

Equality & Human Rights Impact Assessment (EHRIA)

This Equality and Human Rights Impact Assessment (EHRIA) will enable you to assess the **new, proposed or significantly changed** policy/ practice/ procedure/ function/ service** for equality and human rights implications.

Undertaking this assessment will help you to identify whether or not this policy/ practice/ procedure/ function/ service** may have an adverse impact on a particular community or group of people. It will ultimately ensure that as an Authority we do not discriminate and we are able to promote equality, diversity and human rights.

Before completing this form please refer to the EHRIA [guidance](#), for further information about undertaking and completing the assessment. For further advice and guidance, please contact your [Departmental Equalities Group](#) or equality@leics.gov.uk

***Please note: The term 'policy' will be used throughout this assessment as shorthand for policy, practice, procedure, function or service.*

Key Details	
Name of policy being assessed:	Charging for Domiciliary Care – Average to Actual Costs
Department and section:	Adults & Communities - Community Care Finance
Name of lead officer/ job title and others completing this assessment:	Steve Hoyle – Assistant Manager (CCF) Chris Housden – Strategic Lead - Equalities
Contact telephone numbers:	Steve x57417 Chris Housden x56947
Name of officer/s responsible for implementing this policy:	Sarah Rogers/Steve Hoyle
Date EHRIA assessment started:	12/07/16
Date EHRIA assessment completed:	13/09/16

Section 1: Defining the policy

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You should begin this assessment by defining and outlining the scope of this policy. You should consider the impact or likely impact of the policy in relation to all areas of equality, diversity and human rights, as outlined in Leicestershire County Council's Equality Strategy.

1	<p>What is new or changed in this policy? <i>What has changed and why?</i></p> <p>Currently, the charge to service users for Domiciliary Care Services is based on the average provider charge across the county, producing an hourly figure that in some cases will be different from the actual cost. The proposed change is to charge the service user the actual cost as paid to their provider.</p> <p>The provisions of the Care Act 2014 statutory guidance require that local authorities do not charge service users more than the cost of arranging the service. The proposal is designed to ensure compliance.</p> <p>Although the impetus for this proposal is Care Act compliance, it would also aid smoother administration of charging processes, as the IT system (ContrOcc) in use in Leicestershire County Council (LCC) is designed to charge on actual cost. The amount of manual work currently required would therefore be reduced.</p> <p>The calculation used to determine the amount that a service user contributes towards the cost of their care services is in line with national guidance, will not alter, and will continue to ensure that they are not charged more than they can afford to pay. The Care Act statutory guidance contains provisions for this requirement and the Council will continue to comply with this</p>
2	<p>Does this relate to any other policy within your department, the Council or with other partner organisations? <i>If yes, please reference the relevant policy or EHRIA. If unknown, further investigation may be required.</i></p> <p>LCC Charging Policy is compliant with the Care and Support (Charging and Assessment of Resources) Regulations 2014 (see above).</p>
3	<p>Who are the people/ groups (target groups) affected and what is the intended change or outcome for them?</p> <p>While all service users who are charged for Domiciliary Care would have their charge calculated under the new terms, only some would see a difference as a result. If the proposal is adopted, they would pay the actual cost of the care, subject to any cap set by their individual Financial Assessment. Work has been undertaken by our finance business partner to establish who would be affected and to what degree. The results are recorded in paragraph 8 below.</p> <p>The amount paid to providers would not alter as a result of this change. The launch of new contracts under Help to Live at Home (HTLAH) in November 2016 will see a</p>

	change to payments to providers based on contractually agreed amounts, unconnected to this proposal.			
4	Will this policy meet the Equality Act 2010 requirements to have due regard to the need to meet any of the following aspects? (Please tick and explain how)			
		Yes	No	How?
	Eliminate unlawful discrimination, harassment and victimisation	x		The current charging system could be perceived as unfair, as some people are paying more for the service they are receiving than it actually costs. However, the current 'average cost' system does have an equalising effect by eliminating variations in charging between different locations and removing the 'post code' effect. The merits of these arguments can be addressed by exercising a balancing judgement, taking account of the related Care Act provisions.
	Advance equality of opportunity between different groups	x		
	Foster good relations between different groups		x	It is important that we treat people in similar circumstances as fairly as possible to promote this aim. This again is a balancing exercise as there are some variables which are beyond our immediate control, such as the known differences in costs between different areas in the county.

