

# **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>	Resource Allocation System
<b>Department and section:</b>	Adults & Communities: Adult Social Care
<b>Name of lead officer/ job title and others completing this assessment:</b>	Kirt Hammonds – Business Analyst
<b>Contact telephone numbers:</b>	0116 3055207
<b>Name of officer/s responsible for implementing this policy:</b>	Amanda Stott & Tony Dailide
<b>Date EHRIA assessment started:</b>	July 2015
<b>Date EHRIA assessment completed:</b>	Sept 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?*

**A resource allocation system (RAS) is the mechanism used to determine how much money may be made available to an individual to meet their support needs. There are clear rules, so everyone can see that money is given out fairly.**

In April 2015 a new national minimum eligibility threshold was introduced as part of the first phase of implementation of the Care Act 2014. This replaced the previous eligibility criteria, commonly known as Fair Access to Care (FACS), which has been in use since 2002. Our current RAS is based on the previous eligibility criteria and is no longer aligned to our eligibility decision making process and therefore provides inequity to customers and a disconnect when assessing needs and establishing how much support is required to pay for and meet those needs.

In order to remedy this, a project was set up to look at simplifying and reducing the bureaucracy of the current RAS. The project team set out the following principles whilst conducting the review:

- **Transparency:** The RAS methodology must be in the public domain at a community level.
- **Simplicity:** The process must be simple and the individual and their family must know how the decision was reached for them.
- **Sufficiency:** The council must publish clearly the outcomes they will enable people to achieve and the support put in place must be enough to reasonably achieve these.
- **Control:** The person must know the amount of money in their budget as early as possible in the process and be able to use the budget in ways and at times of their choosing to achieve agreed outcomes.
- **Financial Management:** To ensure that the new RAS would be within the available council resources for social care services for the financial year, in order to avoid an overspend.

The current system is being overhauled and simplified to ensure that the council is allocating its resources in a way that is; transparent, simple and timely and is compliant with the legislation set out in the Care Act 2014.

A new RAS is being introduced that comprises of three main components:

- A questionnaire that identifies a customer's support needs as part of the

	<p><b>new Care &amp; Support Assessment Process</b></p> <ul style="list-style-type: none"> <li>• A points allocation system which translates the needs into points to reflect the relative scale of the needs; and</li> <li>• A 'pounds per point' calculation that converts the points into a sum of money</li> </ul> <p>The new RAS is based on the same areas of life (outcome domains) that are used to establish an individual's eligibility for social care services. This ensures that both eligibility and resource allocation decisions are based on the same qualifying criteria.</p> <p>The points for each answer remain the same regardless of who is completing the RAS questionnaire and regardless of need, thus ensuring that customers who have the same answer for a particular question will receive the same points in relation to that question. This maintains the equality of the points allocation system. This differs from the present system in three main ways;</p> <p>1) no consistent scoring mechanism; the current system has different scores for each answer given in the separate areas of life dependent on the level of need,</p> <p>2) each area of life is weighted so that there are more points available in particular areas, based on the hierarchy of needs and therefore has the potential to cause inequity amongst those customers with higher needs in those misrepresented areas,</p> <p>3) the current system assesses the level of unpaid informal support received and then pro-rata's the total budget to give the final indicative budget.</p> <p>Carers may also be eligible to undertake the RAS process. In order to reflect their different needs and impact that their caring role has on their lives, there is a separate RAS for carers. The guiding policy principles remain the same for both groups</p> <p>The 'Pounds per Point' value is based on the average cost of care that the council currently spends on all of its non-residential services (all care services apart from care homes and nursing homes as these are worked out differently). This is regularly reviewed to ensure that the 'Pounds Per Point' value is keeping up with current market conditions to represent best value for our customers, and is within available Leicestershire County Council resources.</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><b>RAS is intrinsically linked to the new eligibility framework for Adult Social Care April 2015:</b></p> <p><a href="#">Eligibility Policy framework April 2015</a></p> <p><b>RAS is also linked to Cost Effective Care. When someone is assessed as meeting the eligibility threshold, the cost of meeting their eligible support needs will be reviewed and considered in line with the Cost Effective Care</b></p>

