budget.***

7 responses and 1 phone call were received in support of the modernisation and restructure of the service. Of these, 3 supported the structure in line with the Council's budget decision of March 2008. Other reasons cited for restructure included:

- to make the service more efficient and effective;
- to support the needs of all new arrivals from all parts of the world;
- to provide more support from advisors and classroom assistants in primary schools.

30 responses were received that stated no preference relating to the restructure of the EMAS service. The nature of the comments in each response does however provide evidence in support or not of a restructure.

Comments favouring a restructure include:

- a reduction in the central budget, and that schools should fund more of the work;
- EMAS should work more closely with other LA services and systems to ensure there is no overlap of roles;
- EMAS should appoint less classroom assistants and appoint more teachers into primary, secondary and special schools.

Comments suggesting no restructure or an increase in EMAS service include:

- more dedicated workers for each community;
- provide more staff to meet the needs of all new arrivals and to provide the support to teachers and pupils in school where new arrivals or ethnic children are isolated.

The majority of responses received support an increase into EMAS.

The responses received on a standard format response sheet which cited the following as the reason for their preferred choice.

Quote - “EMAS is a very diverse team; there is a need to expand the structure to include more staff and resources to deal with the under achievement, integration and community cohesion issues. I feel the community needs have increased during the last few years and there is a need for a more focused work. Community Language classes must remain in the current format and not be changed.”

Other responses received expressed a need to modernise and restructure EMAS but in doing so, expand the services provided. Reasons given in support of these responses are reflected in section 4 - key outcomes paragraph.

- 7 In the light of the consultation responses, the Cabinet, at its meeting held on 11th February, 2009, considered the options below for recommendation to the Council:

- Option A - Reducing the Council’s central budget for EMAS for the financial year 2009/10 to £320,700;
- Option B - Setting the Council’s central budget for EMAS for the financial year 2009/10 - at its previous level (£611,800) or some higher level;
- Option C - Setting the Council’s central budget for EMAS for the financial year 2009/10 at a lower level.

The recommendation of the Cabinet is that Option A - Reducing the Council’s central budget for EMAS for the financial year 2009/10 to £320,700 – be approved.

Finance

8. The EMAS budget for 2008/09 has been retained at the 2007/08 level. The proposed budget reduction of £306,000 has been found from existing resources during 2008/09 which has impacted on other service delivery in the Directorate of Children’s Services. The Council’s Revenue Budget Strategy and Council Tax

recommendations for 2009/10 for consideration at this meeting reflects the recommendation of Cabinet in paragraph 7 above.

9. The future structure and operation of the Ethnic Minority Achievement Service will be dependant upon the outcome of the consultation and be determined by the Council.

Law

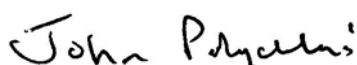
10. The work of the Ethnic Minority Achievement Service is governed by the Education and Inspection Act 2006.
11. The Race Relations (Amendments) Act 2000 places a general duty on a wide range of public authorities, including local authorities, to promote race equality.

Equality Impact

12. The Council has conducted an Equality Impact Assessment (attached) in relation to the proposal to reduce the level of funding to EMAS and the structural changes proposed.

Recommendation

13. In view of the consultation responses and the recommendation of the Cabinet that Option A be approved, the Council is asked to determine the central budget for EMAS for the financial year 2009/10. The possible options include:
 - Option A - Reducing the Council's central budget for EMAS for the financial year 2009/10 to £320,700;
 - Option B - Setting the Council's central budget for EMAS for the financial year 2009/10 - at its previous level (£611,800) or some higher level;
 - Option C - Setting the Council's central budget for EMAS for the financial year 2009/10 at a lower level.



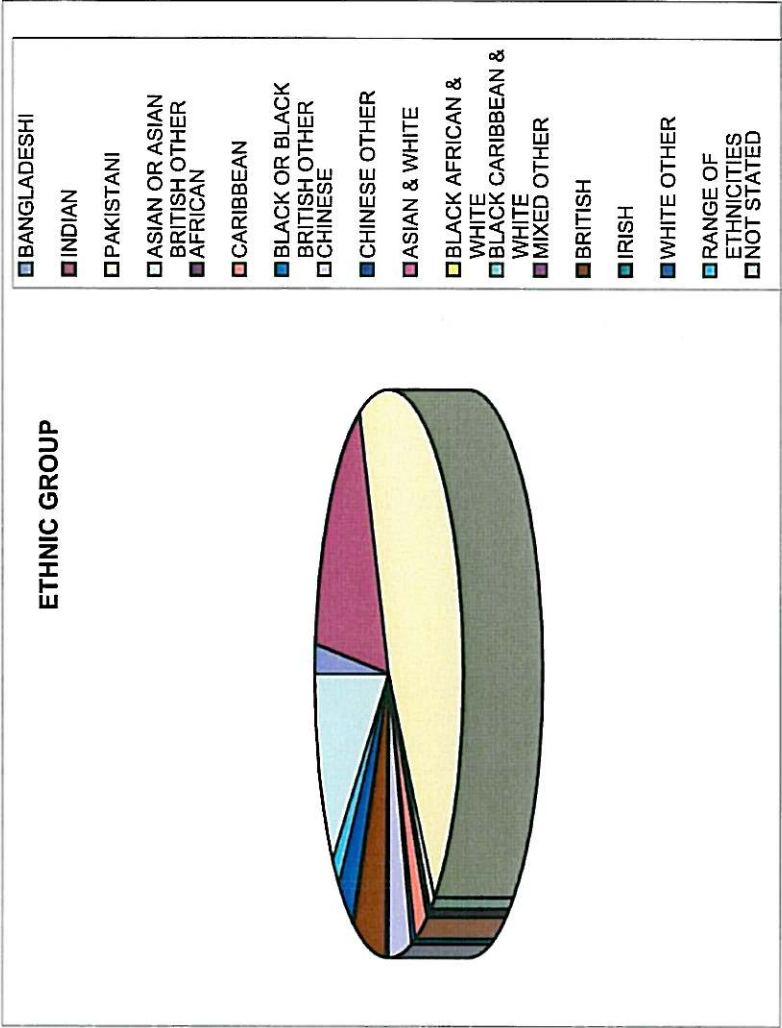
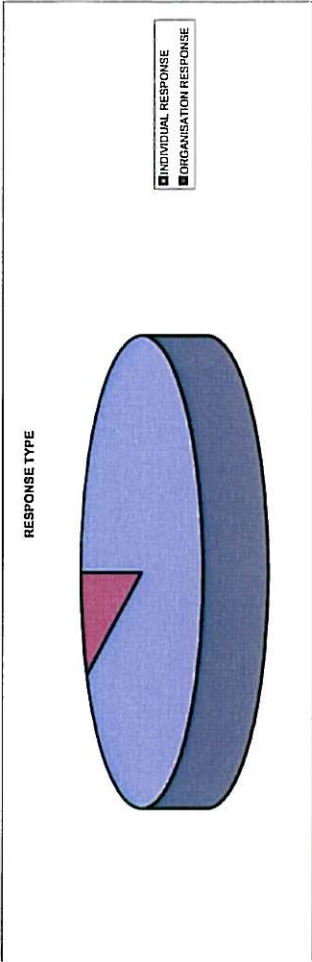
.....
John Polychronakis
Interim Chief Executive



