

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:	Fees review for Care Providers
Department and section:	Adults & Communities Department - Strategy & Commissioning
Name of lead officer/ job title and others completing this assessment:	Dave Pruden - Market Development Officer Chris Housden –Strategic Lead, Equalities
Contact telephone numbers:	DP 0116 3058123 CH 0116 3056947
Name of officer/s responsible for implementing this policy:	Sandy McMillan
Date EHRIA assessment started:	13/10/2015
Date EHRIA assessment completed:	18/11/2015

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 What is new or changed in this policy? *What has changed and why?*

Review of fees paid by Leicestershire County Council (LCC) to providers of **domiciliary and residential care services** is undertaken annually, to take account of inflation and changing market conditions. For the current year, an interim fees review was conducted in April 2015, to cover a 6 month period. In future the anniversary will be October to align the review with related changes (notably the annual uprating of the minimum wage, to be referred to as the National Living Wage (NLW) from April 2016).

The overall policy for residential and nursing care placements is unaltered. However, the need to revise the current banding levels has been identified and, when undertaken, will take account of the findings in this EHRIA.

There will be a significant change to domiciliary services with the introduction of Help to Live at Home (HTLAH) due to be implemented from October 2016 onwards. This is referred to in the Fees Review report and this EHRIA where the changes it will bring are judged to have a relevant impact.

2 Does this relate to any other policy within your department, the Council or with other partner organisations? *If yes, please reference the relevant policy or EHRIA. If unknown, further investigation may be required.*

Service users in receipt of residential or nursing care services are likely to have been in receipt of other council services prior to their admission. All service users would have received an assessment of their needs in accordance with the Effective Care Policy, and where required would also have had access to assistance such as advocacy, engagement and translation services. These related services and policies would have been subject to EHRIA assessments, either at a point at which they have been substantially altered or during a periodic review. The Adults and Communities Department's completed EHRIs can be found via this link:

http://www.leics.gov.uk/index/your_council/equality_and_diversity/ehria/dept_ehria/ac_ehria.htm

As referred to earlier, domiciliary care services will be procured under HTLAH from October 2016.

Needs assessments are carried out in accordance with LCC's Equality policies..

3	<p>Who are the people/ groups (target groups) affected and what is the intended change or outcome for them?</p> <p>Anyone in receipt of care services contracted to providers by LCC, and their carers, family and representatives are potentially affected.</p> <p>Providers are affected by the resulting level of remuneration. There is frequent dispute between providers and councils concerning the actual costs of care and therefore the correct fee levels to apply. It is accepted practice to establish fee levels locally, based on local conditions, national guidance and in accordance with public law. There is no prescribed mechanism for calculating fee levels, although models do exist that may be referred to. Consultation with providers is an important element of the process and is reflected in the work carried out with EMCare, a representative body for private care providers in the region. The outcomes of this work have been recorded in detail in the Fee Review report.</p> <p>Fees must be set at levels to ensure that an appropriate standard of care can be provided to meet the assessed needs of individual service users. This means that considerations such as remuneration for care workers, at least meeting legal minimum wage requirements, form an essential element of the calculation.</p> <p>The interests of all parties from those receiving care through to all those involved in providing it are therefore integral to the outcome.</p> <p>There is no intended change. The objects of the review are to ensure that care services can continue to be provided at a high standard, market capacity is maintained at the required level to meet demand efficiently, and good working relations are maintained between LCC and private care providers.</p> <p>The Process Summary (see Appendix 1) reflects the planning, engagement and consultation timeline and the approach to financial modelling adopted.</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><td></td><td>Yes</td><td>No</td><td>How?</td></tr><tr><td>Eliminate unlawful discrimination, harassment and victimisation</td><td>X</td><td></td><td>The protected groups who are of principal concern in this review are older age groups and people with a range of physical and mental health problems. Others may also be affected (see section 2, below). Appropriate fee setting for the varying conditions of vulnerability will ensure that the legal protections are observed.</td></tr><tr><td>Advance equality of opportunity between different groups</td><td>X</td><td></td><td>Ensuring fairness across the range referred to above assists in meeting this requirement.</td></tr><tr><td>Foster good relations between different groups</td><td>X</td><td></td><td>Success in achieving the aims set out in the above two responses should assist in meeting this requirement.</td></tr></table>		Yes	No	How?	Eliminate unlawful discrimination, harassment and victimisation	X		The protected groups who are of principal concern in this review are older age groups and people with a range of physical and mental health problems. Others may also be affected (see section 2, below). Appropriate fee setting for the varying conditions of vulnerability will ensure that the legal protections are observed.	Advance equality of opportunity between different groups	X		Ensuring fairness across the range referred to above assists in meeting this requirement.	Foster good relations between different groups	X		Success in achieving the aims set out in the above two responses should assist in meeting this requirement.
	Yes	No	How?														
Eliminate unlawful discrimination, harassment and victimisation	X		The protected groups who are of principal concern in this review are older age groups and people with a range of physical and mental health problems. Others may also be affected (see section 2, below). Appropriate fee setting for the varying conditions of vulnerability will ensure that the legal protections are observed.														
Advance equality of opportunity between different groups	X		Ensuring fairness across the range referred to above assists in meeting this requirement.														
Foster good relations between different groups	X		Success in achieving the aims set out in the above two responses should assist in meeting this requirement.														

--	--	--	--	--

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;	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)?	n/a	
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.		
	With regard to para 7, consultation with carers, relatives, or service users is not a statutory requirement for the fee setting process. LCC, in this instance, regards its role as representing the interests of these groups in the course of establishing a specific commercial agreement with providers.		