	<p>policy. An EHRIA was completed on the policy in 2014:</p> <p><a href="http://www.leics.gov.uk/draft_cost_effective_care_policy_eia.doc">http://www.leics.gov.uk/draft_cost_effective_care_policy_eia.doc</a></p>										
3	<p>Who are the people/ groups (target groups) affected and what is the intended change or outcome for them?</p> <p>The new RAS is applied to all customers of non-residential services aged 18 or over who have eligible needs for care and support. It is also applied to carers who provide unpaid care to another adult and to young carers in transition to adulthood, where there is likely to be a continued need for support beyond the age of 18.</p> <p>As the RAS will be applied to all eligible customers of non-residential services it is reasonable to expect that this will cover customers from each of the protected groups. There are three groups where we expect there to be a greater impact (age, sex and disability) because there is a higher proportion of older people, women and people with disabilities who use social care services. The presence of the other protected characteristics is expected to be broadly in line with their incidence in the general population.</p> <p>It is intended that the new RAS will work well for the majority of our client base and be sufficient enough to meet their needs. It is however expected that for a minority of our client group that the RAS will not meet its sufficiency principle, this is not down to a failure of the RAS but of other outside influences on service provision; mainly the provider market driving the cost of services up for particular 'specialised' service provision for individual client groups. The new RAS has been designed with this issue specifically in mind and there are extensive monitoring processes that are being put in place to mitigate this risk for the long term and to provide senior management with the appropriate evidence to challenge the market in driving costs down.</p> <p>In operation, the new RAS will observe the findings of the Judicial review for <i>Savva v Royal Borough of Kensington &amp; Chelsea (2010)</i> which held two points relevant to RAS systems:</p> <ul style="list-style-type: none"> <li>the recipient of a personal budget is entitled to be told how the sum has been calculated;</li> <li>local authorities are under an absolute duty to provide Community Care Services (or a personal budget) to meet assessed needs.</li> </ul>										
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? <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>✓</td><td></td><td>The new RAS process has a clear focus on promoting wellbeing, which includes personal dignity, protection from abuse and neglect and supporting the individual's contribution to society. The promotion of wellbeing will include actions which reduce the risk of</td></tr> </tbody> </table>				Yes	No	How?	Eliminate unlawful discrimination, harassment and victimisation	✓		The new RAS process has a clear focus on promoting wellbeing, which includes personal dignity, protection from abuse and neglect and supporting the individual's contribution to society. The promotion of wellbeing will include actions which reduce the risk of
	Yes	No	How?								
Eliminate unlawful discrimination, harassment and victimisation	✓		The new RAS process has a clear focus on promoting wellbeing, which includes personal dignity, protection from abuse and neglect and supporting the individual's contribution to society. The promotion of wellbeing will include actions which reduce the risk of								

				<b>unlawful discrimination, harassment and victimisation.</b>
	Advance equality of opportunity between different groups	√		<b>The new RAS process is based on the National Eligibility Framework list of ten outcomes for adults and eight for carers, which cover the essential aspects of social care and support. There is no hierarchy in the outcomes list, so each outcome is equal to the next.</b>
	Foster good relations between different groups	√		<b>The new RAS will allocate a sufficient amount that is enough to enable adults and carers to be supported to achieve their outcomes and to improve their wellbeing, which includes their contribution to society. This will help to foster good relations between people who need care and support and their local community.</b>

## 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) any potential impact of this change on them (positive and negative, intended and unintended);		√
	c) potential barriers they may face		√
6.	If the target groups have not been consulted directly, have representatives been consulted or research explored (e.g. Equality Mapping)?		√

7.	Have other stakeholder groups/ secondary groups (e.g. carers of service users) been explored in terms of potential unintended impacts?		√
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><b>As there is no formal legislative requirement for Local Authorities to use a Resource Allocation mechanism when calculating and attributing cost to an individual's Personal Budget, there has been no local consultation and there is no formal requirement to do so. However, the government consulted widely on the guidance and regulations and reported on the results in October 2014. In relation to calculating the personal budget the government concluded that regardless of the process that a local authority used, the most important principles are transparency, timeliness and sufficiency; the key three principles that the newly designed RAS is based on.</b></p> <p><b>Internal consultation has taken place throughout the design and validation processes of the new RAS development. This has taken place with operational staff that will be using the newly designed RAS on a regular basis as part of their day to day operational roles. This feedback has been used and has informed the final designed product.</b></p>		

## 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;	√	
	b) enable open feedback and suggestions from different communities	√	

**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 ' <a href="#">protected characteristics</a> ' may <u>potentially</u> be affected by this policy and describe any positive and negative impacts, including any barriers.			
		Yes	No	Comments
	Age	√		There is a higher incidence of older people receiving care and support than is present in the general population. So as