EQUAL OPPORTUNITIES MONITORING

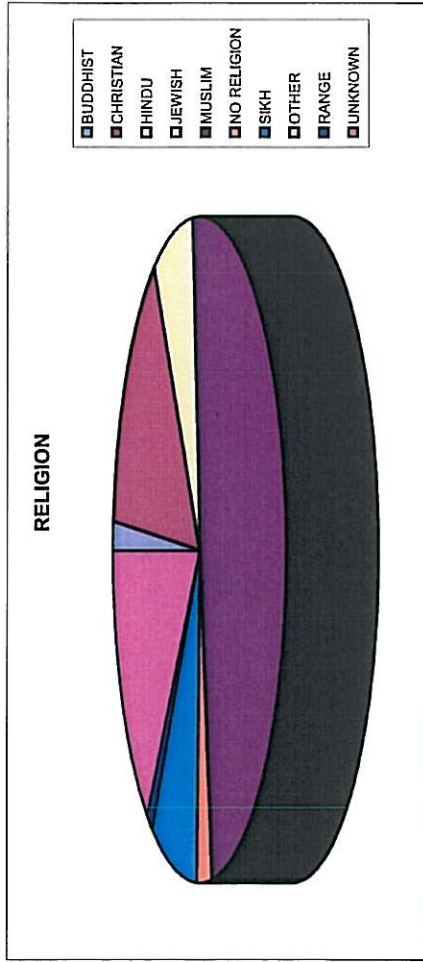
INDIVIDUAL RESPONSE	540	71*
ORGANISATION RESPONSE	42	
TOTAL	582	653

* Late responses

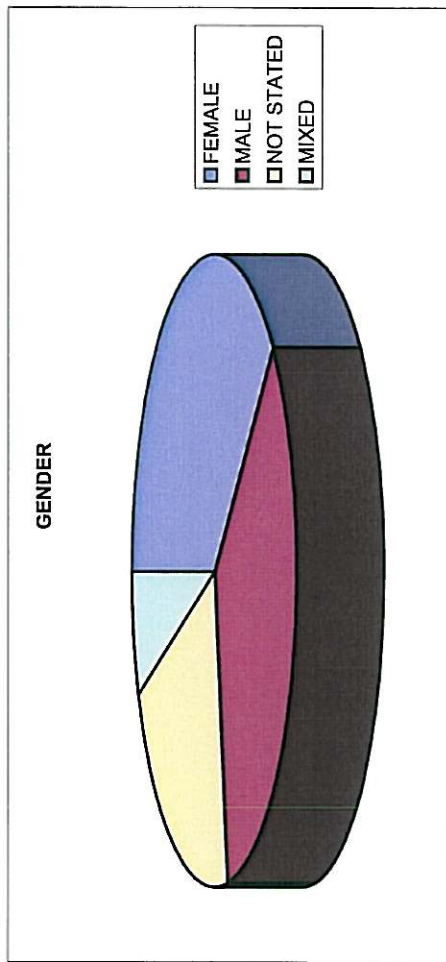


ASIAN OR ASIAN BRITISH	BANGLADESHI	10
	INDIAN	99
	PAKISTANI	266
	ASIAN OR ASIAN BR	7
BLACK OR BLACK BRITISH	AFRICAN	4
	CARIBBEAN	17
	BLACK OR BLACK BR	5
CHINESE OR OTHER	CHINESE	29
	CHINESE OTHER	0
MIXED	ASIAN & WHITE	3
	BLACK AFRICAN & W	0
	BLACK CARIBBEAN	0
	MIXED OTHER	0
WHITE	BRITISH	42
	IRISH	1
	WHITE OTHER	21
	RANGE OF ETHNICIT	11
	NOT STATED	67
	TOTAL	582

