

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:	The proposal to charge people who self-fund their care a fee for arranging their care and support.
Department and section:	Adults and Communities (Adult Social Care)
Name of lead officer/ job title and others completing this assessment:	Katy Griffith (Project Manager)
Contact telephone numbers:	0116 306 6913
Name of officer/s responsible for implementing this policy:	Sarah Rogers (Acting Head of Service for Community Care Finance)
Date EHRIA assessment started:	24/07/15
Date EHRIA assessment completed:	03/08/15

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 self-funder is defined as a person who has eligible needs and savings above the upper capital limit, which is currently £23,250.

The Adults and Communities Department arranges non-residential care services for approximately 800 people who are self-funders. These people are charged the full cost of their services but are not charged an arrangement fee.

The Care Act 2014 introduced a new duty for local authorities to meet the needs of self-funders and the power to charge an arrangement fee. This was introduced in April 2015 and applies to people who ask the Council to meet their need for most types of care and support, but excluding people who require a care home placement. An increase in the numbers of self-funders who approach the Council was expected and the Adults and Communities Department considers it necessary to introduce an arrangement fee to cover its costs. The Care and Support Statutory Guidance, published in October 2014, sets out that the fee should include the cost of negotiating and managing the contract with the provider and cover administration costs. The guidance has been followed and an annual fee of £236 is being proposed, which would be introduced in April 2016 and applied to self-funders receiving care and support other than in a care home.

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 EHR/A. If unknown, further investigation may be required.*

The introduction of an arrangement fee for self-funders will relate to the Leicestershire County Council Charging Policy for Care Services, which can be viewed here:

http://intranet.leics.gov.uk/adult_communities/asc/service_provision2/frameworks/finance-3.htm

3 Who are the people/ groups (target groups) affected and what is the intended change or outcome for them?

The introduction of an arrangement fee will affect the 800 people who are self-funders currently receiving care and support services arranged by the

Council. Each person will need to decide if they wish to continue and pay the arrangement fee or decide to make other arrangements for their support that do not involve the Council, meaning that the fee would not be required. This could include making a private arrangement with their care provider or asking a relative or friend to do this on their behalf. The arrangement fee will be applied to adults aged 18 or over who are self-funders using care and support services arranged by the Council. There is a higher representation of women, people with disabilities and older people in this cohort than are present in the general population and it is these groups that will be primarily affected by this change.

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	√		The Care Act statutory guidance sets out a fair way of calculating the arrangement fee and limits what can be included in it. This guidance has been followed to avoid setting an arbitrary or unfair amount.
	Advance equality of opportunity between different groups	√		The arrangement fee will only be applied to people with savings over the higher capital limit (currently £23,250). People with savings below this figure will not be required to pay the fee, meaning that people in lower income groups who also have protected characteristics will be unaffected.
	Foster good relations between different groups	√		The fee will only be applied following a financial assessment and after it has been explained to the person that they may be liable to pay an arrangement fee in addition to the costs of meeting their needs. This will ensure that people are aware of the fee before it is applied to them and that this is done in a fair and transparent manner.

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;		√
	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.	*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>A public consultation on the proposal to charge self-funders an arrangement fee is planned to commence in September 2015 for a period of 8 weeks. The consultation will follow the guidance set out in the Council's consultation principles, namely ensuring that it reaches relevant sections of the community in appropriate formats and is open and transparent in the use of information.</p> <p>A consultation questionnaire will be sent to a representative sample of people who currently have non-residential services arranged by the Council and are self-funders, as this group of people would be directly affected by the introduction of the arrangement fee. The questionnaire will also be made available to the general public on the Council's website.</p> <p>Partner agencies, including voluntary organisations, service providers and NHS organisations will also be invited to contribute their views to the consultation, together with Leicestershire Healthwatch.</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 ' 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	√	95% of self-funders who have services arranged by the Council are aged 65 and over. The implementation of the arrangement fee is expected to have a greater impact for older people, who are likely to have accumulated more financial assets during their lifetime. It will have a much lesser impact on younger people, who make up 5% of the cohort.
	Disability	√	The self-funder cohort has a higher proportion of people with disabilities than is present in the general population. The arrangement fee is therefore expected to have a greater impact for people with disabilities. The communication plan for the consultation will need to provide information in accessible formats to ensure that people with disabilities can participate in it.
	Gender Reassignment		√ No disadvantage identified

