

APPENDIX B

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:	Implementation of Care Act 2014
Department and section:	Adults & Communities
Name of lead officer/ job title and others completing this assessment:	Chris Housden
Contact telephone numbers:	0116 3056947
Name of officer/s responsible for implementing this policy:	Amanda Stott
Date EHRIA assessment started:	18/11/2014
Date EHRIA assessment completed:	20/01/2015

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

The Care Act 2014 (the Act) will have a wide ranging impact on the delivery of social care. It will cut across most of the services delivered by Adults & Communities and change their focus. The Government published an Impact Assessment on 25/05/2014 (*n.b. this is a general assessment not specifically addressing Equalities legislation*). This report summarised the policy objectives as follows, to:

- *Modernise* the legal basis to reflect the Government's ambitions for personalised adult care and support: Refocus the law around the person, not the service, by enshrining new statutory principles that place the wellbeing of the individual at the heart of individual decisions about care.
- *Simplify* the law into one single statute for adult social care, supported by clear regulations and a reformed bank of statutory guidance in one place: Develop a more transparent framework, which simplifies practice for care professionals, reduces burdens, and empowers individuals to better understand their rights and responsibilities.
- *Consolidate* all existing legislation and repeal old statute dating back over 60 years: Incorporate existing powers for local authorities where they fit with the modern service, whilst bringing the provisions up to date and creating a new statutory framework for adult safeguarding. Rationalise and remove unnecessary top-down controls or restrictions to allow services to innovate and meet the changing needs of local populations.

The principal concerns from an Equalities & Human Rights perspective are:

1. Where the Act requires us to alter or rewrite policy or strategy.
2. Where the delivery of services after April 2015 will require service users to engage with us in new or changed ways.

The Act will take effect in two phases, the first in April 2015 includes all provisions **except for** changes to the Council's responsibility towards Self-Funders, the change to the financial thresholds and the introduction of Care Accounts, which will be implemented in April 2016.

Overall, the Act is a combination of consolidating existing legislation, introducing new responsibilities (e.g. Social Care in prisons), and

	<p>enshrining existing good practice into law (e.g. carers assessment and the establishment of Adult Safeguarding Boards)</p> <p>The philosophy behind the changes will also have general impact, i.e.</p> <ul style="list-style-type: none"> * the shift from the duty to provide services to meeting needs * the focus on prevention and delaying the need for more intensive support * promoting closer working links with Health and other partners * putting people at the centre of their care and support * market facilitation <p>Adjustments and additions to training and workforce provision are likely consequences of the legislation.</p>
<p>2</p>	<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 Act relates to a significant number of policy areas. LCC has identified the following work streams which will impact on policy, strategy and services.</p> <p><i>Carers</i></p> <p><i>Eligibility</i></p> <p><i>Assessment</i></p> <p><i>Prevention</i></p> <p><i>Resource allocation</i></p> <p><i>Prisons , Approved Premises and Bail Accommodation</i></p> <p><i>Market Shaping & Commissioning</i></p> <p><i>Managing Provider failure</i></p> <p><i>Safeguarding</i></p> <p><i>Independent Financial Advice</i></p> <p><i>Independent Advocacy</i></p> <p><i>Information & Advice</i></p> <p><i>Service User Finance</i></p> <p><i>Reviews</i></p> <p>There are also areas where policy & strategy will have to be agreed between LCC departments or with outside partners i.e:</p>

	<p><i>Learning & Development</i></p> <p><i>Workforce development</i></p> <p><i>Systems & Technology</i></p> <p><i>Oversight & Compliance</i></p> <p><i>Communications</i></p> <p><i>Stakeholder Engagement</i></p> <p><i>Programme Finance & Risk</i></p> <p><i>Integration with Health</i></p>
<p>3</p>	<p>Who are the people/ groups (target groups) affected and what is the intended change or outcome for them?</p> <p>As the Act instigates a change in focus from providing services to meeting needs, there is a potential impact for all service users and carers. However, this is already an operating principle behind Personalisation, as already applied to the work of the Department, and will therefore not represent a sudden or wholesale change to everyone. The Act expresses its aims in terms of outcomes, so there is an intention that service users and carers should benefit by achieving clearly defined improvements to their individual wellbeing as a direct result of interventions.</p> <p>Some of the implications of the Care Act are for the whole community, i.e. the universal provision of advice and information.</p> <p>There are groups of people who are specifically covered by the Act who either had no previous statutory inclusion, or receive a higher priority for help than previously, i.e:</p> <p><i>Carers</i></p> <p>LCC has undertaken a considerable amount of recent work relating to carers, including last year's review of carers' services which was subject to public consultation. Much of this work will be relevant to the development of carers' services under the Act's provisions.</p> <p>The Care Act sets out equivalent rights for carers as those they care for. This includes:</p> <ul style="list-style-type: none"> • Wellbeing principle with duties and powers to 'meet needs' which replaces previous entitlements to services • Preventing, reducing and delaying the need for support • Right to assessment where there are needs for support and on an appearance of need. The assessment must be proportionate to the carers' needs, goals and circumstances. • Eligibility: national minimum threshold for carers • Planning: rights to personal budgets, direct payments, personal budgets and a support plan which carers must be involved in preparing the plan