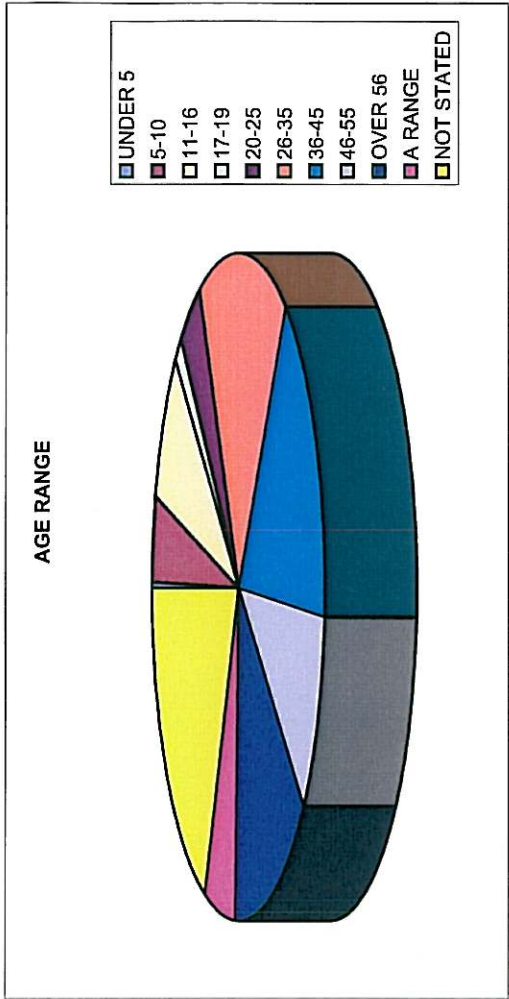
RELIGION	BUDDHIST	8
	CHRISTIAN	86
	HINDU	44
	JEWISH	0
	MUSLIM	285
	NO RELIGION	16
	SIKH	51
	OTHER	0
	RANGE	7
	UNKNOWN	85
	TOTAL	582



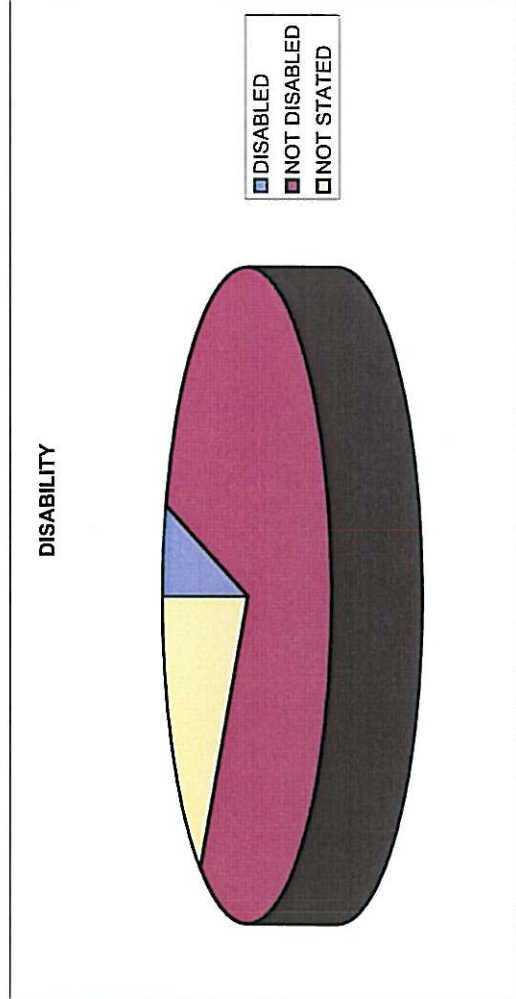
GENDER	FEMALE	218
	MALE	204
	NOT STATED	123
	MIXED	37
	TOTAL	582



AGE	UNDER 5	1
	5-10	25
	11-16	44
	17-19	7
	20-25	25
	26-35	97
	36-45	100
	46-55	58
	OVER 56	83
	A RANGE	34
	NOT STATED	108
	TOTAL	582

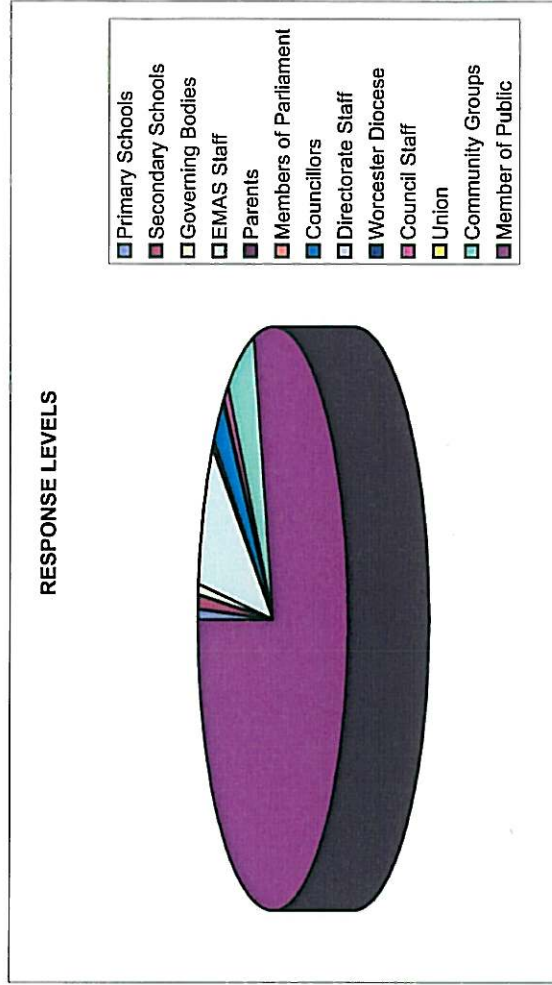


DISABILITY	DISABLED	26
	NOT DISABLED	466
	NOT STATED	90
	TOTAL	582



Primary Schools
 Secondary Schools
 Governing Bodies
 EMAS Staff
 Parents
 Members of Parliament
 Councillors
 Directorate Staff
 Worcester Diocese
 Council Staff
 Union
 Community Groups
 Member of Public
TOTAL

4
 4
 3
 48
 2
 1
 15
 2
 1
 5
 1
 36
 460
582



CONSULTATION DATA INPUT FORM (POST)

