

## Equality Impact Assessment Update

Name of the project, policy, service or strategy to be updated
<b>Client Affairs Team charging arrangements</b>

File ref:		Issue No:	
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Managers(s) and section or service responsible for completing the updated assessment	
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Date	Feb 2017

## **Part 1      The Public Sector Equality Duty and Equality Impact Assessments (EIA)**

**1.1**      The Council must have due regard to its Public Sector Equality Duty when making all decisions at member and officer level. An EIA is the best method by which the Council can determine the impact of a proposal on equalities, particularly for major decisions. However, the level of analysis should be proportionate to the relevance of the duty to the service or decision.

**1.2**      **This is one of two forms that the County Council uses for Equality Impact Assessments, both of which are available on the intranet. This form is designed for any proposal, strategy or policy. The other form looks at services or projects.**

### **1.3      The Public Sector Equality Duty (PSED)**

The public sector duty is set out at Section 149 of the Equality Act 2010. It requires the Council, when exercising its functions, to have “due regard” to the need to

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. (see below for “protected characteristics”

These are sometimes called equality aims.

### **1.4      A “protected characteristic” is defined in the Act as:**

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race (including ethnic or national origins, colour or nationality)
- religion or belief;
- sex;
- sexual orientation.

Marriage and civil partnership are also a protected characteristic for the purposes of the duty to eliminate discrimination.

The previous public sector equalities duties only covered race, disability and gender.

### **1.5      East Sussex County Council also considers the following additional groups/factors when carry out analysis:**

- Carers – A carer spends a significant proportion of their life providing unpaid support to family or potentially friends. This could be caring for a relative, partner or friend who is ill, frail, disabled or has mental health or substance
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misuse problems. [Carers at the Heart of 21st Century Families and Communities, 2008]

- Literacy/Numeracy Skills
- Part time workers
- Rurality

## **1.6 Advancing equality (the second of the equality aims) involves:**

- Removing or minimising disadvantages suffered by people due to their protected characteristic
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people including steps to take account of disabled people's disabilities
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low

NB Please note that, for disabled persons, the Council must have regard to the possible need for steps that amount to positive discrimination, to "level the playing field" with non-disabled persons, e.g. in accessing services through dedicated car parking spaces.

## **1.6 Guidance on Compliance with The Public Sector Equality Duty (PSED) for officers and decision makers:**

1.6.1 To comply with the duty, the Council must have "due regard" to the three equality aims set out above. This means the PSED must be considered as a factor to consider alongside other relevant factors such as budgetary, economic and practical factors.

1.6.2 What regard is "due" in any given case will depend on the circumstances. A proposal which, if implemented, would have particularly negative or widespread effects on (say) women, or the elderly, or people of a particular ethnic group would require officers and members to give considerable regard to the equalities aims. A proposal which had limited differential or discriminatory effect will probably require less regard.

### *1.6.3 Some key points to note :*

- The duty is regarded by the Courts as being very important.
  - Officers and members must be aware of the duty and give it conscious consideration: e.g. by considering open-mindedly the EIA and its findings when making a decision. When members are taking a decision, this duty can't be delegated by the members, e.g. to an officer.
  - EIAs must be evidence based.
  - There must be an assessment of the practical impact of decisions on equalities, measures to avoid or mitigate negative impact and their effectiveness.
  - There must be compliance with the duty when proposals are being formulated by officers and by members in taking decisions: the Council can't rely on an EIA produced after the decision is made.
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- The duty is ongoing: EIA's should be developed over time and there should be evidence of monitoring impact after the decision.
- The duty is not, however, to achieve the three equality aims but to consider them – the duty does not stop tough decisions sometimes being made.
- The decision maker may take into account other countervailing (i.e. opposing) factors that may objectively justify taking a decision which has negative impact on equalities (for instance, cost factors)

1.6.4 In addition to the Act, the Council is required to comply with any statutory Code of Practice issued by the Equality and Human Rights Commission. New Codes of Practice under the new Act have yet to be published. However, Codes of Practice issued under the previous legislation remain relevant and the Equality and Human Rights Commission has also published guidance on the new public sector equality duty.