	<ul style="list-style-type: none"> • Charging: Carers can also be charged for care and support received • Review: Carers reviews must be timely and proportionate • Market shaping must ensure appropriate services for carers • Transition: Duty to assess young people and their carers in advance of transition from children’s to adult services where likely to need care and support as an adult. Regulations set out process for providing services to adult carers of children and young carers <p><i>Prisoners</i></p> <p>Prisoners with eligible care needs will be entitled to an equivalent level of support as those people in the community with eligible care needs, with the exception that Prisoners are not entitled to a carer’s assessment, to choose their accommodation or to receive direct payments. For those prisoners who do not meet the eligibility criteria information will be provided to them along with prevention and wellbeing activities to help to reduce functional decline.</p>		
4	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)		
	Yes	No	How?
Eliminate unlawful discrimination, harassment and victimisation	x		The underlying philosophy the Act (as outlined in para 2) will assist the aim of avoiding discriminatory treatment of protected groups by promoting individual wellbeing and positive outcomes arising from interventions.
Advance equality of opportunity between different groups	x		Services will be designed to improve personal wellbeing and prevent early deterioration of physical and mental health in vulnerable groups, thereby improving their opportunities in relation to those who do not require social care services.
Foster good relations between different groups	x		Meeting needs by achieving positive outcomes should enable service users to suffer less isolation and facilitate greater participation in social and family life, improving contact between users and non - users of 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

		Yes	No*
5.	Have the target groups been consulted about the following?		
	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.	*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.		
	As these changes arise from primary legislation, there has to date been no local consultation on the Act's provisions. However, between April and July 2014 LCC consulted widely on services for carers and prevention services during extensive review exercises, and this work will inform our approach to the relevant provisions in the Act.		
	Central Government consulted widely on the Act's guidance and regulations, and a number of interested bodies submitted responses. The Local Government Association (LGA) and the Association of Directors of Adult Social Services (ADASS) responded jointly in August 2014 (Appendix 1). The emphasis of this response was driven by a commitment to achieving a care and support system		

based around the needs of individual people and focussing on maximising wellbeing and independence. The provisions were regarded as positive in the following respects:

- The overarching principles of the Act, focussing on wellbeing and preventing, reducing and delaying needs.
- The new rights for carers and the mainstreaming of carers' issues throughout the legislation.
- The importance of personal outcomes, alongside the asset-based approach, which underpins the national eligibility criteria.
- Safeguarding receiving a statutory footing and inquiries into suspected abuse or neglect not subject to the national eligibility criteria.
- The establishment of an extended deferred payment agreements scheme

The response expressed concern about funding for implementing the reforms, quoting from a number of sources to reflect the scale of budget reductions over the period 2014/15/16 during which the reforms will be considered and implemented. It's main conclusions were:

- There is a threat of cuts to frontline services, and in some cases cessation of services altogether.
- Budget reductions of the scale that social care is experiencing may affect local authorities' ability to shift the focus of the care and support system from crisis response to prevention and early intervention. This is compounded by some unknown quantities, such as the number of carers and self-funders who will qualify for help under the Act.
- A national debate is required to determine the appropriate proportion of total public expenditure that is acceptable for supporting the wellbeing and independence of working age disabled adults and older people (for 2014/15 this will be 2.001%).
- Clarity is required around Care Act related policies to be supported through the Better Care Fund (BCF) as this is a crucial source of funding to enable the reforms to work.

See **Appendix 1** for detail of the response to particular themes in the Act covering some of LCC's identified work streams, i.e.

- Prevention (page 10)
- Assessment & Eligibility (page 10)
- Carers (page 11)
- Information & Advice (page 12)
- Charging & deferred payments (page 12)
- IT & Informatics (page 14)
- Boundary with Health (page 14)
- Safeguarding (page 15)
- Advocacy (page 15)

An annexe to the Appendix highlights specific concerns, most concerning possible underestimates of costs (page 17 *et seq*).

