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 screening document records that a national enquiry conducted by the Equalities and Human Rights Commission (EHRC) concluded that the current time and task model of delivering home care is outdated and unpopular with a significant proportion of service users *('Close to Home: older people and human rights in home care' 2011*). The research findings have influenced the development of Leicestershire County Council (LCC)'s HTLAH scheme, in particular:

- **facilitating reablement**

- **promoting the dignity of service users**
- **eliminating Short (15 minute) calls**
- **promoting service user choice in the services they receive**
- **addressing loneliness and isolation from local communities**
- **addressing low pay and status among care workers, to match the level of responsibility and skills required to provide good quality care.**

In addition, Providers acting illegally by effectively paying their staff below the minimum wage is evidenced in the practice of making numerous short visits with no travelling time factored in, and can also result from non- payment for training and on-call time *(The Resolution Foundation, Feb 2015).*

Since the screening exercise was completed, the government has introduced the National Living Wage (NLW), which replaced the National Minimum Wage (NMW) for workers aged over 25 years from April 2016. The NMW continues to set the minimum for younger workers (under 25 years).

<u>Exercises undertaken by LCC to explore needs, impacts and barriers:</u>

a) **Qualitative Research conducted by an independent facilitator took place in May 2015. This work engaged 31 service users aged between 60 and 92, via 3 discussion groups. The research objectives were described by the facilitator in the following terms:**

The Council sought a series of 'I statements', in service users' own language, which best reflect the aspirations of older people receiving support from the service. It was not practical to expect participants at three discussion groups to draft a full range of 'I statements' by committee. Rather, the groups had the kind of discussion which would enable 'I statements' to be drafted on participants' behalf, on the issues which they chose, and in the way that they would draft them. This is the basis on which the Discussion Guide for the groups, and this report, have been designed.

Two further engagement events took place in April 2016. The purpose of these sessions was to inform users of the service about the changes that HTLAH is likely to bring, and provide a forum for them to express their views and concerns. These events fielded some questions that had not arisen during the Qualitative Research as some consequences of the proposals had not emerged at that stage. This included the possibility that some existing providers may not be approved under HTLAH and their service users would be faced with switching providers

(and carers) against their wishes.

b) Provider engagement was identified as an important element of ensuring a successful transition between current domiciliary care and HTLAH arrangements. The initial Provider engagement events took place on the 2nd and 6th February 2015, and were attended by a total of 61 organisations. This was continued in the form of market warming and shaping throughout 2015, on the following dates.

- **13th & 19th May 2015**
- **30th July 2015**
- **5th August 2015**
- **22nd & 24th September 2015**
- **10th & 11th December 2015**

Further events in 2016 were focussed on the bidding process in the build up to, and moving through the pre-qualifying questionnaire (PQQ) & Invitation to tender (ITT) elements of procurement.

A specific question covering Equalities and Human Rights compliance was included in the moderation exercise at the PQQ stage. Moderation of this element was completed by LCC and voluntary sector representatives and covered practice as well as policy.

An important function of provider engagement is to test the aspirations of service users against the providers' perspective, in the context of Care Act requirements and LCC's own strategic objectives.

The findings from these events are recorded in paragraph 17.

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?

The combination of user and provider engagement carried out is considered sufficient to enable effective discharge of the PSED.

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, <u>how</u> have you further consulted with those affected on the likely impact and <u>what</u> does this consultation tell you about each of the diverse groups?

The introduction of the HTLAH service is expected to affect approximately 2750 people whose care is currently arranged by the Council and 250 people with care arranged by the CCGs.

<u>Responses and findings from arising from engagement events.</u>

a) Customer engagement.

The responses, for the most part, confirmed the importance of the HTLAH guiding principles to the lives of service users. In terms of their relevance to this report, the following comments and observations by participants are noteworthy:

- **Improved co-ordination, collaboration and communication between services welcomed.**
- **Greater potential to remain in their own home is a priority**
- **Retaining independence (doing what you want, when you want to)**
- **Retaining memories of the past and connections with friends and family**
- **Avoiding the deterioration that can occur when older people are outside of their familiar environment**
- **Retaining dignity and self respect**
- **Helping to extend life expectancy**
- **Recurring words used in the sessions were *dignity, respect, humanity***
- **Practical considerations were important: *cleanliness, mobility, relevant support***
- **Importance of being treated as an individual, not as a commodity**
- **Mutual respect and empathy between cared for and carers**
- **Continuity of care staff**

- **Being an active and contributing member of society**
- **Living as sociable and active a life as possible**
- **peace of mind, reducing needless worries**
- **Importance of advocacy in dealing with official bodies, understanding decisions and making realistic choices.**
- **Requirement for high quality information and advice that can be readily understood.**
- **Understanding finance, the money available and what it can buy**
- **Carers living locally and speaking the same language, promoting understanding and improving the likelihood of shared interests.**
- **Safety, security, freedom from harm, abuse, harassment, neglect and self harm, are all important factors**
- **Forward planning, retaining control in a crisis.**

The recurring themes in this list of independence, respect, dignity, health and wellbeing reflect the advantages that this policy change is expected to bring. The Equality Impacts in para 8 (below) reflect how HTLAH in practice should ensure that the benefits are felt across the protected groups.