## **Part 2 - Scope of original EqIA and reasons for revision**

### **2.1 What is being assessed?**

- a) Name of the project, policy, service or strategy.

Client Affairs Team – comprising of Protection of Property Service and Appointee & Deputyship Team

The Protection of Property (POP) scheme applies when people are not able to care for their property or possessions whilst receiving support through Adult Social Care, and there is no-one else (or no one suitable) to do it for them. Examples might be an older person, living alone, who has gone into emergency respite care or someone who is detained under the Mental Health Act.

In both these cases, assuming there was no-one able to secure their home or belongings; we would be required to take action to ensure that their home or belongings were secure, and that any pets were being cared for.

In cases where Adult Social Care supports people who have no-one else to manage their financial affairs for them (including owned properties and tenancies), the Appointee and Deputyship Teams takes on this responsibility.

The revised POP and Appointee and Deputyship policies enable a more consistent approach to this and to provide consistent support to our clients in terms of their properties and providing a visiting support for clients whose affairs we manage.

### **2.2 Reasons for the revision**

Policies for Protection of Property and Appointee & Deputyship Teams have been reviewed for the following reasons:

1. A review of service offer for Protection of Property under the Care Act resulted in a change of offer and location of the service, which was transferred to ASC Financial Services from the Adult Social Care Contact and Assessment Team.

Local authorities have had the means to re-charge costs for those receiving Protection of Property assistance in the past – this has not been consistently applied. The Care Act further supports the ability to re-charge reasonable costs. In July 2016 Adult Social Care appointed a Protection of Property Officer and support which has been able to ensure consistency and oversight in this area.

2. The move to a new service area has allowed us to review the offer to clients we are Appointee and Deputy for, to provide more support for those living at home, or who own properties whilst in long term care.

As deputies we have a duty to support clients in this respect, and the Court of Protection Practice Directives supplies local authorities with the means to re-charge set costs for areas of work completed.

We have charged set fees for managing finances annually for some time, however cost for management of properties has not been fully implemented as this work was not regularly undertaken. Now that we have a Protection of Property Officer in post, they will provide regular property inspections and

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support to our clients living in the community who live in their own homes, and those in long term care who own properties.

3. The Office of Public Guardians has produced standards it expects Professional Deputies to act under, and we need to reconsider our offer to our clients to comply with this. As part of a recent Office of Public Guardians inspection, we have been recommended to provide a visiting function to our clients. In recognition that visits to clients and properties have costs attached to them, the Court of Protection Practice Directives has implemented the ability for local authorities to charge travel costs to clients for undertaking these visits – the work completed is already covered in our annual and property maintenance costs, the ability to charge travel in addition recognises the impact on local authorities for providing this much needed service.

### **2.3 Scope of the update**

The update covers the effect of these changes on people of different ages, disabled people and carers. See above 2.1 for details of scope

### **2.4 Has there been any change to who is affected by this revised EqIA?**

No

## **Part 3 - Consideration of additional data and research**

### **3.1 List any examples of additional quantitative and qualitative data or any consultation information available for the update**

Please mark the relevant boxes below with an 'X'

<b>Census</b>	
<b>Consultation</b>	
<b>Complaints</b>	<b>x</b>
<b>ESiF</b>	
<b>Other</b>	<b>X</b>
<b>Staff survey</b>	

### **3.2 Have you carried out any additional consultation or research to complete this update?**

Yes

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### **3.3 What does the consultation, research and/or data indicate about the negative impact of the project, policy, service or strategy update?**

We have discussed the implication on our clients internally at Operational Managers Forum to clarify reasons for implementing charges and to elicit views of our Operational colleagues. Their views have been taken into account and are identified in the mitigations to be applied to the service.

We have also discussed legal implications with Orbis Public Law to ensure we are interpreting guidance and charging practices are being applied appropriately.