			<p>a proportion, a greater number of older people will be affected by the implementation of the new revised RAS but no negative impact has been identified. The validation exercise tried to re-create the distribution of ages and level of need amongst our current customer groups – see appendix 1</p>
	Disability	√	<p>There is a higher incidence of people with disabilities who receive care and support than is present in the general population. So more disabled people will be affected by the implementation of the new RAS. There will be a potential negative impact on those people who have high level needs and high cost packages that are considered as 'specialist services', in particular the LD cohort of clients. This is due to fact that the new RAS has been designed to operate a level playing field with no variance to point weighting or distribution based on client group where cost has been traditionally higher to provide services. It has been specifically designed this way in order to highlight and identify those high cost service provisions in order to monitor and use as the basis for better negotiation between those providers on the framework to help to lower the cost that the council will pay. This is an issue that senior management are aware of and satisfied that the RAS will not solve as a standalone solution. The validation exercise tried to re-create the distribution of ages and level</p>

				of need amongst our current customer groups – see appendix 1
	<b>Gender Reassignment</b>	√		We anticipate that people who have undergone gender reassignment will be amongst those who receive care and support in line with their representation amongst the general population. Data on gender reassignment is not routinely gathered as part of the RAS process.
	<b>Marriage and Civil Partnership</b>			We anticipate that people who are married or in a civil partnership will be amongst those who receive care and support in line with their representation amongst the general population. It is anticipated that the new RAS will have a positive impact on this group as we hope that couples with care and support needs will be able to pool their budgets in order to meet their outcomes in a more cost effective way and in some cases be able to save money on their care and support needs.
	<b>Pregnancy and Maternity</b>		√	
	<b>Race</b>	√		We expect that people from different ethnic groups within Leicestershire will be affected in line with their representation in the general population. Data on ethnicity is normally recorded as part of the assessment and eligibility process
	<b>Religion or Belief</b>	√		We expect that people from faith groups within Leicestershire will be affected in line with their representation in the general population. Data on religion is normally recorded as part of



				the assessment and eligibility process
	Sex			Women form a slightly higher proportion of the service user population than men. So more women will be affected by the implementation of the new RAS but no negative impact has been identified.
	Sexual Orientation		√	
	Other groups e.g. rural isolation, deprivation, health inequality, carers, asylum seeker and refugee communities, looked after children, deprived or disadvantaged communities	√		The creation of personal budgets for carers is a positive step forward as it now places carers on an equal footing with service users. The creation of RAS for carers is a fundamental part of the roll out of personal budgets for carers and is seen as having a potential positive impact on this group.
	Community Cohesion	√		The implementation of the new RAS will enable the council to promote the independence and involvement in society of people with care and support needs by allowing them to know at an early and upfront stage, how much money they will have available to them to be able to actively engage in the support planning process; which will have a positive impact on community cohesion.
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

<b>Part 1: The Convention- Rights and Freedoms</b>			
<b>Article 2: Right to life</b>	√		The new RAS will be used to identify the amount of support needed for people who cannot achieve specified outcomes, which if left unmet would present a risk to a person's independence and safety. The application of the new RAS therefore has a positive impact on the right to life.
<b>Article 3: Right not to be tortured or treated in an inhuman or degrading way</b>	√		The new RAS will be used to identify how much support is required for an adult or a carer with eligible needs, and how much money would be reasonably made available to purchase appropriate services to meet those needs and achieve specific outcomes. This includes protecting people from receiving poor or inadequate care.
<b>Article 4: Right not to be subjected to slavery/ forced labour</b>		√	
<b>Article 5: Right to liberty and security</b>		√	
<b>Article 6: Right to a fair trial</b>	√		Adults and carers have the right to challenge the local authority on the sufficiency of their RAS amount and the way that the RAS has been applied to them. We will inform people of their right to complain and how they can use the Council's adult social care complaints procedure to do this.
<b>Article 7: No punishment without law</b>		√	
<b>Article 8: Right to respect for private and family life</b>	√		The statutory guidance promotes a whole family approach for assessment and eligibility. The same principle applies to the application of the new resource allocation system. The amount of informal support that a person receives from their friends, family and others as part of their informal support