From the Engagement events held in April 2016, the main points raised, relevant to this EHRIA, were as follows:

- **Clarity was sought regarding direct payments where part of the money comes from LCC (Direct Payment, or DP) and part from Health (Personal Health Budget or PHB).** ***In these cases, two separate payments will be made.***

- **Regulation of care standards was questioned.** ***All providers will have to be registered with the Care Quality Commission (CQC) and their ratings and inspection reports will be checked. Further quality safeguards are built into the procurement process. Regarding individual carers, areas where training may be required, such as health care for social care staff and reablement, will be addressed in the lead up to HTLAH. Providers must also ensure that their workers are trained to the Care Certificate.***

- **The geographical coverage of providers was questioned.** ***A map was provided to reflect this. There were further concerns about services extending to more remote areas, which will be addressed, at present, by encouraging market development and robust planning.***
- **Concerns were raised about transition between the current and future services.** ***LCC assured users that maintaining and monitoring relationships with current providers is a priority, as is ensuring continuity of care*****.**

- **Information about emergency and out of hours contact was requested.** ***The Customer Services Centre (CSC) and out of hours service numbers were given and advice to clarify the circumstances where providers should be contacted.***

- **A concern was expressed about the standard of continued provision for people with dementia.** ***Services for dementia sufferers will continue to be provided. The support plan passed to new providers will be clear on this, as with other conditions requiring particular attention. As part of the tendering process, providers are required to produce a plan to outline transition and handover.***

- **There was a high level of concern about the reduction in the number of providers leaving some people losing continuity with a provider and carer(s) who they would prefer to keep.** ***The option in this case would be to take a DP, which must be requested and will involve a reassessment of needs. This can then be used to purchase care from a provider outside of the HTLAH framework. This also applies to PHBs for people with health funding.***

b) Provider engagement

These events were attended by representatives from 61 organisations. Headlines from the workshop feedback are as follows:

1. **Payment mechanisms**

Stepped unit costs (which consist of reablement and maintenance rates) were the preferred option because:

- of front-loaded up-front payment
- it helps with cash flow, helps fund overheads e.g. CPD, SPs would know what to pay the staff
- providers can manage staffing better
- it would encourage provider to take new work
- the market is ready to do this now

2. **Provider options**

Single Provider per area:

- is the least favoured option
- may see providers squeezed out of the market

Main provider plus specialist secondary providers:

- is generally welcomed, though not the favourite
- adds specialist skills when really needed
- may add additional cost

More than one Provider per area:

- is the most favoured option
- is the most viable for small providers to transition into

In addition, an on-line questionnaire for Providers resulted in 20 responses. The key points to emerge were:

- The majority of respondents to the online questionnaire were medium-sized (53%) and large-sized SPs (26%).
- Fixed period stepped unit cost is strongly favoured, but outcome payments is not rejected
- More than one Provider per area is strong favoured. Single provider per area is rejected.
- No strong preferences about geography choice.

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?
	Not at this stage

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	**HTLAH is available to all adults aged 18 years and upwards. Although the majority of users will be in older age groups, the different needs of younger disabled adults may require a different approach (e.g. younger people are likely to have different social requirements compared to older counterparts). A different approach to information provision is also suggested for different age ranges (e.g. a lower proportion of older people make use of web based information compared to younger people.** **If these issues are successfully addressed, it should be possible for service users across the age ranges to receive the intended benefits of HTLAH, in particular the preservation of independence and ability to lead active and fulfilling social and family lives.** **The concerns raised during customer engagement regarding loss of current providers may particularly affect this group, given the age profile of service users. This is addressed in the Equality Improvement Plan in section 3F.**
	Disability	**HTLAH providers must be able to provide services across the full range of abilities that they encounter. As with some age groups, there also needs to be an awareness that certain kinds of health conditions hinder the ability of people to access or engage with information and advice, and will require different formats**

