

## 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](mailto:equality@leics.gov.uk)

*\*\*Please note: The term 'policy' will be used throughout this assessment as shorthand for policy, practice, procedure, function or service.*

<b>Key Details</b>	
<b>Name of policy being assessed:</b>	Workplace Alcohol and Drug Testing Policy
<b>Department and section:</b>	Strategy and OD Team
<b>Name of lead officer/ job title and others completing this assessment:</b>	Melanie Bree
<b>Contact telephone numbers:</b>	(0116) 3056267
<b>Name of officer/s responsible for implementing this policy:</b>	Melanie Bree
<b>Date EHRIA assessment started:</b>	2 February 2022
<b>Date EHRIA assessment completed:</b>	4 May 2022

# 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.

<b>1</b>	<p>What is new or changed in this policy? <i>What has changed and why?</i></p> <p>We have added random testing, updated procedures to include more detailed steps for managers to progress issues and written guidance (which includes a bespoke support plan) to help managers.</p>										
<b>2</b>	<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>Substance Misuse Policy and Guidance Disciplinary Policy and Procedure</p>										
<b>3</b>	<p>Who are the people/ groups (target groups) affected and what is the intended change or outcome for them?</p> <p>Safety critical workers who will now face random testing alongside our with-cause process which applies to all staff.</p>										
<b>4</b>	<p>Will this policy meet the Equality Act 2010 requirements to have due regard to the need to meet any of the following aspects? <b>(Please tick and explain how)</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;"></th> <th style="width: 10%; text-align: center;">Yes</th> <th style="width: 10%; text-align: center;">No</th> <th style="width: 50%; text-align: center;">How?</th> </tr> </thead> <tbody> <tr> <td style="vertical-align: top;">Eliminate unlawful discrimination, harassment and victimisation</td> <td style="text-align: center; vertical-align: middle;">x</td> <td></td> <td> <p>The policy will help to discover employees who are misusing substances at the earliest possible stage. These can be most at risk of developing serious health issues from alcohol / drugs.</p> <p>The guidance and support plan also helps people who are potentially “self-medicating” with substances (mainly to cope with pain, trauma or mental health issues) to get the support and help they need to overcome substance misuse and use healthier coping mechanisms for any underlying health issues. Whilst the policy and procedure cannot eliminate unlawful discrimination, harassment and victimisation overall, it contains key steps to avoid any disadvantage to minority groups who may be more at risk of being affected by random drug testing.</p> </td> </tr> </tbody> </table>				Yes	No	How?	Eliminate unlawful discrimination, harassment and victimisation	x		<p>The policy will help to discover employees who are misusing substances at the earliest possible stage. These can be most at risk of developing serious health issues from alcohol / drugs.</p> <p>The guidance and support plan also helps people who are potentially “self-medicating” with substances (mainly to cope with pain, trauma or mental health issues) to get the support and help they need to overcome substance misuse and use healthier coping mechanisms for any underlying health issues. Whilst the policy and procedure cannot eliminate unlawful discrimination, harassment and victimisation overall, it contains key steps to avoid any disadvantage to minority groups who may be more at risk of being affected by random drug testing.</p>
	Yes	No	How?								
Eliminate unlawful discrimination, harassment and victimisation	x		<p>The policy will help to discover employees who are misusing substances at the earliest possible stage. These can be most at risk of developing serious health issues from alcohol / drugs.</p> <p>The guidance and support plan also helps people who are potentially “self-medicating” with substances (mainly to cope with pain, trauma or mental health issues) to get the support and help they need to overcome substance misuse and use healthier coping mechanisms for any underlying health issues. Whilst the policy and procedure cannot eliminate unlawful discrimination, harassment and victimisation overall, it contains key steps to avoid any disadvantage to minority groups who may be more at risk of being affected by random drug testing.</p>								