	Marriage and Civil Partnership		√	No disadvantage identified
	Pregnancy and Maternity		√	No disadvantage identified
	Race		√	The consultation will have a culturally appropriate approach that takes account of language requirements linked to race.
	Religion or Belief		√	The consultation approach will also be culturally appropriate with respect for religion or belief.
	Sex	√		66% of the self-funder cohort are women and 34% are men. This reflects the gender balance of people who use care and support services. The arrangement fee will be applied to a higher proportion of women rather than men because of this and not as a result of any direct or indirect discrimination.
	Sexual Orientation		√	No disadvantage identified.
	Other groups e.g. rural isolation, deprivation, health inequality, carers, asylum seeker and refugee communities, looked after children, deprived or disadvantaged communities		√	Carers will be invited to participate in the consultation in order to understand any possible impacts that the arrangement fee could have for carers who provide informal care to self-funders.
	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? (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		√	
Article 3: Right not to be tortured or treated in an inhuman or degrading way		√	
Article 4: Right not to be subjected to slavery/ forced labour		√	
Article 5: Right to liberty and security		√	
Article 6: Right to a fair trial	√		People have the right to make a complaint if they believe that the arrangement fee has been incorrectly or unfairly applied to them. The right to make a complaint and the process to follow will be explained during the financial assessment.
Article 7: No punishment without law		√	
Article 8: Right to respect for private and family life	√	√	The arrangement fee will apply to people receiving care and support who live at home rather than in a care home. The charge has been set at a level that is judged to be affordable and is similar to the amount of annual interest that could be expected from savings of £23,250. This helps to protect their income and does not affect their rights under Article 8.
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		√	
Part 2: The First Protocol			
Article 1: Protection of property/ peaceful		√	

	enjoyment			
	Article 2: Right to education		√	
	Article 3: Right to free elections		√	
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;	√		
	b) any section of the community may face barriers in benefiting from the proposal		√	
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"/>
Note: If the decision is 'Negative Impact' or 'Impact Not Known' an EHRIA Report is required.				
14.	Is an EHRIA report required?	Yes <input checked="" type="checkbox"/>	No <input 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. 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):

Date:

2nd Authorised Signature (DEG Chair): ...



Date: ...04/08/2015.....

Section 3: Equality and Human Rights Impact Assessment (EHRIA) Report

Section 3: Equality and Human Rights Impact Assessment Report

This part of the assessment will help you to think thoroughly about the impact of this policy and to critically examine whether it is likely to have a positive or negative impact on different groups within our diverse community. It is also to identify any barriers that may detrimentally affect under-represented communities or groups, who may be disadvantaged by the way in which we carry out our business.

Using the information gathered either within the EHRIA Screening or independently of this process, this EHRIA Report should be used to 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.

Section 3

A: Research and Consultation

When considering the target groups it is important to think about whether new data needs to be collected or whether there is any existing research that can be utilised.

15. Based on the gaps identified either in the EHRIA Screening or independently of this process, how have you now explored the following and what does this information/data tell you about each of the diverse groups?
- a) current needs and aspirations and what is important to individuals and community groups (including human rights);
 - b) likely impacts (positive and negative, intended and unintended) to individuals and community groups (including human rights);
 - c) likely barriers that individuals and community groups may face (including human rights)

The principle way in which the issues raised in the screening have been explored is through the public consultation exercise, which took place from Wednesday 23 September to Wednesday 18 November 2015.

The consultation questionnaire was sent to each self-funder currently receiving non-residential care services arranged by the Council (729 people in total). It was publicised on the "Have Your Say" page of the Council's website where it was possible to access the consultation documents. An engagement event was held at County Hall on 4 November 2015. All domiciliary care providers were informed about the consultation and invited to contribute to it. In addition, a Members News in Brief item was circulated and press releases were produced by the Communications Unit.

