

# **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>	Draft recommendations for standard additional items to be included in a Personal Budget identified as a result of the Cost Effective Care policy (MTFS S33 Limiting Service User Choice).
<b>Department and section:</b>	Strategic Commissioning & Associated Management Compliance Team - Non-Regulated Contracts
<b>Name of lead officer/ job title and others completing this assessment:</b>	Tracy Ward Head of Service Mary Hill Compliance Officer
<b>Contact telephone numbers:</b>	0116 3057563
<b>Name of officer/s responsible for implementing this policy:</b>	Mick Connell, Director of Adults & Communities
<b>Date EHRIA assessment started:</b>	December 2014
<b>Date EHRIA assessment completed:</b>	02/03/2015

# 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?*

This proposal to limit standard additional amounts added to Personal Budgets has been identified as an outcome of the Cost Effective Care policy which was created to establish how the limited resources available to Adults & Communities Department are to be targeted at providing care that is cost effective and provides good value for money. It sets out how the amounts to be paid to individuals in their personal budgets to meet their eligible needs are to be limited to the most cost effective option.

The Cost Effective Care policy was introduced in response to an increasing level of demand for social care services, largely due to demographic factors, which have resulted in rising levels of social care needs. It also seeks to prepare for the implementation of the Care Act 2014 particularly the introduction of wide-ranging funding reforms in the following year, which is expected to result in a significant increase in the number of people who will approach the department for an assessment leading to the creation of a Personal Budget.

These costs had been met by the Department when service users had received a Direct Payment, latterly known as the Cash Payment Scheme. As the scheme has developed these items have ceased to be included as a matter of course. This paper seeks to standardise this approach, allowing the potential to add further choice and control at the same time as limiting funds available from the Council which will continue to meet peoples assessed eligible needs in line with the implementation of the Cost Effective Care Policy.

The proposal effects the following costs;

Employers Liability Insurance – To limit the amount to be included in a Personal Budget to £84.00 per annum. This premium includes the level of cover required by the department and covers as many employees as the service user needs.

Payroll - To limit the amount to be included in a Personal Budget to the amount equivalent to the lowest cost identified of the current providers used. Amounts allowed will be subject to review in the same way as other aspects of a care package.

Employment Support Costs - To limit the amount included in a Personal

	<p>Budget to the amount equivalent to the lowest charge identified of the current providers used.</p> <p>Recruitment Costs – To encourage service users to be cost effective in their recruitment methods and potentially limit the frequency with which they can advertise in mainstream newspapers using Personal Budget monies. Social Care Workers to use their discretion on a case by case basis. Decisions to be made in accordance with the Scheme of Delegation, which all managers and their staff are familiar with and adhere to on a daily basis.</p> <p>Provider Managed Accounts – it is envisaged with the advent of the pre-payment card that this option will seldom be used. However, it has been agreed that this option will continue to be available, with a proposal to limit the amounts payable to that which is equivalent to the lowest charge identified of the current providers used. The provider will manage the service user's cash payment in addition to any other amounts paid for other accessed services.</p> <p>Holiday Pay – this is a statutory requirement that we will continue to meet.</p> <p>PA's business use on car insurance – this item of expenditure should no longer be met from a Personal Budget as it is included in most insurance policies free of charge. We would not expect to pay this element of personal insurance for our own staff and it is reasonable therefore to expect prospective employees to cover this cost (in the unlikely event that there is one) themselves.</p> <p>Agency Cover – this is an item that was occasionally included in the early days of Personal Budgets. It is rarely used now and should no longer be included. This is because as support planning has progressed service users have been encouraged to think about putting contingency arrangements in place that do not require extra funding, rather they could tap into social capital in line with the Cost Effective Care Policy.</p> <p>PA Training – As part of the support planning process Social Care Workers will signpost to Skills for Care who have a network of information, resources and tools to support employers and workforce development, in addition to resources available to pay for training.</p> <p>Sickness Cover this is an item that was occasionally included in the early days of Personal Budgets. It is rarely used now and should no longer be included. This is because as support planning has progressed service users have been encouraged to think about putting contingency arrangements in place that do not require extra funding, rather they could tap into social capital in line with the Cost Effective Care Policy.</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>The proposed changes have been identified as a result of the Cost Effective</p>