Section 2

B: Monitoring Impact

9.	Are there systems set up to:	Yes	No
		X	
		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.

Care plans are subject to review to ensure that they continue to meet assessed needs.

The Contract Compliance team responds to concerns about care standards.

Independent appraisal of care provider standards and practices is conducted by the Care Quality Commission.

If a full EHRIA is necessary for this review, it will include an improvement plan which will be subject to review. In any event, a revised EHRIA screening exercise is completed at the same time as each annual Fees Review as a matter of good practice.

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		The majority of people in receipt of provider's services will be in older age groups. In addition, Leicestershire is predicted to have a significant rise in the population of older people in the coming years, greater than the national trend. Ensuring that remuneration meets the assessed needs of this group is therefore crucial to protecting their current and future interests.
	Disability	X		There is a wide range of health conditions that may give rise to care needs. The expertise and specialisms required to meet these needs

			are acknowledged in care and nursing home registration procedures. Fee levels (together with the extra payment schemes) must be set at levels to ensure that appropriate skills and facilities are available.
Gender Reassignment		X	Nothing identified for this group.
Marriage and Civil Partnership		X	Nothing identified for this group.
Pregnancy and Maternity		X	Nothing identified for this group.
Race	X		Attention must be paid to provision of culturally appropriate services, which may in some instances be more expensive.
Religion or Belief		X	Although services should be designed and delivered in such a way as to allow service users to observe their faith, this is not known to impact on the costs of provision.
Sex	X		As a greater number of older women than men are in receipt of services from Adult Social Care, they are disproportionately affected by the outcome of the fees review.
Sexual Orientation		X	Nothing identified for this group.
Other groups e.g. rural isolation, deprivation, health inequality, carers, asylum seeker and refugee communities, looked after children, deprived or disadvantaged communities	X		As referred to earlier, carers are naturally concerned that remuneration should be sufficient to meet the needs of service users, and they therefore have a valid interest in this review
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		This article imposes a positive obligation on councils to take steps to safeguard life, applicable in circumstances where decisions may have a negative impact on life expectancy. Provision of care to particularly frail and vulnerable people highlights the requirement to observe Article 2 rights.
	Article 3: Right not to be tortured or treated in an inhuman or degrading way	X		It is well established through the courts that care provision must not fall below acceptable standards. To do so is likely to amount to inhumane treatment under Article 3. The link between adequate remuneration and acceptable standards of care is also well established, although it cannot be regarded as a guarantee.
	Article 4: Right not to be subjected to slavery/ forced labour		X	
	Article 5: Right to liberty and security	X		Security, particularly in care homes, should not restrict physical movement unduly or be achieved via excessive restraint
	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		Provision of personal care has the potential to be intrusive. A residential service is the provision of an alternative home. Such services must respect Article 8 rights by being sensitive to privacy at the same time as providing the

				protection and safety that will always be required.
	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		The safeguards outlined in comments under Articles 2,3,5 and 8 above should ensure that no discrimination occurs within each context, and any related policy revisions should bear this in mind.
	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.	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"/>

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 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): ...



Date: ...25/11/2015...

Appendix 1.

Annual Fee Review – Process Summary

July	<ul style="list-style-type: none"> • Initial planning meeting (16 July), handover from Finance / Transformation to Strategic Commissioning, decision to complete a standard fee review with increased provider consultation, using the existing financial model and to undertake more detailed work via a Fee Review Project in 2016/17. • Initial consultation meeting with EMCARE, review of their feedback on the April 2015 interim fee review, key issues including occupancy, staff costs (NMW/NLW, pension auto enrolment), profitability and insurance and their incorporation into the fee review.
August	<ul style="list-style-type: none"> • Initial cost modelling based on updated information regarding NMW/NLW, inflation, and auto-enrolment. • Consideration of the broader issues surrounding fees; research (including Laing Buisson and UKHCA), the approach used by other LAs. • Meetings with Leicester City to consider options for joint working, lessons learnt from previous reviews and approaches to consultation. • Meeting with EMCARE to plan the questionnaire that would be used to consult providers, identification of the key areas to explore; staff costs, (including auto enrolment), insurance, profitability and occupancy. • Also with EMCARE, planning of a workshop, to enable providers to meet with LCC staff to discuss the fee review and the identification of a sample of providers that would be offered support to complete the questionnaire in an effort to ensure overall feedback is representative. • Issue of the questionnaire to providers on 20 Aug, with responses required by 9 Sep (subsequently extended to 14 Sep).
September	<ul style="list-style-type: none"> • Fee review workshop for providers held 2 Sep, but only 2 providers attended. • Attendance at the EMCARE Annual conference (11 Sep) to further publicise the fee review, and offer support to providers that wanted to participate. • Further cost modelling taking account of the quantitative data gathered in the questionnaire, together with analysis of the narrative

	<p>responses provided in the questionnaire.</p> <ul style="list-style-type: none"> • Issue of the proposed increases on 25 Sep, with responses requested by 23 Oct. One letter for Residential Care and one for Domiciliary Care setting out proposed increases relating to Oct 15 and April 16. • Analysis of all of the responses to the fee increase proposals, completion of the feedback log and review of the feedback with EMCARE.
October / November	<ul style="list-style-type: none"> • Completion of the EHRIA • Completion of the cost modelling, taking account of all factors including; staff costs, NMW, NLW, training, pension auto enrolment, workforce data, market stability, inflation, etc. • Fee Review Panel (12 Nov) • Communication and implementation.