

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:	CCF Assessments for couples
Department and section:	Adults & Communities – Community Care Finance (CCF)
Name of lead officer/ job title and others completing this assessment:	Chris Housden Strategic Lead – Equalities
Contact telephone numbers:	0116 3056947
Name of officer/s responsible for implementing this policy:	Sandy McMillan Assistant Director Strategy & Commissioning
Date EHRIA assessment started:	15/03/2016
Date EHRIA assessment completed:	04/04/2016

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>The implementation of the Care Act 2014 introduced a revised statutory assessment requirement for chargeable Care Services. This is set out in the Care and Support (Charging and Assessment of Resources) Regulations 2014, replacing the former Fairer Charging guidance.</p> <p>This EHRIA is concerned with how the option chosen by LCC to comply with this change will impact on assessments conducted for a service user who is one of a couple. Under the previous (Fairer Charging) rules, two calculations were completed, one assessing finances jointly and one using only the services user's individual resources. Whichever result was most advantageous to the service user was adopted for the calculation of their assessed contribution to care costs.</p> <p>The essential difference between the pre- and post- Care Act charging regimes is that the new version does not require the couple assessment to be carried out. Instead, there is a less prescriptive requirement to: '...consider the implications for the cared-for person's partner'. The overarching principle that people should not be charged more than they afford to pay is unchanged.</p> <p>Projections for assessments carried out under the Care Act rules show that an increase in charges is represented in a high number of cases. There will be significant variation in the level of increase, and it is clear that some increases could be very considerable. There will also be cases where the charge remains the same (usually nil-charge cases). Where the service user's charge increases, there will be a corresponding increase in income to Leicestershire County Council (LCC).</p> <p>For clarification, partners can be married, in a civil partnership, or living together as husband and wife, and can be in gay or heterosexual relationships.</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>This work relates to LCC's Charging Policies for Residential and non-residential services.</p>

3	<p>Who are the people/ groups (target groups) affected and what is the intended change or outcome for them?</p> <p>Anyone who is treated as a member of a couple and receiving a chargeable service from LCC's Adults & Communities Department for the care that they receive. As there is greater discretion available to the authority when assessing financial contributions for non-residential cases, the impacts may differ between these and residential assessments.</p> <p>The impact of altering the basis of the charge where service users have a partner is a likely increase in contribution with no change to the services provided.</p> <p>A number of possible models have been considered, and tested for compliance with the Care Act provisions. Among the issues considered are:</p> <ol style="list-style-type: none">1. Whether existing service users should be fully protected from the impact of the change, and applied only to new applicants.2. The mechanism to be adopted to protect the resources of partners, as required by the Care Act provision.3. Whether any increased charges should be phased in to lessen the impact.4. The equity of creating significant increases in charges to mostly older people in the context of very low inflation and correspondingly low increases in pension payments.5. The possible negative impacts on health and wellbeing if people decide against accepting services that they perceive to be expensive. <p>Some of these considerations will be of greater concern than others in respect of protected groups, This will be considered in part 10, below.</p>																
4	<p>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)</p> <table><tr><th></th><th>Yes</th><th>No</th><th>How?</th></tr><tr><td>Eliminate unlawful discrimination, harassment and victimisation</td><td>x</td><td></td><td>All LCC policies are required to take the Equality Act objectives into account. In this case, impact will be financial and we will be required to limit any negative impact to ensure that health and wellbeing are not compromised.</td></tr><tr><td>Advance equality of opportunity between different groups</td><td>x</td><td></td><td>The new policy should avoid creating anomalies where similar services are provided with significant disparities in charges for different groups or individuals.</td></tr><tr><td>Foster good relations between different groups</td><td>x</td><td></td><td>Similar concerns may be expressed under this section as in the previous one.</td></tr></table>		Yes	No	How?	Eliminate unlawful discrimination, harassment and victimisation	x		All LCC policies are required to take the Equality Act objectives into account. In this case, impact will be financial and we will be required to limit any negative impact to ensure that health and wellbeing are not compromised.	Advance equality of opportunity between different groups	x		The new policy should avoid creating anomalies where similar services are provided with significant disparities in charges for different groups or individuals.	Foster good relations between different groups	x		Similar concerns may be expressed under this section as in the previous one.
	Yes	No	How?														
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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.	<p>*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> <p>In the absence of a statutory duty to consult, this becomes a question of good practice and reasonable expectation on the part of service users and the wider public. The decision to restrict the change to new service users obviates the need to consult with this group as they will experience no change. This leaves the difficulty of who it would be reasonable to consult with, as we could not easily identify future users of services who may experience an impact.</p> <p>The proposed change includes a provision to charge existing service users under the new scheme if they have a break in service provision of at least 6 months. People who fall into this category are likely to experience a significant increase in charges for what may be similar services to those received previously and are therefore less well protected than any other group that we have identified.</p>		

However, there are significant practical and administrative obstacles in the way of identifying and correctly assessing these cases, possibly many years into the future, and the likelihood of creating continuing inequity between their assessed costs and what will become a norm of higher rates, as the number of protected cases reduces over time.