We have also communicated with other authorities to gain best practice for provision of assistance under Protection of Property and operating Corporate Appointee & Deputyship services

### **3.4 What does the consultation, research and/or data indicate about the positive impact of the project or update?**

We anticipate that the changes to the service will provide much needed support to clients who have no other to support them in respect of property and finances. We expect there to be a positive impact on older people living alone, due to the demographics in East Sussex (see below) and the likelihood of those people to need to go into care away from home.

### **Living arrangements by age in 2011 - super output areas**

<b>Living arrangements</b>	<b>Living in a couple total</b>	<b>Not living in a couple total</b>
England and Wales	273,2335	336,5253
South East	449,600	513,566
East Sussex	35,661	42,386
Eastbourne	6,113	8,678
Hastings	4,043	6,134
Lewes	6,663	7,766
Rother	7,774	8,952
Wealden	11,068	10,856

(Source: [ESIF](#))

On recommendation from Mental Health colleagues, those who require Protection of Property intervention at a time when they have no capacity to make informed decisions in respect of their property may be particularly affected by this change. Usually, an initial assessment is made (which will determine capacity) and then a reassessment is made within 28 days. We have accordingly agreed to a waiver of 28 days in these circumstances.

For clients we are Deputy and Appointee for, the additional visiting service will provide much needed support and information about how we will work with them to manage their finances. Charges will be applied on a case by case basis and only where clients have sufficient means to pay for costs incurred.

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## Part 4 – Changes to assessment of impact

### 4.1 From the evidence available, does the update affect or have the potential to affect equality groups differently?

Please mark the relevant boxes below with an 'X'

	Yes	No	No change
Age	x		
Disability	x		
Ethnicity			x
Gender/transgender			x
Marriage and Civil Partnership	x		
Maternity and Pregnancy			x
Religion, belief			x
Sexual orientation			x
Others (please state e.g carers/ruralityetc):			x

### 4.2 If yes, do any of the differences amount to? Please duplicate this box for each equality group that you identify will have a changed impact.

Age	Reason, evidence, comment
<b>Barriers, negative impact or unlawful discrimination</b>	
<b>Neutral Impact</b>	
<b>Positive impact</b>	<ul style="list-style-type: none"> <li>The majority of clients eligible for the additional services we are offering are likely to be older people, receiving care and support at home or going into residential care, either on a short or long term basis. East Sussex has an ageing population with a high proportion of people living alone. The changes we are proposing to make to the service aim to provide clients with peace of mind in respect of their properties and the support they can expect from us as Deputy or</li> </ul>



	<p>Appointee for their finances.</p> <ul style="list-style-type: none"> <li>• In most circumstances, clients have either no-one (or no suitable person) to provide assistance if they lose capacity to manage their finances. The authority is not legally required to provide this service to its clients, but we choose to do so to support the most vulnerable and as a last resort.</li> <li>• Costs applied by solicitors (to provide the same service) are much higher than those that are allowed by local authorities, so the service is good value, and the charges we can apply also assists to ensure the service is cost neutral and has no overall impact on costs incurred by the local authority.</li> <li>• The additional service will ensure we can consult with and work with individuals to a greater degree when it comes to managing money, property and possessions</li> </ul>
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Marriage	Reason, evidence, comment
<b>Barriers, negative impact or unlawful discrimination</b>	
<b>Neutral Impact</b>	<p>In some circumstances it is possible that we may support clients living in the community who continue to live with a partner / spouse. Practice Guidance identifies when this would be appropriate and the policy seeks to ensure that we maintain the dignity and respect for the client and their relationship.</p> <p>When we're legally responsible for the care of a client's property, when visiting them, we will ensure we take the views of the partner or spouse into account. This includes considering the appropriateness of both the number and timeliness of visits, and provides the level of support they require as a couple, to ensure the rights of that person are not affected by our legal duties.</p> <p>In circumstances where the best interests of the client could supersede this, we would manage the situation in conjunction with care managers and if necessary, the courts would make some decisions.</p>