Section 2: Equality and Human Rights Impact Assessment (EHRIA) Screening

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The purpose of this section of the assessment is to help you decide if a full EHRIA is required.

If you have already identified that a full EHRIA is needed for this policy/ practice/ procedure/ function/ service, either via service planning processes or other means, then please go straight to [Section 3](#) on Page 7 of this document.

Section 2

A: Research and Consultation

5.	Have the target groups been consulted about the following?	Yes	No*
	a) their current needs and aspirations and what is important to them;		x
	b) any potential impact of this change on them (positive and negative, intended and unintended);		x
	c) potential barriers they may face		x
6.	If the target groups have not been consulted directly, have representatives been consulted or research explored (e.g. Equality Mapping)?	x	
7.	Have other stakeholder groups/ secondary groups (e.g. carers of service users) been explored in terms of potential unintended impacts?		x
8.	*If you answered 'no' to the question above, please use the space below to outline what consultation you are planning to undertake, or why you do not consider it to be necessary.		
	<p>The charging policy used to assess contributions will remain unchanged, and therefore does not require consultation. The Care Act is national legislation and was subject to Central Government consultation prior to its implementation..</p> <p>As we hold extensive data relating to charges made for the services affected, it is possible to calculate impacts with a high degree of accuracy. Appendices 1 and 2 provide an analysis of the impact of the proposal, geographically and by service user group, based on current service user data (August 2017). The tables do not cover the full range of protected groups, but identifies those likely to be particularly affected. For the purposes of this EHRIA, the crucial findings are as follows:</p> <p>Geographical impact.</p> <p>Broadly, the current scheme generally benefits service users living in more affluent parts of the County. This is reflected in the overall increase in charges that would result from the proposed change in 5 areas: Groby & Market Bosworth, Loughborough East, Market Harborough. Melton Mowbray and Thurnby & Syston. Conversely, the two areas with the highest indicated decrease, Ashby & Coalville and Hinckley & Twycross, within which are areas of known deprivation. We acknowledge that living in a more affluent area does not necessarily coincide with service users living there being more affluent than those living elsewhere. This should be regarded as a general comment, indicative of a trend.</p> <p>Client group impact.</p> <p>Older people. The majority of Domiciliary Care service users covered in the analysis (2,149 or 83%) fall into the over 65 age category. The table indicates that</p>		

	<p>145 (7%) of these would experience an average charge increase of £2.08 per week, with a maximum increase of £22.75 per week, if charging changed from average to actual costs. A greater number (416 or 19%) would see their bills fall by an average of £2.96 per week. The remaining 1,588 (74%) would see no change.</p> <p>Maintaining the method of charging on average costs would see no increases at all, whereas 597 of this group would receive bills reduced by an average of £2.29 per week. This reduction is the effect of the lower average hourly rate paid to providers under the HTLAH scheme (£15.18) compared to the current contracts (15.44).</p> <p>People with Learning Disabilities. Of the 104 service users in this group, 5 (4.8%) would see an average increase in their charge of £0.63 per hour (the maximum increase would be £1.53 per hour) under the proposal, with 8 (7.7%) receiving an average decrease of £0.69 per hour. Retaining the current system would result in no increases, with 14 (13.5%) seeing an average reduced charge of £0.64 per hour, for reasons explained above.</p> <p>Physical disability (Access and Mobility). Of 62 people, only 1 would see an increase charge of £1.82 per week, with 5 receiving an average decrease of £5.92 per week. Retaining average charge would see no increases and 6 decreases at an average of £4.90 per week.</p> <p>Physical (Personal Care & Support). Of 190 people, 5 (2.6%) would see an average increase of £0.57 per hour (average £0.99), and 9 (4.75%) a decrease of £1.96 per hour. Retaining average charging would see no increase with an average decrease of £1.26 per hour for 18 (9.5%) people.</p> <p>Of the remaining groups, none would see an increase in charges, with sensory impaired, memory & cognition and mental health experiencing small decreases under both schemes of charging. Carers, social isolation and substance misuse record no impact under either scheme.</p>
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Section 2			
B: Monitoring Impact			
9.	Are there systems set up to:	Yes	No
	a) monitor impact (positive and negative, intended and unintended) for different groups;	x	
	b) enable open feedback and suggestions from different communities	x	
Note: If no to Question 8, you will need to ensure that monitoring systems are established to check for impact on the protected characteristics.			
Section 2			
C: Potential Impact			
10.	Use the table below to specify if any individuals or community groups who identify		