Consultation responses to the proposal.

The majority of the responses to the consultation exercise were against the proposal to introduce a fee for arranging non-residential care services for self-funders. The main issues raised were:

- a. Introducing a fee penalises people who have saved and managed their money carefully.
- b. That the service provided by the Council to self-funders is not sufficient to justify the charge.
- c. That the Council’s approach to charging for care is flawed, not accurate and not understandable. Responders were unhappy about paying for care in advance ; being charged on the commissioned service rather than the service which is provided; and that correcting invoice errors takes far too long.
- d. Several responders commented that some users of Extra Care Services do not receive social care services and only receive the Extra Care support service. The responders felt that it would be unfair to be expected to pay the arrangement fee in these circumstances.

16. Is any further research, data collection or evidence required to fill any gaps in your understanding of the potential or known effects of the policy on target groups?

No

When considering who is affected by this proposed policy, it is important to think about consulting with and involving a range of service users, staff or other stakeholders who may be affected as part of the proposal.

17. Based on the gaps identified either in the EHRIA Screening or independently of this process, how have you further consulted with those affected on the likely impact and what does this consultation tell you about each of the diverse groups?

A total of 246 questionnaires (33.7%) were completed and returned to the Council. In addition, 8 people attended the public meeting and 10 people phoned through their response. These responses have been amalgamated with the questionnaire responses.

Analysis of the respondents by protected characteristics shows:

Race %	Gender % women % men	Disability	Age Profile	Sexual Orientation %	Religion or Belief %
96% White 2% Asian or Asian British	63% women 37% men	54% disabled	86% over 55 14% under 55	96% heterosexual	85% Christian 12% no religious affiliation 2% Hindu

The consultation responses showed that 60% of people disagreed with the proposal to introduce the arrangement fee and 19% agreed with it.

The issues raised were common amongst those who responded to the consultation and were not restricted to people with specific protected characteristics.

18. Is any further consultation required to fill any gaps in your understanding of the potential or known effects of the policy on target groups?

No further consultation requirement has been identified.

Section 3

B: Recognised Impact

19. Based on any evidence and findings, use the table below to specify if any individuals or community groups who identify with any 'protected characteristics' are likely be affected by this policy. Describe any positive and negative impacts, including what barriers these individuals or groups may face.

	Comments
Age	<p>The arrangement fee will apply to a higher proportion of older people than younger people because of the age profile of the self-funder cohort; and not as the result of any direct or indirect discrimination.</p> <p>The Equality Act does not provide specific economic protections, so this will only be a consideration where charges have the effect of discriminating against a protected group. However, the introduction of the charge will have no detrimental impact on the quality or availability of services to the group affected..</p>
Disability	<p>The arrangement fee is expected to have a greater impact for people with disabilities, again because of the nature of the self-funder cohort and not as the result of discrimination.</p> <p>The above comment regarding economic protection is also relevant here.</p> <p>1) Implementation must take account of the difficulties that people without capacity may face. People</p>

		<p>known to us as Community Clients will have their interests protected. The Review Team is available to assist people who ask for more help making the decision and/or the necessary transition arrangements. This includes making a private arrangement with their care provider or the creation of new financial arrangements if they choose to stay.</p>
	Gender Reassignment	No disadvantage identified
	Marriage and Civil Partnership	No disadvantage identified
	Pregnancy and Maternity	No disadvantage identified
	Race	The implementation will have a culturally appropriate approach that takes account of language requirements linked to race.
	Religion or Belief	The implementation approach will also be culturally appropriate with respect for religion or belief.
	Sex	66% of the self-funder cohort are women and 34% are men. This reflects the gender balance of people who use care and support services. The arrangement fee will be applied to a higher proportion of women rather than men because of this and not as a result of any direct or indirect discrimination.
	Sexual Orientation	No disadvantage identified.
	Other groups e.g. rural isolation, deprivation, health inequality, carers, asylum seeker and refugee communities, looked after children, deprived or disadvantaged communities	<p>Carers were invited to participate in the consultation in order to understand any possible impacts that the arrangement fee could have for carers who provide informal care to self-funders. 35% of responders identified themselves as carers. Carer responders stated that they liaised with the care provider on a regular basis under the current arrangements and they did not consider that this would change if they stayed with the Council arranged services or made their own arrangements.</p>