<b>Positive impact</b>	
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Disability	<b>Reason, evidence, comment</b>
<b>Barriers, negative impact or unlawful discrimination</b>	
<b>Neutral Impact</b>	<p>East Sussex has unique geographical features which makes the local authority more likely than most to need to take emergency action in supporting adults who are not resident in the county, who have significant mental health issues and possible lack of capacity.</p> <p>The service provided by Protection of Property is only provided when no other support is available. Charges for costs incurred will only be applied when actual additional costs are incurred by the local authority to assist a person – boarding costs of pets, or locksmiths, for example. If an individual were able to make these arrangements without our support, the same costs would be incurred. We do not propose applying time and trouble costs in addition - this cost will be covered by the authority.</p> <p>Where it has been determined that someone doesn't have capacity to make decisions at the time, we will waive any incurred costs in protecting their property for the first 28 days. This allows time for a care manager to work with the person to ascertain their wishes for their property. Any additional costs will be charged following this first period – ie boarding or pets, storage of possessions. Where capacity issues continue a Best Interests decision will need to be taken for the client in respect of recharging costs and any long term implications of storing belongings – this will be reviewed throughout any hospital stay or care placement.</p>
<b>Positive impact</b>	

- a) If there is a negative impact, can it be justified on the grounds of promoting equality of opportunity for one group over another or for another legitimate reason?

**4.3 Specify measures that can be taken to remove or minimise the disproportionate or negative effect identified in Section 3. If none were identified in Section 3; identify how disproportionate impact or adverse effect could be avoided in future.**

We will continue to review application of visiting clients and charges based upon the individual needs of the client and their own personal circumstances.

Where we are deputy we will report annually to the Office of Public Guardians., care management will also be informed of the level of support we will provide to ensure they agree it meets with the needs of the person.

**4.4 How will any amended project, policy, service or strategy be implemented, including any necessary training?**

The change in policy will be implemented to Operational colleagues with guidance to support the changes and practice change.

For staff within Client Affairs Team (Protection of Property Officer, Appointee & Deputyship Teams) specific guidance will be implemented and training to support understanding of Mental Health and providing proportionate support to clients based upon their needs and wishes.

We will continue to be visited by the Office of Public Guardian to review our practices and we provide annual reports for each client to provide information on interventions undertaken on their behalf.

We will continue to liaise with the OPG, and colleagues in other local authorities to ensure our practice is in line with requirements.

## **Part 5 - Conclusions and recommendations**

**5.1 Does the project, policy, service or strategy comply with equalities legislation?**

Yes

**5.2 What are the main areas requiring further attention?**

See 5.3

**5.3 Summary of recommendations for improvement**

- a. Finalising policies and operational instructions for operation colleagues
- b. Finalising guidance for Client Affairs team to take account of changes

**5.4 Is there a plan in place to carry out regular checks on the effects of the project, policy, service or strategy?**  
(Give details)

Yes

For Protection of Property cases we will continue to consider impact on clients and take into account individual persons needs at the time intervention is required.

For our Appointee & Deputyship clients we will monitor the impact of the change to service provided and complete a review of the changes within one year of full implementation to ensure any lesson learnt are taken account of moving forwards.

Monitoring will go through the Adult Social Care Operational Management Team on a regular basis, and will also take into account any other feedback from the service including complaints and customer feedback.

**5.5 When will the updated project, policy, service or strategy be reviewed?**

The service to be reviewed within one year of full implementation, policy and guidance annually in line with ASC standards.

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## Part 6 – Revised equality impact assessment improvement plan

The table below should be completed using the information from the updated equality impact assessment to produce an action plan for the implementation of the proposals to:

1. Lower the negative impact, and/or
2. Ensure that the negative impact is legal under anti-discriminatory law, and/or
3. Provide an opportunity to promote equality, equal opportunity and improve relations within equality target groups, i.e. increase the positive impact
4. If no action complete summary form on intranet page.

**Please ensure that you update your service/business plan within the equality objectives/targets and actions identified below:**

Area of negative/ neutral impact	Changes proposed	Lead Manager	Timescale	Resource implications	Comments
Policies and operational instructions	Updated and distributed	Zena Boniface	February 2017		
Staff guidance	Updated and staff trained	Zena Boniface/Amelia Osmond	March 2017		