with any of the ' protected characteristics ' may <u>potentially</u> be affected by this policy and describe any positive and negative impacts, including any barriers.			
	Yes	No	Comments
Age	x		<p>The changes will affect all age groups over 18. Under the proposal, some would pay more for their Domiciliary Care and some would pay less depending upon the area where they live i.e. the particular 'Lot' under HTLAH (see data recorded in para 8). The over 65 group makes up the majority of service users and the data shows that more would gain than lose, and the average gain is greater than the average loss. However, a small number would experience a significant increase in their charge. Most are self – funders whose assets are the greatest of the cohort (see Appendix 3, table 1). However, some of these assets will be in the form of capital rather than income. There will be no corresponding increase in pension or disability benefit income until April 2017, as these increases are indexed to national, rather than local inflationary trends.</p> <p>The numbers in the under 65 age group who would experience an increase under the proposal are lower, as are the actual amounts of their increases, as reflected in table 3.</p>
Disability	x		<p>As with the Age category, and for similar reasons, there will be geographical differences. Although it is clear that many, if not all, of the older age group will also have health problems amounting to disabilities, the age split in Appendices 1 & 2 is</p>

			<p>consistent with the treatment of these groups for benefit, pension payments and charging purposes. As the over 65's group has no sub-division by disability, this section comments on those with disabilities under 65..This group is sub-divided in the Appendix 1 table, but there is a similar trend to the over 65's of more gainers than losers across the group under the proposal.</p> <p>Retaining the current scheme benefits a greater number of people, but with no clear pattern for the actual amounts gained between current and proposed policy. If a simple comparison is made between retaining average charge in the transition from current providers to HTLAH, no one is disadvantaged. However, this does not take account of the inbuilt disadvantages identified in the current scheme, such as more deprived areas appearing to subsidise more wealthy ones,</p>
	Gender Reassignment		x No specific impact identified.
	Marriage and Civil Partnership		x No specific impact identified.
	Pregnancy and Maternity		x No specific impact identified
	Race	x	<p>The comparatively low BME numbers in Leicestershire are mainly concentrated in a small number of locations. A broad conclusion of no disadvantage can be drawn from the tables, as those areas where there are higher BME populations are among the ones showing decreases in changes under the proposals (see Oadby, and Wigston & South Wigston in</p>

				Appendix 1).
	Religion or Belief	x		No specific disadvantage identified, although for minority groups, there may be a similar outcome to that described above.
	Sex	x		A disproportionate higher number of women are in receipt of related services and will experience a correspondingly different impact. However, there will be no difference in the way that men and women are treated within the financial assessment.
	Sexual Orientation		x	No specific impact identified
	Other groups e.g. rural isolation, deprivation, health inequality, carers, asylum seeker and refugee communities, looked after children, deprived or disadvantaged communities	x		The HTLAH lots have been designed to cut across localities, incorporating rural as well as urban areas, with fixed prices for the 5 types of services provided. Although this was designed to promote commercial viability, it has the effect of countering the likelihood of higher charges and reduced services in rural locations. Carers' interests may be affected indirectly via the impact on the finances of the person they care for.
	Community Cohesion		x	
11.	<p>Are the human rights of individuals <u>potentially</u> affected by this proposal? Could there be an impact on human rights for any of the protected characteristics? (Please tick)</p> <p>Explain why you consider that any particular article in the Human Rights Act may apply to your policy/ practice/ function or procedure and how the human rights of individuals are likely to be affected below: [NB. Include positive and negative impacts as well as barriers in benefiting from the above proposal]</p>			
		Yes	No	Comments
	Part 1: The Convention- Rights and Freedoms			