				<p>These steps include:</p> <ol style="list-style-type: none"> <li>1. Clearer signposting to expert organisations and GP help.</li> <li>2. Paid time away from work to obtain help and recover.</li> <li>3. One to one time with a manager (over four weeks) to monitor, discuss and supportively resolve things.</li> <li>4. Proactive steps set out for managers to follow when someone on their team is affected by a positive result (e.g. working alongside absence management policies where appropriate).</li> <li>5. An amnesty period and training programme (toolbox talks) took place at the time random testing was introduced to help inform those affected and give people a chance to raise concerns (particularly, if they felt the Policy caused them a detriment).</li> <li>6. It was noted that on site random testing would potentially disadvantage those taking medication legitimately (e.g. codeine for pain) and so random drug test samples are sent off site for detailed analysis and employees are encouraged to share medical information with managers / testing agents / lab staff when relevant.</li> </ol> <p>These steps are intended to elicit a proportionate and fair response to staff affected by this policy; particularly those who may have legitimate medical needs linked to substance misuse whilst allowing the organisation to meet its health and safety needs and protect its reputation. It is key to note that historically, employers have deemed substance misuse a purely disciplinary matter which resulted in dismissal the majority of the time. Given that substance misuse issues are more prevalent amongst men, we have tried to add steps to avoid them being disproportionately affected by the introduction of random testing.</p>
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	Advance equality of opportunity between different groups		x	<p>The government's latest <u>Substance Misuse Report</u> confirms that males are more likely to be affected by substance misuse issues regardless of what the substance is. 100% of our positive results have been for males so far.</p> <p>Nationally, opiates and alcohol are the most frequent substances which lead to people in treatment. However, our results are all for cannabis to date. Over half of those in treatment are over 40 years old and under 10% are under 30 years old. This policy is therefore most likely to advance opportunity for males over 40 (when a percentage of these people were being held back).</p> <p>Most people self-refer and there is a strong link between housing issues and substance misuse. 63% of people in treatment had mental health issues and so this policy will also have a more positive impact on that group by favouring a framework which promotes more positive resolution to the issue than dismissal</p> <p>For people in employment at the start of treatment and at their 6-month review, the average number of days they were in employment in the last 28 days increased.</p> <p>Whilst men are statistically disproportionately affected by substance issues. This policy takes steps to try and mitigate that disadvantage by being more supportive.</p>
	Foster good relations between different groups		x	<p>There is no foreseeable impact on relationships between groups because those chosen for testing are chosen at random from a diverse pool of employees.</p> <p>This is unlikely to foster good relationships between groups there could be resentment between people selected for testing and others that are not .</p>

# 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

5.	Have the target groups been consulted about the following?	Yes	No*
	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.		
	<p><b>Consultation took place between affected stakeholders, trade union reps and management teams.</b> This was done initially between key stakeholders and, once the policy / procedure content had been negotiated and was agreed, Managers consulted with staff using Toolbox Talks prior to the policy's introduction. In addition, an amnesty period was introduced to enable affected staff to share concerns without the fear of disciplinary action during August 2021.</p> <p>Key feedback was considered around data protection, the process for people taking legitimate medication and for managers to learn how the process would run with our supplier so that they could plan testing amongst their teams. Since the policy was introduced, we have had regular feedback sessions with internal and external stakeholders, meetings and all feedback has been acted upon i.e. the opportunity for managers to request two testing agents (one male, one female) and to consider chaperones when necessary.</p>		

**Section 2**

**B: Monitoring Impact**

<b>9.</b>	Are there systems set up to:	<b>Yes</b>	<b>No</b>
	a) monitor impact (positive and negative, intended and unintended) for different groups;	<b>x</b>	
	b) enable open feedback and suggestions from different communities	<b>x</b>	

**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**

<b>10.</b>	<p>Use the table below to specify if any individuals or community groups who identify with any of the '<u>protected characteristics</u>' may <u>potentially</u> be affected by this policy and describe any positive and negative impacts, including any barriers.</p> <p>Whilst people with disabilities could be the exception (as it could pick up on pain medication which is being legitimately taken) there are additional protective steps to avoid a detriment to people in this position. Similarly, this could potentially affect men more than women as they make up the majority of the safety critical workforce and the majority of substance misusers. Any positive results will be picked up in a sensitive way with the individual thanks to the documentation we have prepared and the process is justifiable on the grounds of health and safety.</p>		
	<b>Yes</b>	<b>No</b>	<b>Comments</b>
	<b>Age</b>	<b>x</b>	
	<b>Disability</b>	<b>x</b>	<b>The protective steps at the testing stage and support plan will indirectly help people in the most affected group (mental health issues).</b>
	<b>Gender Reassignment</b>	<b>x</b>	
	<b>Marriage and Civil Partnership</b>	<b>X</b>	
	<b>Pregnancy and Maternity</b>	<b>X</b>	
	<b>Race</b>	<b>X</b>	