*TO BE COMPLETED BY CONSULTATION OFFICER

1.	RESULTS																																																																							
*	<p>What were the headline findings of the engagement / consultation?</p> <p>a summary of views (individual responses can be quoted)</p>	<p>It is important to note that although 650 responses were received to the consultation, only 94 were completed on the Children's Services response form. 559 responses used a standard template with set phrasing therefore the responses naturally showed a bias towards these preferences.</p> <p>Budget - majority of responses indicated option b setting the Council's central budget for EMAS for the financial year 2009/10 at its previous level (£611,800) or some higher level;</p> <p>Structure – majority did not want the structure to change</p> <p>Additional comments raised showed a high desire to reinstate the supplementary schools. Community language programme to remain as it is.</p>																																																																						
*	<p>How many people are represented by the engagement?</p> <p>e.g. the entire Dudley Borough population or a smaller population of specific service users etc</p>	3000																																																																						
*	<p>How many people actually took part in the engagement activity / activities?</p> <p>i.e. how many people responded?</p>	650																																																																						
*	<p>Equal Opportunities Monitoring</p> <p>Number of responses to consultation / engagement</p>	<table border="1"> <tr> <td colspan="3">Asian or Asian British</td> </tr> <tr> <td>Bangladeshi</td> <td>Indian</td> <td>Pakistani</td> </tr> <tr> <td colspan="3">Black or Black British</td> </tr> <tr> <td>African</td> <td>Caribbean</td> <td>Other black background</td> </tr> <tr> <td colspan="3">Chinese or other</td> </tr> <tr> <td>Chinese</td> <td>Other</td> <td></td> </tr> <tr> <td colspan="3">Mixed</td> </tr> <tr> <td>Asian & White</td> <td>Black African & White</td> <td>Black Caribbean & White</td> </tr> <tr> <td>Other mixed background</td> <td></td> <td></td> </tr> <tr> <td colspan="3">range of ethnicities</td> </tr> <tr> <td colspan="3">Religion</td> </tr> <tr> <td>Buddhist</td> <td>No Religion</td> <td>Christian</td> </tr> <tr> <td>Sikh</td> <td>Hindu</td> <td>Other</td> </tr> <tr> <td>Jewish</td> <td colspan="2">A range of religions / beliefs</td> </tr> <tr> <td>Muslim</td> <td>Unknown</td> <td></td> </tr> <tr> <td colspan="3">Gender</td> </tr> <tr> <td>Male</td> <td>Female</td> <td>Mixed</td> </tr> <tr> <td colspan="3">Age Range</td> </tr> <tr> <td>Under 5</td> <td>5-10</td> <td>11-16</td> </tr> <tr> <td>17-19</td> <td>20-25</td> <td>26-35</td> </tr> <tr> <td>36-45</td> <td>46-55</td> <td>Over 56</td> </tr> <tr> <td colspan="3">Disability</td> </tr> <tr> <td>Disabled</td> <td>Not Disabled</td> <td></td> </tr> </table>		Asian or Asian British			Bangladeshi	Indian	Pakistani	Black or Black British			African	Caribbean	Other black background	Chinese or other			Chinese	Other		Mixed			Asian & White	Black African & White	Black Caribbean & White	Other mixed background			range of ethnicities			Religion			Buddhist	No Religion	Christian	Sikh	Hindu	Other	Jewish	A range of religions / beliefs		Muslim	Unknown		Gender			Male	Female	Mixed	Age Range			Under 5	5-10	11-16	17-19	20-25	26-35	36-45	46-55	Over 56	Disability			Disabled	Not Disabled	
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*	Measures taken to ensure equality of opportunity for access and response to the consultation	Access & facilities for disabled people Audio facility Interpreter Involvement of voluntary organisation(s) Large print materials None Signer Translated information
*	Who has or will receive the feedback on the results?	People who took part in the engagement activity Relevant heads of services Corporate board Councillors The Local Strategic Partnership Community & Voluntary Sector Partners i.e. Police, PCT etc Other
*	Has this engagement exercise had an impact upon current Directorate or Departmental Policy / Strategy?	Yes / No
		If yes, please identify changes
*	Has this engagement exercise resulted in any changes to current Directorate or Departmental action plans?	Yes/ No
		If yes, please identify changes
*	Has this engagement exercise linked to and / or impacted on Directorate or Departments other than your own?	Yes / No
		If yes, please identify changes
*	Do you plan to run follow up engagement exercises in the future to assess whether your policy changes / service delivery improvements have worked?	Yes, we are likely to conduct follow up exercise within the Next 3 months Next 6 months Next 12 months Other
	If so, when do you consider this is likely to be?	No, we do not intend to conduct any follow up exercises on this particular issue
2.	EVALUATION	
*	Overall how effective were the engagement methods that you used?	Very effective Fairly effective Fairly ineffective Very ineffective Don't know
*	Did you give participants an opportunity to	Yes / No

	evaluate the engagement process? e.g. methods used, timescales etc	<p>If yes, please summarise feedback received as a result</p> <p>Making statements in consultation doc is not enough, the reader needs facts to make mind up. How can we judge how Pakistani, Indian or any other group is doing when we don't have all the data to compare?</p>
*	Approximately how long has it taken for the results to be collated and analysed?	6 Weeks to date please specify why the delay has taken place
*	Did you use the community engagement toolkit to help you design your exercise?	Yes / No
		If no, why did you not use it?
*	Did you use an external contractor to carry out your engagement activity?	Yes / No
		If yes, which contractor? (name and contact details)
*	If an external contractor was used, please rate your satisfaction with the service you received	Excellent Good Fair Poor Undecided
*	If an external contractor was used, please estimate the cost involved	£
*	Were the consultation timescales clear?	YES / NO
*	Were the consultation timescales kept to?	YES / NO
*	Please estimate the material cost of carrying out the engagement exercise (excluding staff costs)	£400
*	Please estimate the cost arising from the staff time required to carry out the engagement activity	LF - £710.97 Minute Takers & other admin work - £109.95 Translators x 2 for 30 mins each EMAS – photocopying and distribution of docs JP
*	Considering the above costs / use of resources, do you believe that this engagement exercise offers value for money? i.e. did the benefits of undertaking the engagement outweigh the costs?	YES / NO
		<p>If yes, please specify how</p> <p>(e.g. has the engagement hi-lighted efficiency gains to help you achieve more or better quality of service delivery with less resources)</p>