LCC's Legal Services Department has been asked for advice regarding the need for consultation in respect of this proposed change to policy. This has assisted us to understand how the requirements apply in this particular case. The case for not consulting is supported by the following circumstantial features:

1. The change in policy is being brought about to keep pace with the changes in the law. Specifically, the changes are in response to the introduction of the Care and Support (Charging and Assessment of Resources) Regulations 2014.
2. The change is technical in nature;
3. There will certainly have been consultation on the implementation of the Care Act 2014 under which the Charging regulations were made.

Regarding point 3, national consultation was conducted prior to the introduction of the Care Act, targeting statutory and voluntary bodies as well as groups representing the interests of service users. Among the respondents were the Local Government Association (LGA) and Association of Directors of Adult Social Services (ADASS). Responses led to amendments, including to financial provisions, for example strengthening the debt recovery guidance for people lacking capacity.

There is considerable data available within Community Care Finance, which has been utilised to establish the likely outcome of the change in policy. Sampling has been carried out using known scenarios, from which we have drawn the following conclusions:

- There will be differential treatment for some of those assessed before and after 01 May 2016.
- This outcome must be justified to avoid a direct contravention of the Equality Act 2010. We have concluded that the greatest potential impact falls on existing service users who will have made their financial and daily living arrangements on the basis of existing rules. New service users will be aware of the basis of calculating charges from the beginning.
- The old and new rules share a requirement not to charge people more than they can afford to pay. Both the old and the new policies use mechanisms that comply with this test. In addition, we retain some discretion about how we apply the charging policy to individuals where exceptional hardship may result from the outcome of the financial assessment. This discretion is available to mitigate the impact on new couples where there is a clear need to do so.

N.B. Within the Adults & Communities Department, we have completed an overarching EHRIA prior to Care Act implementation, emphasising the

	need for awareness of the Public Sector Equality Duty (PSED) as post-Care Act policies are developed. These have been completed and published as and when required.
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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		The majority of people affected by the change will be in the over 65 age group, and a disproportionate number over 80. 61% of those potentially affected will be over 65; 31% of those potentially affected will be over 80. This is based on the current 521 cases. Working age service users may have complicating factors such as partner's earned income to take into account. As these circumstances can be very variable, discretionary powers must be exercised consistently and with care.
	Disability	x		A range of disabilities will be represented in the affected group. This will include

				physical and mental health conditions. There is no clear indication that people with particular health conditions could be more disadvantaged than others. There will be complicating factors relating to certain types of benefit payments that are health related, e.g. Attendance Allowance, Personal Independence Payments and Carers Allowance. The system of disregards and the principle of charging only what is affordable are designed to ensure fairness.
	Gender Reassignment		x	This group will not be specifically or disproportionately affected by the change, although may well be represented within the affected group.
	Marriage and Civil Partnership		x	Protection for this group under the Equality Act only applies in work situations.
	Pregnancy and Maternity		x	Unlikely to experience a disproportionate effect.
	Race		x	Unlikely to experience a disproportionate effect.
	Religion or Belief		x	Unlikely to experience a disproportionate effect
	Sex	x		Available data should reflect whether or not this is a concern, e.g. by showing whether or not higher income partners in a couple (who are more likely to be men) will be disproportionately disadvantaged by the revised charging mechanism. However, of greater concern is the protection of people on a lower income, who are not discriminated against by these changes.
	Sexual Orientation		x	People in same sex relationships will be treated in

				the same way as heterosexual people. There may be a greater likelihood of dispute regarding status as a couple.
	Other groups e.g. rural isolation, deprivation, health inequality, carers, asylum seeker and refugee communities, looked after children, deprived or disadvantaged communities	x		We will need to be mindful of the potentially negative health impacts when deciding on the exact way of implementing this change in policy. This will require an appraisal of the likelihood of people declining services that they are assessed as requiring. This also has implications for the prevention agenda and the principles behind maintaining service user choice and independence.
	Community Cohesion	x		There is a potential perception that we may be accentuating the disadvantage to people who have saved for retirement, compared to those who haven't; this features in the current system. However, we also have to demonstrate that we are protecting the most vulnerable (in this case, the less well off).
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 provision of all care services must be in the context of meeting acceptable standards. Consequently, the absence of a service that has

				been assessed as a requirement may engage Article3. Our responsibility is to avoid creating a situation where this might occur as an unintended consequence of policy change.	
	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				
	Article 7: No punishment without law		x		
	Article 8: Right to respect for private and family life	x		This article is engaged by our decisions, where they affect household finance adversely and to an extent that could lead to hardship. Article 8 is also engaged where our policies impact on personal choice about care provision.	
	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		We need to demonstrate that we have taken into consideration the possible impacts on the property (financial resources) of service users in return for the services that we are providing.	
	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.	Based on the answers to the questions above, what is the likely impact of this policy			
	No Impact <input type="checkbox"/>	Positive Impact <input type="checkbox"/>	Neutral Impact <input type="checkbox"/>	Negative Impact or Impact Unknown <input checked="" type="checkbox"/>
Note: If the decision is 'Negative Impact' or 'Impact Not Known' an EHRIA Report is required.				
14.	Is an EHRIA report required? In the absence of consultation (see paragraph 8 above) there will be no additional data to be assessed for EHRIA purposes. Data available through CCF assessments has clarified the likely outcome as a result of the proposed change. However, the conclusions from this screening exercise will be reviewed by April 2017 to test outcomes.	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):

C. Housden

Date: 06/04/2016

2nd Authorised Signature (DEG Chair):



Date: 06/04/2016