	Article 2: Right to life		x	
	Article 3: Right not to be tortured or treated in an inhuman or degrading way	x		The change does not affect the quality standards of care provision, but we will need to ensure that any significant increase to the charge in an individual case does not lead to service users declining care that they have been assessed to require.
	Article 4: Right not to be subjected to slavery/ forced labour		x	
	Article 5: Right to liberty and security		x	
	Article 6: Right to a fair trial		x	
	Article 7: No punishment without law		x	
	Article 8: Right to respect for private and family life	x		Comments for Article 3 apply. In addition, we need to ensure that an individual service user's ability to retain their independence is not compromised by any rise in costs of care.
	Article 9: Right to freedom of thought, conscience and religion		x	
	Article 10: Right to freedom of expression		x	
	Article 11: Right to freedom of assembly and association		x	
	Article 12: Right to marry		x	
	Article 14: Right not to be discriminated against		x	
	Part 2: The First Protocol			
	Article 1: Protection of property/ peaceful enjoyment		x	
	Article 2: Right to education		x	
	Article 3: Right to free elections		x	
Section 2				
D: Decision				
12.	Is there evidence or any other reason to suggest that:		Yes	No
				Unknown

	a) this policy could have a different affect or adverse impact on any section of the community;	x		
	b) any section of the community may face barriers in benefiting from the proposal		x	
13.	<p>Based on the answers to the questions above, what is the likely impact of this policy</p> <p>As the screening demonstrates, there are some conflicting findings from this proposal. These can be summarised as follows:</p> <ul style="list-style-type: none"> • Under the proposal, in purely numerical terms, there would be more gainers than losers in the protected groups of age (older people) and disability. The vast majority of service users fall into these two protected groups • By inference from the data, there appears to be adequate protection, and possibly an overall gain, to BME groups under the proposal. • There are no clear findings for the other protected groups, although there is no evidence to suggest that they are precluded from the services concerned • In financial terms, there will be small numbers of people who will be asked to pay significantly more for their care. They are likely to be self-funders (see Appendix 3). • The charging policy for assessment purposes is not changing, and is designed to ensure that no-one will pay more than they can afford to. • All groups could potentially benefit from improved administration of charging resulting from the switch to a scheme that provides a better fit with the IT system. • Average charging broadly benefits more wealthy areas, creating an apparent cross subsidy disadvantaging poorer ones, although it is difficult to relate this accurately to the interests of protected groups. • Consideration should be given to the viability of protecting those who will experience disadvantage by providing transitional protection by exception to people experiencing hardship. <p>Set against these findings, it is also clear that retaining the average charge scheme in HTLAH would result in reduced charges for significant numbers of people, resulting from the lower average HTLAH hourly rate compared to the current average. No one would pay more. However, taking this option would be difficult to reconcile with the Care Act 2014 statutory guidance, which specifically requires that we do not charge people more than it actually costs to arrange their care.</p> <p>This does not represent a conflict of interests between the Care Act and Equality legislation for the reasons outlined above, which indicate that (with the exception of the 'cross subsidy' question) the advantages of actual cost charging can be more accurately assigned to specific protected</p>			

	groups than the more generic advantages of maintaining the status quo.		
	The effectiveness and fairness of applying exceptions will be monitored by the Departmental Equalities Group.		
	No Impact <input type="checkbox"/>	Positive Impact <input type="checkbox"/>	Neutral Impact <input checked="" type="checkbox"/> Negative Impact or Impact Unknown <input type="checkbox"/>
Note: If the decision is 'Negative Impact' or 'Impact Not Known' an EHRIA Report is required.			
14.	Is an EHRIA report required?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Section 2: Completion of EHRIA Screening

Upon completion of the screening section of this assessment, you should have identified whether an EHRIA Report is required for further investigation of the impacts of this policy.

Option 1: If you identified that an EHRIA Report is required, continue to [Section 3](#) on Page 7 of this document to complete.

Option 2: If there are no equality, diversity or human rights impacts identified and an EHRIA report is not required, continue to [Section 4](#) on Page 14 of this document to complete.

Section 4: Sign off and scrutiny

Upon completion, the Lead Officer completing this assessment is required to sign the document in the section below.

It is required that this Equality and Human Rights Impact Assessment (EHRIA) is scrutinised by your [Departmental Equalities Group](#) and signed off by the Chair of the

Group.

Once scrutiny and sign off has taken place, a depersonalised version of this EHRIA should be published on Leicestershire County Council's website.

Section 4

A: Sign Off and Scrutiny

Confirm, as appropriate, which elements of the EHRIA have been completed and are required for sign off and scrutiny.

Equality and Human Rights Assessment Screening ☒

Equality and Human Rights Assessment Report ☐

1st Authorised Signature (EHRIA Lead Officer):

Date:

2nd Authorised Signature (DEG Chair): ... *Lu Red*

Date: 12th October 2016