*	Reflecting upon your answers to all the questions above, what were the key learning points from this engagement exercise for yourself and others?	<p>Easy to read document could have been produced (1 side of A4) for service users in a variety of different languages, rather than the whole consultation document.</p> <p>Include tick box for respondent to request an acknowledgement – large volume of acknowledgements cost money to post, however by responding to each consultation it did allow 5 people to contact the office who did not know they had responded to the consultation or was an incorrect address on the form.</p> <p>Questions could have been more precise – easy to understand?</p>
*	What went well?	<p>Community meetings – chance for opinions to be expressed direct to the managers. Well attended. Elicited clear views.</p>
*	What things would you avoid doing next time?	<p>Comment – It looks like the authority has taken the decision without consulting the communities. You send us a 20 page report in English and the community cannot understand it. On the report we see all ethnicity backgrounds.</p> <p>There may be more individual comments re this?</p>

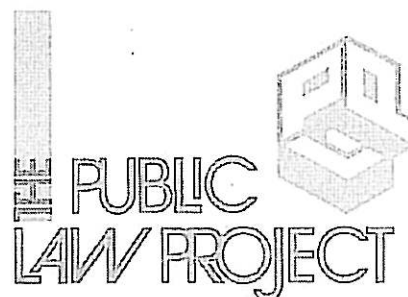
<p>*</p>	<p>Additional Comments / Analysis</p> <p>Need to include minutes from Committee meetings, staff meetings and public meetings</p>			
<p>3.</p>	<p>LINKS</p>			
<p>*</p>	<p>Provide address(es)/hyperlink(s) to the full reports and other documents emerging from this consultation</p>	<table border="1"> <tr> <td data-bbox="842 1232 1517 1328"> <p>Name of document</p> </td> </tr> <tr> <td data-bbox="842 1328 1517 1420"> <p>URL</p> </td> </tr> </table>	<p>Name of document</p>	<p>URL</p>
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Mohammed Farooq
Legal & Democratic Services
Dudley Metropolitan Borough Council
5 Ednam Road
Dudley
West Midlands
DY1 1HL



Your ref: MF/100350

Our ref: LW/163/08

Date: 11 November 2008



Dear Mr Farooq

Consultation on the future of EMAS

I am instructed by Nahad Yafai, having taken over conduct of this matter from my colleague, Clare Collier. My client is obviously delighted that the Council has undertaken not to implement the decision he challenged in judicial review proceedings.

Nevertheless, concerns remain concerning the consultation process that is underway. I have advised my client that any decision made following this consultation may be unlawful if those concerns are not addressed by the Council at this stage. These issues include:

1. Race Equality Impact Assessment

The document you have produced purporting to be an EIA contains inaccuracies, does not actually contain data analysis of the proposed changes, nor an assessment of the proposed changes on black and ethnic minority children, nor indeed does it consider the impact on the staff of EMAS which are by a large majority from BME backgrounds. We have raised these concerns before (see my letter to you of 24 June 2008) and we understand that the EHRC wrote to you in this regard on 1 October 2008. We understand that the Commission have requested that a new, or amended, EIA be carried out, including necessary and appropriate consultation. In our view, a consultation process informed only by the undated EIA apparently produced only for the purposes of the Acknowledgment of Service will not satisfy the Council's legal obligations under section 71 RRA. The EIA should have been conducted in line with the 8-step process set out in the CRE's guidance unless there are cogent reasons for not doing so. No such reasons have been advanced and we can conceive of none.

2. Timeframe for consultation

This consultation was due to take place over a period of 3 months from 8 September to 8 December. The subject of the consultation has changed significantly in view of the

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undertakings the Council gave at Court on 8 October and the subsequent order, made on 14 October. We have now had sight of the Council's letter of 23 October confirming the deadline of 8 December. Consultees will not have sufficient time to respond to the consultation, given that in effect the consultation period has been reduced from 13 weeks to a mere six. Insofar as community consultation meetings, area committees or other discussions may have already occurred, these cannot inform the consultation on the budget for next year, as the questions posed all relate to the impugned decision for this year – therefore, those meetings need to be repeated and a proper consultation on the 2009-10 budget (as opposed to the 2008-09 budget) needs to begin afresh.

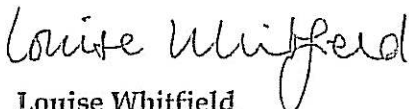
3. Consultation methods

My client has various concerns the most important of which can be summarised as follows:

- the references which remain to the decision made on 3 March 2008 may unjustifiably influence responders;
- only one option is set out in relation to issue 2, when there must be others e.g. preserving the status quo, expanding the service, restructuring in a different way (unless the Council has a closed mind);
- distribution of the consultation has been poor – a letter, in English only, referring to a website, is not a good way of engaging those who may have little understanding of written English, and who may not have access to the internet and/or not be computer literate;
- inadequate attempts to seek the views of affected people face to face which is particularly important given that many of those affected may not easily be able to respond in writing.

If the Council proceeds to make a decision to cut EMAS' funding without taking these factors into account, without giving people sufficient time to respond to the new consultation or without a proper EIA, I may advise Mr Yafai that there are grounds for a judicial review of that decision.

Yours sincerely



Louise Whitfield
Project Solicitor
Public Law Project

Direct line: 020 7697 2192

Email: L.whitfield@publiclawproject.org.uk

Our Ref
MF/100350

Your Ref
LW/163/08

Please ask for
Mr M Farooq

Direct Dial
01384 815371

11th December 2008

Dear Ms Whitfield

EMAS

I refer to your letter of 11 November 2008 and my letter of the 17th November.

