

# **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](mailto:equality@leics.gov.uk)

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

<b>Key Details</b>	
<b>Name of policy being assessed:</b>	Deferred Payment Agreements
<b>Department and section:</b>	Adult Social Care – Community Care Finance
<b>Name of lead officer/ job title and others completing this assessment:</b>	Chris Housden – Strategic Lead, Equalities
<b>Contact telephone numbers:</b>	0116 3056947
<b>Name of officer/s responsible for implementing this policy:</b>	Sandy McMillan – Assistant Director, Strategy & Commissioning
<b>Date EHRIA assessment started:</b>	09/03/2016
<b>Date EHRIA assessment completed:</b>	25/04/2016

# Section 1: Defining the policy

## Section 1: Defining the policy

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>LCC has operated Deferred Payment Agreements (DPAs) for permanent residential and nursing care placements for a number of years, but entitlement to apply for this payment option has now been formalised by the Care Act 2014. It is potentially available to service users who have entered a care home, own property and their other capital is below the threshold of (currently) £23,250. If a DPA is agreed, the full cost of the placement less the resident's assessed contribution represents a debt to the Council. Interest is applied to the accrued debt at a daily rate of (currently) 2.15%, and a set up/closure fee of £706 is charged. Acceptance of a DPA is not automatic and criteria defined by Care Act 2014 guidelines have to be met.</p> <p>Once the 12 week property disregard has expired, service users who have not completed the DPA process are placed on full cost charges and full cost invoices are raised with the Council still paying for the placement, unless another property disregard applies. Current service users in this position are effectively receiving an unsecured interest free loan. As interest is not charged on our normal social care debts there is no incentive for them to take up a DPA, pay £706 and the applicable daily interest rate.</p> <p>However, Regulation 12 of the charging and assessment regulations prohibits the local authority from paying towards the cost of accommodation in a care home where an adult has capital above the financial limit. The proposal under consideration in this EHRIA is that this anomaly should be addressed by inviting the service user or their representative to agree to a DPA, or alternatively assume responsibility for the full cost of the placement.</p> <p>For future cases the Council will only contract with the care home provider for the duration of the 12 week property disregard where there is entitlement. During the first 12 weeks, the service user or their representative will be informed of their assessed charge for the 12 week period, the terms and conditions to meet criteria for acceptance on to a DPA, advised to take their own financial advice and to notify us if they wish to be considered for a DPA. This will ensure the Council complies with Regulation 12 and also prevent further debt accruing.</p>
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<b>2</b>	<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>Community Care Finance Charging Policy.</p> <p>Care Act 2014</p>										
<b>3</b>	<p>Who are the people/ groups (target groups) affected and what is the intended change or outcome for them?</p> <p>Twenty seven service users/representatives have not completed a DPA despite several requests and are not engaging with Community Care Finance staff. The current debt to the Council is approximately £142,000.</p> <p>Following advice from Legal Services it is proposed to terminate these Individual Placement Agreements under Part D.1.3, by giving four weeks written notice to both the service user or their representative and the care home.</p> <p>The providers will be approached to ensure they understand the change to the existing arrangements.</p> <p>Advice has been sought from Legal Services on how to proceed with altering the Individual Placement Agreements (IPAs) for affected residents, and how to approach the administrative arrangements and contractual agreements for these cases in the future.</p>										
<b>4</b>	<p>Will this policy meet the Equality Act 2010 requirements to have due regard to the need to meet any of the following aspects? <b>(Please tick and explain how)</b></p> <table border="1"> <thead> <tr> <th></th> <th>Yes</th> <th>No</th> <th>How?</th> </tr> </thead> <tbody> <tr> <td>Eliminate unlawful discrimination, harassment and victimisation</td> <td><b>X</b></td> <td></td> <td>This alteration to the DPA procedures will align charging and payment arrangements for residents in a more equitable manner.</td> </tr> </tbody> </table>				Yes	No	How?	Eliminate unlawful discrimination, harassment and victimisation	<b>X</b>		This alteration to the DPA procedures will align charging and payment arrangements for residents in a more equitable manner.
	Yes	No	How?								
Eliminate unlawful discrimination, harassment and victimisation	<b>X</b>		This alteration to the DPA procedures will align charging and payment arrangements for residents in a more equitable manner.								

	Advance equality of opportunity between different groups		<b>X</b>	
	Foster good relations between different groups	<b>X</b>		Removing this loophole will create a fairer and more consistent approach to charging and remove the potential for people in similar circumstances to experience different treatment.

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

### Section 2: Equality and Human Rights Impact Assessment Screening

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;		<b>X</b>
	b) any potential impact of this change on them (positive and negative, intended and unintended);		<b>X</b>
	c) potential barriers they may face		<b>X</b>
6.	If the target groups have not been consulted directly, have representatives been consulted or research explored (e.g. Equality Mapping)?	<b>X</b>	
7.	Have other stakeholder groups/ secondary groups (e.g. carers of service users) been explored in terms of potential unintended impacts?	<b>X</b>	
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.		

	LCC are already in contact with all 27 people who are currently in the position outlined at paragraph 1, where arrangements may change as a result of this decision. All of the necessary financial details are held within Community Care Finance.
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## Section 2

### B: Monitoring Impact

<b>9.</b>	Are there systems set up to:	<b>Yes</b>	<b>No</b>
	a) monitor impact (positive and negative, intended and unintended) for different groups;	<b>X</b>	
	b) enable open feedback and suggestions from different communities	<b>X</b>	

**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 potentially be affected by this policy and describe any positive and negative impacts, including any barriers.

	Yes	No	Comments
Age	X		Most of the service users affected will fall into older age groups. Everyone affected will have protection of their assets as provided by the Care Act regulations. This provides access to appropriate financial thresholds, property disregards, and local authority financial support where eligible.
Disability	X		All of the affected residents have met LCC's eligibility criteria for services. This means that they will all suffer from some degree of health problems or disability. All communications will be provided in appropriate formats or via carers as required in individual circumstances. The protections on place are as

				for the Age criteria above.
	Gender Reassignment		X	No issues identified
	Marriage and Civil Partnership		X	Category does not apply
	Pregnancy and Maternity		X	No issues identified
	Race		X	No issues identified. If there are any English related difficulties, communication will be in appropriate language
	Religion or Belief		X	No issues identified
	Sex		X	No issues identified
	Sexual Orientation		X	No issues identified
	Other groups e.g. rural isolation, deprivation, health inequality, carers, asylum seeker and refugee communities, looked after children, deprived or disadvantaged communities	X		Some affected residents will have carers or relative who look after their financial and other affairs for them. This may be under formal or informal arrangements. All matters affecting contractual arrangements should be communicated via the appropriate person
	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? <b>(Please tick)</b></p> <p>Explain why you consider that any particular <a href="#">article in the Human Rights Act</a> 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		Any changes to IPAs resulting from this decision should take account of LCC’s responsibility to ensure that appropriate care is provided continuously.	
	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		The rights contained in this Article will be protected by ensuring that no threat of eviction arises from altered contractual arrangements.	
	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		<b>X</b>	
<b>13.</b>	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 checked="" type="checkbox"/>	Negative Impact or Impact Unknown <input type="checkbox"/>
<b>Note: If the decision is 'Negative Impact' or 'Impact Not Known' an EHRIA Report is required.</b>				
<b>14.</b>	Is an EHRIA report required?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	

## 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** ☐

1<sup>st</sup> Authorised Signature (EHRIA Lead Officer): C. Housden

Date: 25/04/2016



2<sup>nd</sup> Authorised Signature (DEG Chair): 

Date: 25/04 2016