		(e.g. for visually impairment, hard of hearing or learning difficulties). Providers who applied to be on the framework were required to explain how their organisation addresses the statutory requirements of the Mental Capacity Act, and to include references to how and when they utilise best interest decision making processes. **If these issues are correctly addressed, it should be possible for service users with a wide range of disabling conditions to receive the intended benefits of HTLAH, in particular the preservation of independence and the ability to lead active and fulfilling social and family lives. The comment above relating to customer engagement feedback may also apply to this group in some cases.**
	Gender Reassignment	**There is very little data on this group that directly relates to care provided at home. However, the principle of providing care that is appropriate and sensitive to a service user's circumstances should act as a universal protection of individual circumstances.**
	Marriage and Civil Partnership	**N/a**
	Pregnancy and Maternity	**HTLAH will provide home care for adults (i.e.18 years and upwards). It is therefore possible that some service users will fall into this group. The care needs of women during pregnancy and maternity must therefore be addressed in this context.**
	Race	**A number of comments from service users during customer engagement indicate a strong desire for services to be culturally appropriate, and also to take account of communication needs arising where language is a potential obstacle to full understanding of any aspect of service provision, including decision making and available choices. This may apply to service users and provider staff alike, in circumstances where they do not share a common first language.**
	Religion or Belief	**Stated religions or beliefs must be respected in all aspects of care provision.**
	Sex	**Data shows that women represent a majority of service users across Adult Social Care, so a measure of**

		disproportionality consistent with the demographic is to be expected. Service provision may need to be gender-appropriate in certain circumstances.
	Sexual Orientation	**The above comments also apply for this group. The requirement for sensitivity to the needs of this group also highlights the importance of collecting comprehensive and accurate monitoring data in order to advise and monitor market providers accordingly.**
	Other groups e.g. rural isolation, deprivation, health inequality, carers, asylum seeker and refugee communities, looked after children, deprived or disadvantaged communities	**The pattern of provision will need to take account of the special circumstances of people living in isolated areas and areas of known deprivation. Health and social inequalities are related to and compounded by these factors. Carers are pivotal to the aim of maintaining the independence of the person they care for. Consequently their interests are closely aligned and carers interests should always be considered.**
	Community Cohesion	**The HTLAH model facilitates participation in the community, to join community groups or associations and to engage with religious and non-religious activities.**

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	**Article 2 requires public bodies to take appropriate steps to protect life. In relation to HTLAH, this means that infrastructures and practices should have sufficient safeguards in place to achieve this. Potential providers are required to describe the mechanisms that their organisation has in place to ensure that**

		adults and children are adequately safeguarded and that the risk of harm is minimised.
	Article 3: Right not to be tortured or treated in an inhuman or degrading way	**This Article underpins the standards expected in any circumstances where health and social care is provided. Standards are regulated by the Care Quality Commission (CQC).** **Potential providers are required to explain the systems (including Electronic Home Care Monitoring and Care Management systems), procedures and other mechanisms that they will have in place to manage the quality of services delivered under the HTLAH contract. This form of quality management supports Article 3 protections.**
	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	**This Article covers formal hearings, appeal and complaints rights, but only where serious infringement of an individual's rights may arise, without effective redress. Unlikely to arise in the context of HTLAH.**
	Article 7: No punishment without law	**n/a**
	Article 8: Right to respect for private and family life	**The protections under Article 8 are at the heart of the purpose of HTLAH and were reiterated throughout the user discussion groups, particularly in relation to maintaining independence and assisting people to remain active and not isolated. This article is also promoted by requiring potential providers to demonstrate:** • **How appropriate views/ wishes are accommodated within care plans.** • **How service user feedback is used to inform high level service improvements**.
	Article 9: Right to freedom of thought, conscience and religion	**n/a**
	Article 10: Right to freedom of	**n/a**

	expression	
	Article 11: Right to freedom of assembly and association	**n/a**
	Article 12: Right to marry	**n/a**
	Article 14: Right not to be discriminated against	**HTLAH must be developed and delivered in such a way as to avoid discrimination arising under the terms of all HRA articles.**
	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.

The expectation is that the potentially adverse impacts have been satisfactorily identified and addressed in the Equality Improvement Plan (EIP, see below). However, this will require review at a later date to ensure that the outcomes materialise.

N.B.

i) If you have identified adverse impact or discrimination that is illegal, 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

This report has identified three protected groups who face disproportionate impact from the introduction of HTLAH: older people, disabled people, and women. The intended outcomes of the new service are regarded by practitioners and services users alike as essentially beneficial, as they identify advantages over the current service in wellbeing, promoting independence, and improving care standards. These factors should promote the overall equality aims of eliminating discrimination and promoting good relations between different groups, as the intended outcome is to more closely align the life standards of disadvantaged groups with those who do not experience similar personal difficulties. The tenets of HTLAH also support Human Rights protections, particularly in relation to dignity and respect.