As you know there was a previous judicial review challenge to the Council's decision to reduce the EMAS budget. We did not accept there was substance to that challenge, and in fact the only judicial determination of the challenge, being the decision on the papers, dismissed it as unarguable and totally without merit. As a practical matter and for reasons we have explained previously we entered into an agreed consent order, which set out the terms of a slightly amended consultation to that which was at that point already ongoing. The amendments to the ongoing consultation were not significant, and amounted to some modest changes of wording (being changes insisted on by your client), and a change to the date of implementation of the proposed budget cut, which simply reflected the lapse of time, and set it back by a year. The substance of the decision was unchanged from that which was the subject of an ongoing consultation at the time.

Those amendments were to the *existing* consultation and were agreed to by your client and sanctioned by the Court. The agreement arose from suggestions made by the permission Judge, Mr John Howell QC sitting as a Deputy Judge.

Continued ...

Louise Whitfield
Project Solicitor
Public Law Project
150 Caledonian Road
London N1 9RD

As regards the first issue you raise, concerning the Race Equality Impact Assessment (REIA), as you say in your recent letter, the points you now raise were matters you raised in June 2008. If your concerns regarding the REIA were still a matter you intended to pursue in mid-October, then we find it odd that you agreed the consent order of 14 October 2008, the basis of which was that the consultation would continue, and would do so *using the same REIA*. You did not insist then that the REIA needed to be re-done; rather you agreed to a process that necessarily involved use of that REIA. If this had been a point taken by you then, we would not have agreed the consent order, as it would have been of limited worth to us. We consider it inappropriate that you would begin, and then withdraw, a challenge to the REIA in 2008, agree a consent order the basis of which was that we continued our consultation in amended form – and crucially, with the same REIA – and then in 2009 make the same challenge to the same REIA. We think a Court would be concerned at your conduct of the overall litigation in relation to the REIA issue.

For the avoidance of doubt we do not accept there is any substance in the points you raised in June 2008 and now regarding the REIA. As you know we have responded to those points in our own previous correspondence.

As regards the second issue you raise, concerning the timeframe for consultation, we must emphasise that this was an amendment to the existing consultation process, and was clearly that which the Judge envisaged when he suggested to the parties at the permission hearing that the entire dispute could be resolved simply by making relatively modest alterations to the *existing* consultation. This was given effect to by the consent order, and subsequently sanctioned by the court. At the time of the permission hearing (at which the Judge suggested altering the existing consultation, and at which the broad outlines of the consent agreement were worked out) there were still two months remaining of the consultation period, and that was plenty of time, particularly in view of the fact that this was essentially only an alteration to the existing consultation, with all the substantive issues remaining the same.

It was always envisaged that the consultation deadline of 8 December 2008 would remain. This always had to be the case because of the need to meet the dates for reporting to Cabinet and to Council.

We acted to carry out the terms of that agreed order by sending the letter referred to at Order (b) on 23 October 2008, which was only 7 working days after agreeing this consent order.

In any event the point lacks substance. It is with respect not correct to state that "the subject of the consultation has changed significantly". In fact the subject of the consultation is the same, with very minor alterations to wording of the consultation document, and with the dates of implementation changed. The issues are substantially the same. The point of substance is that it is proposed to reduce the EMAS budget for the future by approximately £300,000. The subject of the consultation has been known about and discussed locally for a long time, going back to January 2008. We do not believe there is any realistic substance to the complaint that the subject matter of the consultation has changed such that your client then had insufficient time to assimilate these new changes into his consultation response.

As regards the third issue you raise, the consultation methods, the first two points you raise concern matters relating to the agreed consent order. We do not accept that the remaining reference to 3 March 2008 could realistically be regarded as being of such consequence as you state. The previous decision of 3 March 2008 was background necessary to explain how the present position is arrived at. As to the listing of the options, we went through issues such as the manner in which options are described in some detail in negotiating the agreed consent order. The matter you now complain of was part of that agreed consent order. It is far too late to seek to revisit that matter now, after having agreed the consent order. As to the final two bullet points, the manner in which we have consulted has not changed from that which led to the agreed consent

Order. You did not raise these matters then, despite the fact that the very subject of the consent order was the changes to be made to the consultation process. If you had raised these matters then we could have discussed them with you and considered whether to accommodate your concerns on those issues. Alternatively it may have been that we may have decided to abandon the negotiations and press on with the determination of that previous claim.

In any event we do not consider that these two further issues you now raise are sufficient to impugn the consultation process. We would also add that all Area Committees have seen and been consulted on the revised document, as has the Select Committee. HTCF and the EMAS Working Group as well as Head teachers all have copies of the revised document and were made aware of the changes. Staff were informed of the changes by the Head of Service and all received electronic copies. The Professional Associations were engaged in the initial staff consultations and they were also sent revised copies. Community groups also received revised copies.

Our intention is that all comments and views already received prior to the amendment will still form part of the consultation analysis as it is felt that the fundamental views will still be relevant to the amended issue. However if it is your view that we should ensure that comments and views already received prior to the amendment should for any reason be withheld from the decision-maker, then please do let us know urgently, so that we can consider that matter further.

Yours sincerely

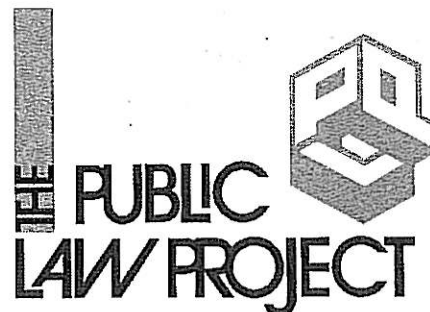
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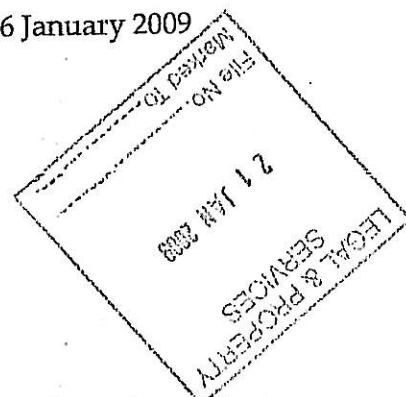
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Your ref: MF/100350

Our ref: LW/163/08

Date: 16 January 2009



Dear Mr Farooq

EMAS

Thank you for your letter of 11 December. I wish to respond briefly to the points raised, although clearly the issues will remain live until a fresh decision is made in relation to the EMAS budget for 2009-10; I will then advise my client accordingly in the light of that decision and how it was taken.