	<p>It may be necessary for LCC to undertake consultation on some of the changes. Guidance from our Legal section is available to assist in determining whether or not this will be required.</p> <p>A public consultation is not required to implement social care in prisons because there will be no adverse effect to service users. A period of engagement is planned with Prisoners to involve them in the planning of services.</p>
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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		<p>Older people make up a significant proportion of service users. It is known that the numbers in this group and their longevity are increasing. Their needs and abilities must be borne in mind in all related services particularly regarding access to information & advice, financial assessments, advocacy, independent financial advice, and Care Accounts.</p> <p>It is also known that some services may be in higher demand by younger age groups. For example, schizophrenia is much more likely to emerge in the 16-25</p>

			<p>age group than any other, and mental health services need to factor in and respond to such data.</p> <p>Conditions like dementia are much more likely to occur in older people and its incidence is well known. Data for conditions such as this is critical when designing and funding services.</p>
	Disability	x	<p>Social Care is engaged across the full spectrum of disabilities. Problems of mobility and access for physically disabled people must be taken into account. Formats for providing information and advice, financial advice, and details of modern services, which may be technical and complex, must take account of the needs of people with learning disabilities and some mental health problems. Similarly, people suffering from sensory impairments are likely to have special requirements when accessing services.</p> <p>Mental Health conditions where significant impact lasts longer than 12 months are classified as disabilities rather than illnesses and sufferers gain protection under Disability Discrimination law.</p> <p>Some health conditions affect different groups disproportionately. Some examples are provided under the appropriate protected groups in the section.</p>
	Gender Reassignment		x No discrimination identified at this stage.
	Marriage and Civil Partnership		x No discrimination identified at this stage.

	Pregnancy and Maternity		x	No discrimination identified at this stage.
	Race	x		LCC is aware of its responsibility to ensure that access to services is inclusive and that steps should be taken to redress apparent shortfalls in use of services, when comparison is made to demographic data for the County. Our approach is outlined in the Single Equality, Diversity & Human Rights Strategy 2013-16.
	Religion or Belief	x		As above.
	Sex	x		<p>Some services are engaged disproportionately by men and women. For example, more women than men receive Adult Social Care services in older age groups, as a result of longer life expectancy and being generally less well off. This disproportion needs to be borne in mind in any situation where services are being developed or there is a risk of service reductions. It also requires consideration in services where the gender of personal care providers may be a factor.</p> <p>For Carers' services, a disproportionately higher number of women are carers (58% in the 2001 census).</p> <p>Some health factors are known to affect men and women differently. For example, women are more likely to experience depression and eating disorders, whereas men are more likely to abuse drugs and alcohol or die by suicide.</p>

	Sexual Orientation	x		Preceding comments relating to the gender of care providers may also apply here.
	Other groups e.g. rural isolation, deprivation, health inequality, carers, asylum seeker and refugee communities, looked after children, deprived or disadvantaged communities	x		The right to a carers' assessment is new and should protect the interests of this group more effectively than previously. Closer working with the NHS and Public Health will provide a good starting point for improving Health and Social Care outcomes. The interests of marginalised or isolated groups need to be borne in mind when considering access to and distribution of services.
	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		Safeguarding is likely to engage this article.
	Article 3: Right not to be tortured or treated in an inhuman or degrading way	x		All service alterations and developments will need to bear in mind the need to promote personal dignity and ensure good standards of care. The Act defines the primary responsibility of local authorities as the promotion of individual wellbeing.

Article 4: Right not to be subjected to slavery/ forced labour		x	
Article 5: Right to liberty and security	x		Safeguarding will protect these rights.
Article 6: Right to a fair trial	x		All services and policies will reiterate service users' rights to access the complaints system and any rights to review or appeal decisions as appropriate.
Article 7: No punishment without law		x	
Article 8: Right to respect for private and family life	x		Many services will have a central focus on preserving and promoting the ability of individuals to remain independent with dignity, and remain in the home and family setting of their choice.
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		All services and policies will be designed to ensure that no particular groups are intentionally or unintentionally excluded or disadvantaged from accessing or benefitting from them.
Part 2: The First Protocol			
Article 1: Protection of property/ peaceful enjoyment	x		Promoting, preserving and protecting independence supports this article. Safeguarding policy also supports it.

	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: 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	Yes	No	Unknown
				x
				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"/>
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Note: If the decision is ‘Negative Impact’ or ‘Impact Not Known’ an EHRIA Report is required.

14.	Is an EHRIA report required? Note: This is an overarching screening exercise designed to introduce the changes in an Equality and Human Rights context. It is intended to assist with the appraisal of EHRIA requirements in each of the work streams identified. While acknowledging that impact is unknown, it does not require a full report as the detail necessary for this will come within the individual work streams. Screening in those areas will lead to decisions about the need for full reports. <i>EHRIA report writers will need to record any disadvantages for Protected Groups that may arise</i>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
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	<i>from a failure to be compliant with the Act as of 01/04/2015, when it comes into force.</i>		
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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. Please send a copy of this form to louisa.jordan@leics.gov.uk, Members Secretariat, in the Chief Executive's department for publishing.

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: 11/02/2015

2nd Authorised Signature (DEG Chair):



Date: ...11/02/2015.....