The PQQ stage of procurement was designed to ensure that Equality and Human Rights Act (HRA) protections are observed. The notes against Articles 2, 3 and 8 in para 20 (above) outline how this relates to the HRA.

The report must therefore be concerned with identifying the ways in which some individuals or groups may be prevented from benefitting from these identified gains, and as a result be disadvantaged.

Potential barriers may arise in one or more of the following ways:

1. **Variation in costs for similar services between different providers.**

2. **Where a current provider fails to secure a contract, and their service user experiences difficulty adjusting to new arrangements.**

3. **Where, despite the precautions built into procurement, the quality of provider services falls short in any of the ways identified as necessary to the interests of protected groups, as outlined in paras 19 and 20 above.**

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.

To reiterate the findings in para 22, the overall consensus among commissioners, providers, and those service users who have been consulted, is that the broad tenets of HTLAH should deliver benefits across the protected groups. The main element that lends support to this expectation is the shift from the time and task model to a focus on outcomes, designed to promote reablement and therefore improve the prospects for retaining independence. LCC's compliance will depend on effective execution of the actions listed in the EIP, and addressing a related concern, i.e:

Charging for services. **The current practice is to base charging to service users for the services they receive on the average cost charged across the county. A proposal currently under consideration is to change to charging for the actual cost of the specific services provided to individual service users. Work is under way to establish whether this could create local anomalies under HTLAH, whereby County residents will be paying very different amounts for similar provision**. **This is subject to a separate EHRIA.**

Section 3 **E: Monitoring, evaluation & review of your policy**	
24.	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? **Yes. EIPs include review dates, and it is the responsibility of the Adults and Communities Departmental Equalities Group to monitor and carry out such reviews at the stated intervals. This will ensure that actions have been carried out successfully, and if not to request whatever work is necessary to do so. Actions may be revised if required to achieve the desired ends.**
25.	How will the recommendations of this assessment be built into wider planning and review processes? *e.g. policy reviews, annual plans and use of performance management systems* **Relevant staff and managers who have not been involved in the development of the EHRIA are notified of its findings.** **The findings are also included in relevant service plans.** **EIP reviews are conducted as outlined in para 24.**

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. To be reviewed March 2017

Equality Objective	Action	Target	Officer Responsible	By when
Ensure that people are kept informed about HTLAH and have the opportunity to ask questions and gain information to help them make the right decision for their individual needs and protected characteristics.	Send out a letter to all service users following award of contracts, to inform them about their new HTLAH provider and give reassurance about how the transition of support would be managed. It also reminded people about the direct payment and PHB options. Four Customer events in different locations across the County will be held between 30 September and 7th October 2016 The HTLAH Helpline	Ensure that people are well informed about HTLAH and what it means for them. Each person should receive a letter, be invited to attend an event and have the option of contacting the helpline.	Katy Griffith/David Stanton (HTLAH Project Managers)	7th November 2016 – UPDATE: completed and deadline met

	operating hours have been extended to provide help and advice for service users and their relatives and friends			
Ensure that the alternative option to receiving HTLAH is available for both Council and CCG funded people.	People can choose to take a Direct Payment or a Personal Health Budget as an alternative to receiving a HTLAH service. Referral routes for both are explained in the service user letter.	That a prompt and efficient response is made to people who request a DP/PHB and their uptake is monitored	Katy Griffith	7th November 2016 – UPDATE completed and deadline met.
Delivery of care services to Care Quality Commission (CQC) standards	Effective monitoring of provision through reviews of care needs and contract compliance Factor in current rates of NLW and NMW , as appropriate, when undertaking reviews of fees paid to providers	Staff retention Care provided in line with Care Quality Commission (CQC) standards Ensure that the assessed care needs of all protected groups are met	Amanda Nunn (Compliance lead)	From 7th November 2016 - UPDATE the monitoring of care providers is ongoing.

Meeting people's needs in a manner that is culturally appropriate	This is monitored and reported through contact compliance Monitoring of complaints for relevant issues	Ensure that the HTLAH service being delivered are culturally appropriate	Amanda Nunn (Compliance lead)	On- going after service delivery starts

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 [x]

Equality and Human Rights Assessment Report [x]

1st Authorised Signature (EHRIA Lead Officer): ……

Date: ……..

2nd Authorised Signature (DEG Chair):

…  ……

Date: 14th September 2016……

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