	Community Cohesion	No disadvantage identified.
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20.	Based on any evidence and findings, use the table below to specify if any particular Articles in the Human Rights Act are <u>likely</u> apply to your policy. Are the human rights of any individuals or community groups affected by this proposal? Is there an impact on human rights for any of the protected characteristics?	
		Comments
	Part 1: The Convention- Rights and Freedoms	
	Article 2: Right to life	N/A
	Article 3: Right not to be tortured or treated in an inhuman or degrading way	N/A
	Article 4: Right not to be subjected to slavery/ forced labour	N/A
	Article 5: Right to liberty and security	N/A
	Article 6: Right to a fair trial	People have the right to make a complaint if they believe that the arrangement fee has been incorrectly or unfairly applied to them. The right to make a complaint and the process to follow will be explained during the financial assessment.
	Article 7: No punishment without law	N/A
	Article 8: Right to respect for private and family life	The arrangement fee will apply to people receiving care and support who live at home rather than in a care home. The charge has been set at a level that is judged to be affordable and is similar to the amount of annual interest that could be expected from savings of £23,250. This helps to protect their income and does not affect their rights under Article 8.
	Article 9: Right to freedom of thought, conscience and religion	N/A
	Article 10: Right to freedom of expression	N/A
Article 11: Right to freedom of	N/A	

	assembly and association	
	Article 12: Right to marry	N/A
	Article 14: Right not to be discriminated against	N/A
Part 2: The First Protocol		
	Article 1: Protection of property/ peaceful enjoyment	N/A
	Article 2: Right to education	N/A
	Article 3: Right to free elections	N/A
Section 3		
C: Mitigating and Assessing the Impact		
Taking into account the research, data, consultation and information you have reviewed and/or carried out as part of this EHRIA, it is now essential to assess the impact of the policy.		
21.	If you consider there to be actual or potential adverse impact or discrimination, please outline this below. State whether it is justifiable or legitimate and give reasons.	
<p>The introduction of any new charge for users of Adult Social care services can be expected to have a potentially adverse impact for people with protected characteristics. This assessment has identified that older people, people with disabilities and more women than men would be affected by the introduction of the arrangement fee. Articles 6 and 8 of the Human Rights Act are also relevant.</p> <p>The Care Act 2014 gives the Council the power to charge self-funders a fee for arranging their care and support. Only people with savings above the upper capital limit of £23,250 can be charged, which protects people in lower income groups. Faced with reduced funding to meet increasing levels of demand, the Council has decided that it is necessary to introduce the charge. The introduction of the fee for self-funders does impact on people with protected characteristics but this is a result of their economic status rather than their being a member of any protected groups.</p>		
N.B.		
i) If you have identified adverse impact or discrimination that is <u>illegal</u> , you are required to take action to remedy this immediately.		

ii) If you have identified adverse impact or discrimination that is justifiable or legitimate, you will need to consider what actions can be taken to mitigate its effect on those groups of people.

- 22.** Where there are potential barriers, negative impacts identified and/or barriers or impacts are unknown, please outline how you propose to minimise all negative impact or discrimination.
- a) include any relevant research and consultations findings which highlight the best way in which to minimise negative impact or discrimination
 - b) consider what barriers you can remove, whether reasonable adjustments may be necessary, and how any unmet needs that you have identified can be addressed
 - c) if you are not addressing any negative impacts (including human rights) or potential barriers identified for a particular group, please explain why

The Council is aware of the sensitivities of introducing the self-funder charge and has agreed to give further consideration to some of the issues raised during the consultation, particularly relating to the charging policy and procedure. It has also been agreed that the charge will not be applied to people living within an Extra Care service, who are not receiving any social care services commissioned by the Council.

Section 3

D: Making a decision

- 23.** Summarise your findings and give an overview as to whether the policy will meet Leicestershire County Council's responsibilities in relation to equality, diversity, community cohesion and human rights.