	<p>Care Policy which is part of the Adults &amp; Communities Efficiencies and Service Reduction Programme. An equality questionnaire was completed for this project in 2013:</p> <p><a href="http://www.leics.gov.uk/cost_effective_care_policy_ehria.pdf">http://www.leics.gov.uk/cost_effective_care_policy_ehria.pdf</a></p> <p>A specification for the procurement of services outlined above is currently being prepared by Market Development. This will ensure clarity for the scope and nature of the services provided, avoiding the possibility of cheaper services falling short of the required standards, thus meeting the requirements of cost effective care. One of the means by which this is achieved is to outline in the specification the basic tasks required under the services listed in section 1 paragraph 1 above.</p>										
3	<p>Who are the people/ groups (target groups) affected and what is the intended change or outcome for them?</p> <p>The proposed changes will affect adults aged 18 or over who access social care services delivered through a Personal Budget, or who may need such services in the future. The cohort of people who currently receive services has a higher proportion of women, people with disabilities and older people than are present in the general population and it is these groups that will be primarily affected.</p> <p>In line with the Cost Effective Care policy the proposed changes include a clear commitment that the department will always meet people's assessed unmet eligible needs and will provide the means via a Cash Payment to meet those assessed needs in the most cost effective way possible. This will not restrict the choices available to people to meet their needs; however it may not be sufficient to meet the costs of their preferred provider.</p> <p>The changes allow for people to choose a more expensive support option if they or a third party are willing to fund the additional amount needed. Any such arrangement will be covered by agreement between the service user and the service provider.</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? <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 Council's Safeguarding Adults policy works to prevent abuse and to help and support adults who have experienced any form of abuse. The Safeguarding Adults policy applies to adults who may be experiencing abuse or neglect and may be in need of community care services; this is regardless of the level of care and support being provided, therefore the proposed changes that have been identified as an outcome of</td></tr> </tbody> </table>				Yes	No	How?	Eliminate unlawful discrimination, harassment and victimisation	✓		The Council's Safeguarding Adults policy works to prevent abuse and to help and support adults who have experienced any form of abuse. The Safeguarding Adults policy applies to adults who may be experiencing abuse or neglect and may be in need of community care services; this is regardless of the level of care and support being provided, therefore the proposed changes that have been identified as an outcome of
	Yes	No	How?								
Eliminate unlawful discrimination, harassment and victimisation	✓		The Council's Safeguarding Adults policy works to prevent abuse and to help and support adults who have experienced any form of abuse. The Safeguarding Adults policy applies to adults who may be experiencing abuse or neglect and may be in need of community care services; this is regardless of the level of care and support being provided, therefore the proposed changes that have been identified as an outcome of								

				the Cost Effective Care policy will not affect the Council's ability to safeguard vulnerable adults.
	Advance equality of opportunity between different groups	✓		The proposed changes seeks to limit the amount of funds provided by the Council to cash payments recipients rather than limit the choice of services available to them. These limits will be set to reflect the current most cost effective option that is available bringing the proposals within the scope of the Cost Effective Care policy.
	Foster good relations between different groups	✓		The changes seek to establish a fair and equitable way to use resources available to fund adult social care services. It therefore aims to foster good relations between the different groups who use these services.

## 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?		
<b>8.</b>	<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>A consultation on the principles of the Cost Effective Care policy was undertaken in May 2014 for a period of 12 weeks. The consultation followed the guidance set out in the Council's consultation principles, namely ensuring that it reaches relevant sections of the community and is open and transparent in the use of information. The adoption of the policy was agreed in the cabinet meeting of 13/10/2014 to be adopted for use by the Department for Adults &amp; Communities from 1/12/2014. These proposed changes have been identified as an outcome of that policy.</p> <p>In respect of Reviews, the policy ensures that, where a lower cost support package is identified, service users will be helped to find alternative support, and given a reasonable length of time to make the transition to the new support package.</p>		

## 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) 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 protected characteristics may potentially be affected by this policy and describe any positive and negative impacts, including any barriers.

	Yes	No	Comments
Age	✓		The service user cohort has a higher proportion of older people than is present in the general population. There is the potential for them, to be affected by this policy; chiefly in respect of the limiting of the funds available from the Council to that which is most cost effective.

			<p>However, the changes allow for people to choose a more expensive support option if they or a third party are willing to fund the additional amount needed. It has long been acknowledged that this factor creates a two tier system, in which choice is limited by financial assets, but it is not a requirement of the Equality Act to consider financial parity. However, standards of care are legally protected and third party payments would never be required to raise standards to the minimum required. This principle applies across the protected groups.</p> <p>Specific needs related to a person's age are considered when a decision is made about the amount of money allocated to a person in their Personal Budget.</p>
	<b>Disability</b>	✓	<p>The service user cohort has a higher proportion of people with disabilities than is present in the general population. There is the potential for them to be affected by the changes; chiefly in respect of the limiting of the funds available from the Council to that which is most cost effective. However, the changes allow for people to choose a more expensive support option if they or a third party are willing to fund the additional amount needed.</p> <p>Specific needs related to a person's disability are considered when a decision is made about the amount of money allocated to a person in their Personal Budget. In charging terms, consideration will always be given to appropriate disability related expenditure.</p>