There appears to be a misunderstanding as to the effect of the agreed consent order; this was to dispose of the claimant's challenge to the decision of 3 March 2008; its aim was to ensure that the decision no longer had any legal effect and was not implemented by your clients. Once the proceedings were disposed of on this basis, there was no scope to challenge the REIA or the new consultation process. It is unrealistic to conflate the two consultation processes on the basis that they were essentially about the same issue; they were about two very distinct issues: EMAS funding for a year that was nearly over (i.e. a consultation to reverse an earlier decision) and EMAS funding for a year yet to begin (i.e. a genuine consultation about future plans).

There has never been any implication that the claimant accepted the REIA as adequate by consenting to the settling of the proceedings. I note that you have not responded to the point in my last letter concerning the EHRC's request that you undertake a fresh REIA and I will be contacting the Commission for an update in this regard.

For the avoidance of doubt, the consent order and the settling of the proceedings does not mean that anything your clients do subsequently in relation to the new consultation process and decision is in fact lawful. (The proceedings concerned the legality of the decision of 3 March 2008.) The points raised in my letter of 11 November were to alert you and your clients to the potential unlawful aspects of the new consultation and any future reliance on a

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flawed REIA. I will therefore await the Council's further decision and advise my client in due course.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Louise Whitfield', with a stylized, cursive script.

Louise Whitfield
Project Solicitor
Public Law Project

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1 Evidence

Please provide details of all evidence in relation to the policy/function relevant to equality issues, include details of any consultation undertaken as part of this stage and think carefully about what information is needed. The headings below are provided as reminders but are not an exhaustive list.

The Ethnic Minority Achievement Service has not been restructured for more than 8 years. Over that period the nature and size of the population needing support has changed, with fewer new entrants to the Borough

Over the last several years, government policy has been that funding and support should be delivered through front line services, schools, and also that services should be personalised.

The restructure of the Ethnic Minority Achievement Service will enable the new Ethnic Minority Attainment Team (EMAT) to target need more effectively, and at the same time to focus support through front-line services and working in a more integrated way.

The overall resource available to support minority ethnic children is largely unchanged, although the funding routes have developed in line with government policy.

The main equality issue dealt with by Ethnic Minority Achievement Service, and in future EMAT, will be race; however, disability and gender issues will be addressed through the personalised delivery of services.

Equality monitoring has been carried out over a period of several years, and is collated, analysed, and benchmarked against national averages, statistical neighbours, and geographical neighbours. This evidence shows that black minority ethnic children under attain at the end of Key Stage 2, 3 and 4 but that progress from their initial starting point is closely comparable to that of similar pupils from similar backgrounds nationally.

The intention, therefore, is to focus support on ensuring that black minority ethnic pupils and their families get a good start, so that their attainment and needs and the progress they make will keep them in line with the population as a whole.

Monitoring will continue and be extended via the School Improvement Partner Programme to ensure that the work of individual schools is supported and challenged in order to achieve the intended improved outcomes.

Consultation has taken place on the reduced central budget. The feedback has been negative, but this was not informed by the detailed proposals that are now being made to ensure that the equality impact is positive overall.

Further consultation is now underway.

Barriers to access:

The EMAS has a good record of working with new pupils and families in accessing services provided by the local authority. This type of support will be retained with the new EMAT service.

The Ethnic Minority Achievement Service has provided school-based support, including support to individuals and to school staff. This work will continue but will be reconfigured with a smaller central team and be linked to greater flexibility for schools to target funding to meet needs at school level.

Information about the Borough

The 2001 census for Dudley shows that:

The % of the population born in Dudley was 96.6%, a slight decline from the 1991 census of 97.2%

It also indicated;

The ethnicity of the Dudley Borough population had changed little between 1991 – 2001. In 1991 white ethnic groups made up 95.51% of the total population – in 2001, the figure was 93.68%

Further research suggested;

All of the ethnic groups in Dudley are more likely to have been born in the UK than the averages for England and Wales.

Similarly a high % of the mixed groups, between 83.2% and 97.9% were born in the United Kingdom.

The most recent survey of pupils in Dudley schools (January 2008) continues to reflect this pattern. White British pupils remain the biggest % of the school population followed by Asian or Asian British and then pupils of mixed/dual background.

The EMAS service information records that there are currently 449 pupils in Dudley schools who were “new arrivals”. 117 of these pupils arrived in Dudley schools between September 2006 – July 2007. Currently only 73 between September 2007 and May 2008. The changing nature of migrating patterns into Dudley are reflected in the new arrivals figures for secondary schools from the autumn of 2006 onwards. Data held by the LA admissions team shows pupils from Afghanistan, Iraq, Russia featuring alongside those from African and Asian countries.

Background or comparative information:

Up to 2006/07 the Council has been able to make up the shortfall in DCSF funding and continue the work of EMAS largely unchanged. Financial pressures on the Council have not allowed this position to continue in 2007/08, when the Saturday supplementary schools have closed. These provisions enabled extra national curriculum support to be made available to some children from minority communities.

The table shows how the funding for EMAS has changed over the last five years.

EMAS Funding							
	DSCF					DSCF	
	Grant	Budget	Budget	Total		Grant	Total
	Retained	DSG	LA	Funding		Devolved	Funding
		(Schools)		Retained		to	
						Schools	
	£	£	£**	£		£	£
2008/09	203,175	107,300	626,000	936,475		1,151,329	2,087,804
2007/08	203,175	105,200	611,800	920,175		1,151,329	2,071,504
2006/07	215,371	102,900	666,900	985,171		1,220,437	2,205,608
2005/06	227,567	100,000	651,100	978,667		1,289,546	2,268,213
2004/05	251,958	-	668,500	920,458		1,427,765	2,348,223

**Includes Inflation

What evidence is missing? What will be done to collect it?