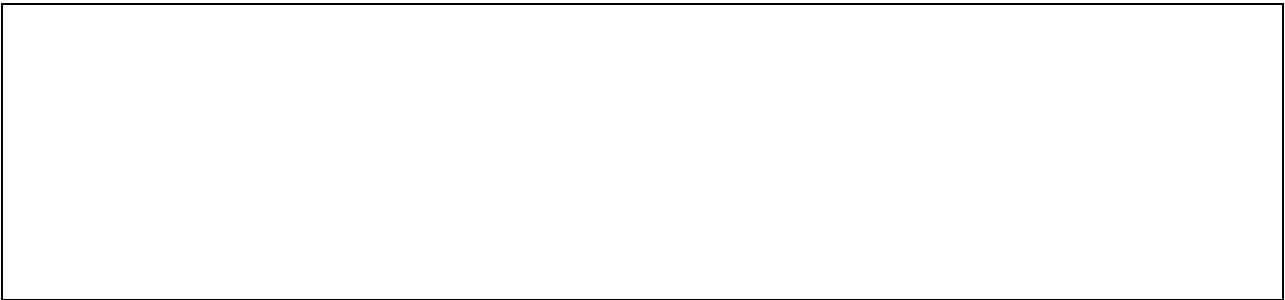
The Council has considered the results of the consultation and its budget position and is intending to introduce the arrangement fee for self-funders from 4th April 2016.

Self-funders will be given time to consider what's best for them and will have a choice to either:

- a. Use Council arranged care services and pay an arrangement fee OR**
- b. Make their own care arrangements and not pay the fee**

Self-funders have capital and assets over the £23,250 upper capital limit and, therefore, have the resources to pay the arrangement fee.

The proposed policy meets the Council's responsibilities in relation to equality, diversity, community cohesion and human rights.



Section 3	
E: Monitoring, evaluation & review of your policy	
24.	<p>Are there processes in place to review the findings of this EHRIA and make appropriate changes? In particular, how will you monitor potential barriers and any positive/ negative impact?</p> <p>The EHRIA conclusions have informed the Equality Improvement Plan, and appropriate mitigation included as actions. The EIP will be reviewed 6 months after the arrangement fee is implemented.</p>
25.	<p>How will the recommendations of this assessment be built into wider planning and review processes? <i>e.g. policy reviews, annual plans and use of performance management systems</i></p> <p>All EHRIAs inform their relevant service area plans.</p>

**Section 3:
F: Equality and human rights improvement plan**

Please list all the equality objectives, actions and targets that result from the Equality and Human Rights Impact Assessment (EHRIA) (continue on separate sheets as necessary). These now need to be included in the relevant service plan for mainstreaming and performance management purposes.

Equality Objective	Action	Target	Officer Responsible	By when
Ensure equity for users of Extra Care Services not in receipt of social care services	Ensure effective operation of the charging system, for those users who should not be charged the arrangement fee	Users are not charged for services that they don't receive	Service Lead for Community Care Finance (CCF)	
Those who can afford to pay the arrangement fee are required to do so	<p>Ensure financial assessments are completed accurately and promptly.</p> <p>Ensure service users are advised of the arrangement fee at an early stage.</p> <p>Ensure service users are aware of their options with regard to the arrangement fee.</p>	Self-funders are equipped to make informed choices.	<p>Service Lead for CCF</p> <p>Head of Service for Domiciliary Care Review</p>	

Equality Objective	Action	Target	Officer Responsible	By when
The way that the Council calculates its charges is seen as fair and transparent	Adults & Communities Department to review the way charges are calculated	Ensure that the charging system are fair and transparent, and seen as such by service users.	Adults & Communities Department Management Team	
Protecting the interests of people without capacity.	Ensure that transitions are smooth, that Community Clients' interests are protected, and that the services of the Review Team are available as required.	Avoidance of any disadvantage to people without capacity or carers/family to look after their interests. Correct discharge of LCC responsibilities in relation to Community Clients.	Service lead CCF Head of Service for Domiciliary Care review	

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):

Date:

2nd Authorised Signature (DEG Chair):



Date:

16 December 2015