				network is the main basis of the points allocation system and is what the pounds per point allocation is based on. It is in this way that the right to a private and family life is respected. It is further supported by focussing aims and outcomes on preserving independence.
	Article 9: Right to freedom of thought, conscience and religion		√	
	Article 10: Right to freedom of expression		√	
	Article 11: Right to freedom of assembly and association		√	
	Article 12: Right to marry		√	
	Article 14: Right not to be discriminated against	√		The new RAS is based on the three main principles of transparency, timeliness and sufficiency and focusses on creating a level, non-weighted points based allocation mechanism. It is expected that by removing the current weightings and bias on certain areas of life that we will reduce the potential for discrimination within resource allocation amounts amongst our client group. Adult social care staff will be trained to use the new RAS and implement it in a fair and transparent manner.
	<b>Part 2: The First Protocol</b>			
	Article 1: Protection of property/ peaceful enjoyment		√	
	Article 2: Right to education		√	
	Article 3: Right to free elections		√	
<b>Section 2</b>				
<b>D: Decision</b>				
<b>12.</b>	Is there evidence or any other reason to suggest that:	<b>Yes</b>	<b>No</b>	<b>Unknown</b>

	a) this policy could have a different affect or adverse impact on any section of the community;		√	
	b) any section of the community may face barriers in benefiting from the proposal		√	
<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 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.

## Appendix 1 – breakdown of validation sample by client group and level of spend/need

- The validation exercise involved sampling approximately 6% (250 cases) of the current client base which included a cross sample of all levels of need. The validation exercise put the cases through the new RAS to assess the sufficiency of the new indicative allocation. Every effort was made to ensure that the sample was representative of the client base in terms of the breakdown of client groups, broken down by age. This is illustrated below:

	LD			Mental Health			Phys Dis		
	18-64	65+	All	18-64	65+	All	18-64	65+	All
- Validation sample of service	91%	9%	18%	30%	70%	19%	25%	75%	63%

users broken down as:									
- Population Breakdown (as at 12th April 2015)	91%	9%	<b>20%</b>	44%	56%	<b>17%</b>	19%	81%	<b>63%</b>

**Table 1 - Service User Breakdown of Validation Sample**

- There was some initial concern regarding the sample breakdown around the representation of level of need amongst the cases that were tested. This was something that was difficult to quantify due to the fact; a) that the Council only provided services to customers who met the substantial and critical thresholds of the former FACS eligibility criteria, and b) since April 2015 customers were either eligible or not eligible.
- In order to try and ensure that the sample had a representation of different levels of need it was decided that cases would split by the level of cost per week. This is by no means a true reflection of the level of need of an individual as one could have significant needs but have a very robust level of informal support and therefore only require a small package of care to meet their eligible unmet needs. However it was the only measure that would give a consistent representation of cost distribution and associated level of need amongst the sample group. The former levels of delegated powers were chosen as the criteria; packages below £200 = low, between £201 - £500 = medium and over £501 = high. The breakdown of the sample against the population breakdown is detailed below.

	LD - distribution of spend				Mental Health			
Validation Sample			Count	%			Count	%
	<200	Low	11	26%	<200	Low	29	63%
	>201<500	Medium	18	42%	>201<500	Medium	14	30%
	>501	High	14	33%	>501	High	3	7%
			<b>43</b>	<b>100%</b>			<b>46</b>	<b>100%</b>
	LD				Mental Health			
12 Month sample from Mar'14 - Feb'15			Count	%			Count	%
	<200	Low	188	28%	<200	Low	618	67%
	>201<500	Medium	272	41%	>201<500	Medium	267	29%
	>501	High	210	31%	>501	High	40	4%
			<b>670</b>	<b>100%</b>			<b>925</b>	<b>100%</b>
	PD Over 65				PD Under 65			
Validation Sample			Count	%			Count	%
	<200	Low	66	58%	<200	Low	18	49%
	>201<500	Medium	40	35%	>201<500	Medium	13	35%
	>501	High	8	7%	>501	High	6	16%
			<b>114</b>	<b>100%</b>			<b>37</b>	<b>100%</b>
	PD Over 65				PD Under 65			
12 Month sample from Mar'14 - Feb'15			Count	%			Count	%
	<200	Low	1587	70%	<200	Low	214	54%
	>201<500	Medium	590	26%	>201<500	Medium	136	34%
	>501	High	82	4%	>501	High	48	12%
			<b>2259</b>	<b>100%</b>			<b>398</b>	<b>100%</b>

## 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): .....

Date: .....

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



Date: ...09/09/15.....