	<b>Gender Reassignment</b>		✓	
	<b>Marriage and Civil Partnership</b>		✓	
	<b>Pregnancy and Maternity</b>		✓	
	<b>Race</b>	✓		Specific needs related to a person's ethnicity are considered when a decision is made about the amount of money allocated to a person in their Personal Budget.
	<b>Religion or Belief</b>	✓		Specific needs related to a person's religion or belief system are considered when a decision is made about the amount of money allocated to a person in their personal budget.
	<b>Sex</b>	✓		<p>Women form slightly higher proportion of the service user population than men. There is the potential for them to be affected by these changes; chiefly in respect of the limiting of the funds available from the Council to that which is most cost effective. However, the changes allow for people to choose a more expensive support option if they or a third party are willing to fund the additional amount needed.</p> <p>Specific needs related to a person's gender are considered when a decision is made about the amount of money allocated to a person in their Personal Budget.</p>
	<b>Sexual Orientation</b>		✓	
	<b>Other groups e.g. rural isolation, deprivation, health inequality, carers, asylum seeker and refugee communities, looked after</b>	✓		Carers: the proposed changes do not include the support that the Council provides to informal carers and the changes will not be applied directly to them. However, carers may be



	<b>children, deprived or disadvantaged communities</b>			affected by the decisions made as a result of the changes on the person they care for. Carers were included in the consultation sample and groups that represent carers were also invited to contribute on the consultation of the Cost effective care policy of which these proposed changes are an outcome.
	<b>Community Cohesion</b>		✓	
<b>11.</b>	<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>			
		<b>Yes</b>	<b>No</b>	<b>Comments</b>
	<b>Part 1: The Convention- Rights and Freedoms</b>			
	<b>Article 2: Right to life</b>	✓		Assessment and support planning always aim to reduce and manage risk and help, people to live safely and independently. The amount of funding allocated to meet a person's needs takes account of any risks identified. This includes situations where a vulnerable person needs to be safeguarded and where a protection plan is in place. The Cost Effective Care policy of which these proposed changes are an outcome positively supports and upholds the right to life.
	<b>Article 3: Right not to be tortured or treated in an inhuman or degrading way</b>	✓		Using a more cost effective option does not compromise on the quality of the service being provided. All providers who have a contract with the Council have to meet the same quality standards, regardless of the cost of their services. Standards are upheld by

			regular contract monitoring.
	<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>	✓	<p>People have the right to request a review of the decision that is made about the amount of their Personal Budget. They can choose to submit further information that will be considered by the decision-maker.</p> <p>They also have the right to make a complaint if they believe that their case has not been handled fairly.</p> <p>An advocate can be provided to support people in making a complaint. The council funds an Advocacy service which is provided by Leicestershire Community Projects Trust.</p> <p>The service user may choose to top up the proposed limited amount where his chosen provider of services charges in excess of the amount that can be allocated to provide cost effective care. These limits have been identified as an outcome of the Cost Effective Care policy.</p>
	<b>Article 7: No punishment without law</b>	✓	
	<b>Article 8: Right to respect for private and family life</b>	✓	<p>The changes may affect Article 8 in a number of ways:</p> <p>1) There is a potentially adverse impact arising from the decision to allocate funds to Personal Budgets in the most cost effective way to meet people's assessed needs. Chiefly in respect of the limiting of the funds available from the Council to that which is most cost effective. However, the changes allow for people to choose a more expensive support option if they or</p>

			<p>a third party are willing to fund the additional amount needed.</p> <p>We can help people to reduce the cost of their support at home, for example by using assistive technology (which will be routinely considered) or sharing support where appropriate. People can consider using the steps outlined below to mitigate the impact of the proposed changes.</p> <p>An exceptions process will be in place which will allow consideration of circumstances, including on human rights grounds, where a higher cost service is required.</p>
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	✓		<p>The proposed changes will be implemented by Adults &amp; Communities staff in a fair and transparent manner. Briefing sessions for staff have been held in localities, and any staffing needs arising from the implementation of Cost Effective Care will be monitored. Staff will take account of PSED protected characteristics when support planning and will make sure that Personal Budgets are appropriately tailored to individual needs and protected characteristics. People will also have recourse to the exceptions process as outlined above and have the right to make a complaint about any aspect of their contact with the Council.</p>
Part 2: The First Protocol			

	<b>Article 1: Protection of property/ peaceful enjoyment</b>		✓	
	<b>Article 2: Right to education</b>		✓	
	<b>Article 3: Right to free elections</b>		✓	
<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.

## 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: .....09/03/2015.....