Effective personalisation and early intervention is driven by the evidence of early years learning outcomes. In order to secure further evidence, work will be undertaken with Children's Centres, Nurseries and Private Settings in order to inform schools and settings about the specific needs of individuals.

The new EMAT structure includes a post specifically designed to gather this evidence and to support other teams and schools in effective delivery to all ethnic minority pupils 0 - 5.

2 Data Analysis

Provide details of the analysis completed on the data above, try to identify patterns or trends and compare with other authorities, national research, census data, etc.

Pupil performance data indicates that Pakistani, African Caribbean, Gypsy/Romany and

pupils for whom ethnicity is not declared do less well than their peers in Dudley or against national averages at age 11, 14 and 16. However, progress for many of these pupils in Dudley does match progress made by similar pupils from similar backgrounds and whose prior attainment is broadly the same. Some groups above, in 2007, made better progress than similar pupils nationally (e.g. Pakistani and black African pupils attaining level 5 plus in English (KS3), Pakistani, Indian and Chinese pupils attaining 5 A* - C (KS4), Pakistani and Indian pupils attaining 5 A* - C including English and Maths). Further analysis in Dudley shows that for some of the groups above their attainment and progress is better in some townships compared with others, emphasising the need for individual services.

External evaluation of LA support services overall concluded that they were effective in helping pupils in these groups to improve their attainment and rates of progress (JAR 2006, APA 2007).

Feedback from schools rate the quality of these services as at least satisfactory and sometimes good (School Survey 2007).

Schools Data

The Local Authority carries out an analysis of pupil performance for each ethnic group at all keys stages, including Foundation Stage. The deployment of teaching and learning support is based upon the Foundation Stage and Key Stage 1 results. The focus is to provide early intervention and support the development of other teams and schools to meet pupil needs. In Key Stages 3 and 4 support is targeted to individual pupils to help reduce the gap between their attainment and their peers locally and nationally.

Further analysis of pupil's performance for all pupil groups is undertaken in each of the 5 townships. One outcome of this analysis is to identify community language needs. The revised structure for EMAT support will result in the development of service levels of agreement with secondary schools to continue the development of these languages.

Individual school and pupil data is also analysed. This enables the local authority to target government grants and local resources to specific need. For example, personalisation of learning grants, SEN grants, EMAS grants and EMAS support. The impact of this work is a growing feature of the school improvement partner programme. School progress will be monitored on a termly and annual basis. In addition, the head of the EMAT service will review progress with members of the EMAT team on a six weekly basis.

3 Assess the impact

Is the initial assessment of potential adverse impacts correct in light of the evidence and analysis? Please explain your decision fully.

The Local Authority's assessment is that, aside from the change of budget, other proposed changes to EMAS's working will have a positive impact on outcomes and so

	<p>promote equality of opportunity. These include better targeting of services to need, increased personalisation and the integration of service delivery with other provision.</p> <p>A decision to reduce the EMAS budget, viewed in isolation, does not of itself have any particular positive effect on the promotion of equality of opportunity and good race relations. However the Local Authority's assessment is that any impact on those matters from the proposed reduction in the EMAS budget is more than offset by improvements in outcomes due to other proposed changes, which as indicated will lead to improved targeting, more effective working, better personalisation, better integration with other services, and focussed monitoring of outcomes.</p>
4	<p>Reasons for Adverse/Differential Impacts</p> <p><i>Outline the reasons identified for adverse impacts.</i></p> <p>Feedback from sections of the communities within Dudley indicate concern that the reorganisation of this service will result in a significantly reduced support for children and their families which could result in less access to services and poorer outcomes for pupils. This perception will be addressed through meetings with community representatives and by work carried out alongside families.</p>
5	<p>Consider Alternatives / Mitigating Actions</p> <p><i>How will any adverse impacts identified be reduced or removed? Please explain if it is decided that an adverse impact is unavoidable.</i></p> <p>The restructure will be carefully monitored in order to ensure that the benefits are realised and that any problems are addressed promptly. Impact will be assessed through pupil progress termly and annually, and pupil outcomes at the end of Key Stages.</p> <p>Staff will be supported through training to develop their practice in the ways described with a view to improving substantially their effectiveness.</p>
6	<p>Test the Changes</p> <p><i>Please detail how the mitigating actions to reduce or remove the adverse impacts were tested or piloted and the results of this.</i></p> <p>The actions proposed are derived from best and most effective practice locally, national developments (the MEAP project) and West Midlands research; in addition, DCSF has piloted a range of work on personalised learning and the monitoring and improvement of outcomes.</p>
7	<p>Decision making</p> <p><i>Did the pilot or test illustrate that the mitigating actions will be effective?</i></p> <p><i>What decision has been made about the policy or function/service and why?</i></p>

	<p>The new EMAT structure will enable effective delivery as set out above and in particular a personalised approach to meet the needs of individual children and families.</p>
8	<p>Monitoring Arrangements</p> <p><i>How will the equality impact of the policy or function/service be monitored in the future?</i></p> <p>Monitoring pupil progress and making appropriate interventions with individual young people is recognised by Ofsted and DCSF as good practice.</p> <p>In addition the EMAS Working Group (comprised of officers, headteachers, union representatives) will be changed to the new EMAT Working Group to include staff representation and with the specific purpose of monitoring progress and outcomes, and to make recommendations as needed.</p> <p>Reports on outcomes will also be made to meetings of community representatives.</p>
9	<p>Ensure links to school equality plan</p> <p><i>Please provide details of the key actions to be included within the relevant directorate equality and diversity action plan and responsible officers.</i></p> <p>The revised structure and development plan for EMAT, and the monitoring arrangements, will be included in the Directorate Equality Action Plan and in the Directorate Strategic Plan.</p>