

## Equality Impact Assessment Template

<b>Name of item being assessed:</b>	Charging Policy
<b>Version and release date of item (if applicable):</b>	Version 1
<b>Owner of item being assessed:</b>	Jo England
<b>Name of assessor:</b>	Jo England
<b>Date of assessment:</b>	27/2/15

**1 What are the main aims of the item?**

**(What does the item try to achieve?)**

**Due to the Care Act previous charging legislation will be revoked on 31 March 2015**

**2 What are the results of your research?**

**Note which groups may be affected by the item, consider how they may be affected and what sources of information have been used to determine this.**

**(Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)**

<b>Group Affected</b>	<b>What might be the effect?</b>	<b>Information to support this.</b>

**Further Comments relating to the item:**

No groups currently subject to charging will be effected by these changes

**3 What actions will be taken to address any negative effects?**

Action	Owner	By When?	Outcome

**4 What was the final outcome and why was this agreed?**

(Was the item adjusted, rewritten or unchanged? Refer to page 15 of *Meeting the Equality Duty in Policy and Decision Making* for more information.)

Accept the new policy

**5 What arrangements have you put in place to monitor the impact of this decision?**

Not required as no changes to individuals

**6 What date is the Equality Impact Assessment due for Review?**

**Signed:**

**Date:**

---

**Appendices:**

(list all documents that have supported this EqIA)

Appendix A: DH – consultation briefing note

**Department of Health – Briefing Note**  
**Implementing the Care Act: do councils need to consult locally?**

This note sets out general principles to consider when a council is deciding whether to carry out a local consultation process in relation to how it intends to discharge functions under the Care Act.

This does not constitute formal guidance or advice, but is intended to set out certain points to consider in adopting an approach. The need to consult will depend on a number of factors and the decision on whether to consult is ultimately one for councils to take. Councils should always seek their own legal advice if there is any uncertainty as to whether consultation is required.

The note does not comment on the nature of public consultations (approach, length etc.), but only whether a consultation may be necessary. Councils will have established processes to ensure that consultations are adequate and sufficient.

**Issues to consider**

The following four questions are intended to address some of the principles to consider:

- *Is this a statutory requirement?*

A council would only usually be expected to consult locally where it is using its discretion in relation to the exercise of a particular function. Where the council is required by a statutory duty to perform a particular function, it is likely that further local consultation will not be necessary (unless there is a statutory duty to consult).

However, whilst the Care Act (and regulations) place duties on councils to do certain things, there is much discretion around *how* those functions are performed. For example, there is a duty to carry out an assessment, but discretion as to many of the aspects of how that assessment is undertaken. Where a council makes proposals for how a function should be carried out, then it may be necessary to consult on those proposals, depending on the answers to the questions below.

The Care Act also provides a number of broad powers for councils to carry out certain functions. Where a council chooses to exercise those powers, it may similarly be necessary to consult on how it intends to do so.

- *Is anything actually changing?*

The Care Act consolidates and updates over six decades of adult social care law. In discharging functions under the Act, therefore, councils will often be carrying out functions similar to existing ones and continuing practice that has been long-established.

It is possible that exercising a power under the Care Act will have no effect on the status quo, and where this is the case, the council may not be expected to consult locally. For example, if a council exercises its power under Section 14(1) of the Act to charge for residential care, this will be no change to the previous requirement to do so under the National Assistance Act 1948. Such a decision on its own should not normally trigger a need to consult, unless the circumstances fall within the paragraphs below.

- *To what extent are people affected?*

If the council proposes an approach that does lead to a change in policy (or is a new policy), then the need to consult locally may be triggered depending on the nature of the expected

impact on people using services, carers or others, and on whether the council has promised that particular aspects of its practices will change (e.g. charging will stop) or not change. Where the proposals impact negatively on individuals, it is likely that the council would be expected to consult locally. For example, if a group is identified as being likely to be worse off as a result of the change (for example in terms of outcomes, services or finances), consultation would normally be expected.

If effect of the proposal is only to create “winners” – i.e. people who benefit – then it may not be necessary to consult, subject to the answer to the fourth question below.

If the council has promised that it will not change particular aspects of its practice and it proposes to do so, or if it has promised to make particular changes and it intends not to make those changes, this might give rise to a duty to consult.

- *Has the council committed to consultations in the past?*

If the council has committed to consult locally in relation to a particular issue or group, then it would normally be expected to do so, irrespective of the answers to the questions above. Some councils may have standing procedures for consultation and commitments (e.g. by way of an express promise) to consult on issues regardless of other circumstances. In other cases, councils may have established an expectation around local consultation through regular practice, even in the absence of a formal commitment. In such cases where a parallel can be drawn between implementing the Care Act and previous practice on local consultation, councils should take legal advice if they propose not to follow established practice or earlier undertakings.