	<b>Religion or Belief</b>		<b>X</b>	
	<b>Sex</b>	<b>X</b>		<p><b>The support plan will indirectly help people in the most affected group (males) by being more proactive in helping those affected to achieve a positive resolution to their issues rather than a disciplinary dismissal.</b></p> <p><b>We received feedback that women find the process of giving a urine sample more unpleasant than men. This is mitigated by the ability for managers to request a female testing agent (where possible) and for female staff to request a chaperone. Further, our testing agency confirmed they use receptacles which are larger than those provided by the NHS.</b></p>
	<b>Sexual Orientation</b>		<b>x</b>	
	<b>Other groups e.g. rural isolation, deprivation, health inequality, carers, asylum seeker and refugee communities, looked after children, deprived or disadvantaged communities</b>		<b>x</b>	<b>Not relevant as this is an internal policy</b>
	<b>Community Cohesion</b>		<b>x</b>	<b>Not relevant as this is an internal policy</b>
<b>11.</b>	<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? <b>(Please tick)</b></p> <p>Explain why you consider that any particular <u>article in the Human Rights Act</u> 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
<b>Part 1: The Convention- Rights and Freedoms</b>			
<b>Article 2: Right to life</b>		x	
<b>Article 3: Right not to be tortured or treated in an inhuman or degrading way</b>		x	
<b>Article 4: Right not to be subjected to slavery/ forced labour</b>		x	
<b>Article 5: Right to liberty and security</b>		x	
<b>Article 6: Right to a fair trial</b>		x	
<b>Article 7: No punishment without law</b>		x	
<b>Article 8: Right to respect for private and family life</b>	x		<p>The mitigation to this is that we stick to only getting results which are above an externally set cut-off limit where the level is determined to conflict with work (health and safety responsibilities).</p> <p>We only carry out random tests on people in safety-critical roles. We need this information to comply to health and Safety legislation</p>
<b>Article 9: Right to freedom of thought, conscience and religion</b>		x	
<b>Article 10: Right to freedom of expression</b>		x	
<b>Article 11: Right to freedom of assembly and association</b>		x	
<b>Article 12: Right to marry</b>		x	
<b>Article 14: Right not to be discriminated against</b>		x	
<b>Part 2: The First Protocol</b>			
<b>Article 1: Protection of property/ peaceful enjoyment</b>		x	
<b>Article 2: Right to education</b>		x	
<b>Article 3: Right to free elections</b>		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	<b>Yes</b>	<b>No</b>	<b>Unknown</b>
			<b>x</b>	
			<b>x</b>	
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 checked="" type="checkbox"/>	Negative Impact or Impact Unknown <input type="checkbox"/>
<p><b>Note: If the decision is ‘Negative Impact’ or ‘Impact Not Known’ an EHRIA Report is required. Please note that whilst the view was that this could potentially have a negative impact at this stage until monitoring data can be reviewed it could evaluated as a neutral policy.</b></p>				
14.	Is an EHRIA report required?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	

**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 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)

<b>16.</b>	Is any further research, data collection or evidence required to fill any gaps in your understanding of the potential or known affects of the policy on target groups?
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.	
<b>17.</b>	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?
<b>18.</b>	Is any further consultation required to fill any gaps in your understanding of the potential or known effects of the policy on target groups?

**Section 3****B: Recognised Impact**

<b>19.</b>	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 <u>likely</u> be affected by this policy. Describe any positive and negative impacts, including what barriers these individuals or groups may face.
	<b>Comments</b>
<b>Age</b>	
<b>Disability</b>	
<b>Gender Reassignment</b>	
<b>Marriage and Civil Partnership</b>	
<b>Pregnancy and Maternity</b>	
<b>Race</b>	
<b>Religion or Belief</b>	
<b>Sex</b>	
<b>Sexual Orientation</b>	
<b>Other groups e.g. rural isolation, deprivation, health inequality, carers, asylum seeker and refugee communities, looked after children, deprived or disadvantaged communities</b>	
<b>Community Cohesion</b>	

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?	
	<b>Comments</b>	
<b>Part 1: The Convention- Rights and Freedoms</b>		
<b>Article 2: Right to life</b>		
<b>Article 3: Right not to be tortured or treated in an inhuman or degrading way</b>		
<b>Article 4: Right not to be subjected to slavery/ forced labour</b>		
<b>Article 5: Right to liberty and security</b>		
<b>Article 6: Right to a fair trial</b>		
<b>Article 7: No punishment without law</b>		
<b>Article 8: Right to respect for private and family life</b>		
<b>Article 9: Right to freedom of thought, conscience and religion</b>		
<b>Article 10: Right to freedom of expression</b>		
<b>Article 11: Right to freedom of assembly and association</b>		
<b>Article 12: Right to marry</b>		
<b>Article 14: Right not to be discriminated against</b>		
<b>Part 2: The First Protocol</b>		
<b>Article 1: Protection of property/ peaceful enjoyment</b>		
<b>Article 2: Right to education</b>		
<b>Article 3: Right to free elections</b>		

**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.

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

**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.

**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?

**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*

**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



## 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](mailto: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**

1<sup>st</sup> Authorised Signature (EHRIA Lead Officer): ...Melanie Bree.....

Date: .....5/5/2022.....

2<sup>nd</sup> Authorised Signature (DEG Chair): .....



Date: 6/5/2022.....