

## 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.

Please refer to the EHRIA [guidance](#) before completing this form. If you need any further information about undertaking and completing the assessment, 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>	Managing Performance Policy and Procedure
<b>Department and section:</b>	Corporate Resources People Services Strategy and OD Team
<b>Name of lead officer/ job title and others completing this assessment:</b>	Karolina Kosikowska HR Adviser
<b>Contact telephone numbers:</b>	0116 305 7412
<b>Name of officer/s responsible for implementing this policy:</b>	All managers in LCC
<b>Date EHRIA assessment started:</b>	June 2022
<b>Date EHRIA assessment completed:</b>	7 <sup>th</sup> July 2022

# Section 1: Defining the policy

## Section 1: Defining the policy

You should begin this assessment by defining and outlining the scope of the 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](#).

<p><b>1</b></p>	<p>What is new or changed in the policy? <i>What has changed and why?</i></p> <p><b>Change to the monitoring periods and improvement notifications length to ensure the process is fair and transparent, and that the lengths of any monitoring are appropriate. That will help to clearly identify next steps in the process in case of any further concerns and will be easier for the employees and managers to understand their position.</b></p> <p><b>Streamlining the process and ensuring it is clear to everyone reading/using the policy. We have focused on ensuring the process is straightforward, and that any exceptions are clearly stated.</b></p> <p><b>The changes were made to ensure that LCC has a fair, consistent and effective process to manage performance.</b></p>
<p><b>2</b></p>	<p>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 EHRIA. If unknown, further investigation may be required.</p> <p>Appeal Policy          Managing Attendance and Medical Capability Policy and Procedure          Disciplinary Policy          Redeployment Policy          Capability Procedure for Chief Officers</p>
<p><b>3</b></p>	<p>Who are the people/ groups (target groups) affected and what is the intended change or outcome for them?</p> <p>This policy and procedure apply to all employees of Leicestershire County Council except for:</p> <ul style="list-style-type: none"> <li>• Chief Officers.</li> <li>• Employees within their probationary period.</li> <li>• Casual workers.</li> <li>• Individuals employed in schools and colleges with delegated budgets.</li> <li>• Individuals employed under School Teachers Pay &amp; Conditions, based in the Children's Families Service.</li> </ul>

	<ul style="list-style-type: none"> <li>Employees undertaking an assessed and supported year in employment (ASYE).</li> </ul> <p>This policy will also have an impact on line managers, HR professionals, TU representatives, as they will be using/advising on the policy.</p> <p>The policy provides a framework for managers and employees when there are concerns regarding employee's performance (linked to lack of skill, aptitude or competency).</p> <p>The aim of the policy and procedure is to support employees to improve, reach and maintain the necessary standards of performance for their role, where a shortfall has been identified.</p> <p>The policy ensures LLC's compliance with employment and equality legislation.</p>		
4	<p>Will the 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>		
	Yes	No	How?
Eliminate unlawful discrimination, harassment and victimisation	✓		<p>The policy aims to provide fair, reasonable and consistent approach to performance issues management across LCC.</p> <p>Support for employees is a key component of the process, and managers are responsible for thoroughly investigating any underlying causes of underperformance, and ensuring appropriate support and consideration is given to individuals. The guidance document refers managers to specific policies/guides and support resources based on individual needs and circumstances – Support for Carers; Support with Domestic Abuse; Supporting Employees during Menopause; Supporting Employees with drug and or alcohol dependency; Support for Trans* Employees; Support with Mental Health).</p> <p>There is also a reference to a range of supportive measures that can be utilised – such as Smarter Working Arrangements, Reasonable Adjustments, Redeployment, etc to provide appropriate support to employees during the process and to</p>

			<p>help them achieve agreed standards of performance.</p> <p>Corporate HR Team support is available to managers throughout the process to advise on appropriate actions and implementation of the policy.</p> <p>Any disciplinary actions can be appealed using the appropriate appeal process.</p> <p>Grievance process for LCC employees is also available, and if there are any allegations or complaints against the manager leading the procedure, the process may be suspended to allow for an investigation.</p>
Advance equality of opportunity between different groups	✓		<p>There is emphasis on support and exploring the causes of underperformance; ensuring appropriate medical advice is obtained, and that reasonable adjustments and support is provided where needed.</p> <p>If the performance issues are directly linked to ill health or disability, the Managing Attendance and Medical Capability Policy and Procedure will be used, to provide appropriate support.</p> <p>The policy aims to provide clear and consistent information for employees and managers.</p>
Foster good relations between different groups	✓		<p>The process emphasises the need for open dialogue and understanding, exploring and recognising potential causes of underperformance, and working together to find solutions and effective support based on individual circumstances.</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 a 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 questions above, please use the space below to outline either what consultation you are planning to undertake or why you do not consider it to be necessary.		
	Recognised TU, Legal and Corporate HR teams were consulted on the changes made to this policy.		

### Section 2

#### B: Monitoring Impact

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

<b>Note: If no to Question 9, you will need to ensure that monitoring systems are established to check for impact on the protected characteristics.</b>				
<b>Section 2</b>				
<b>C: Potential Impact</b>				
<b>10.</b>	Use the table below to specify if any individuals or community groups who identify with any of the <a href="#">‘protected characteristics’</a> may <b>potentially</b> be affected by the policy and describe any positive and negative impacts, including any barriers.			
		<b>Yes</b>	<b>No</b>	<b>Comments</b>
	<b>Age</b>	✓		<p>The policy and procedure is applied consistently across the organisation, and is giving everyone the same opportunities to improve and develop. Additional support can be given to employees based on individual circumstances as appropriate. * <b>(Applies to other characteristics)</b> *</p> <p>Menopause symptoms (which usually affect a certain age and gender group) may potentially affect employee’s ability to perform in their role. Guidance on Supporting Employees during Menopause is signposted in the policy, and if performance issues are directly linked to ill health, it may be appropriate to manage the issues under the Attendance and Medical Capability Policy instead (to ensure appropriate medical opinion and support are in place).</p>
	<b>Disability</b>	✓		<p>Emphasis on reasonable adjustments if assistance is needed at any point during the process, to ensure it is fair and transparent.</p> <p>If the performance issues are directly linked to ill health (including mental health) or disability, the employee will be</p>

			<p>managed via the Attendance and Medical Capability Process, with emphasis on support, reasonable adjustments and obtaining appropriate medical advice, so that employees can receive the assistance they need to successfully perform in their role.</p> <p>Lack of open dialogue regarding causes of underperformance, if they are related to ill health or disability, may be a barrier to appropriate support during the implementation of the performance management process or to enable the individual to perform in their role. It is therefore important that managers follow advice in the policy and guidance document and contact the Corporate HR Team for advice if in doubt.</p>
	<p><b>Gender Reassignment</b></p>	<p>✓</p>	<p>If during the MPPP an employee discloses either personally or via a third party such as a work colleague or Trade Union representative that the performance concern(s) are linked to the individual transitioning, the manager and employee should work together to explore what may be offered to support them and to allow them to undertake their role satisfactorily. This could include any of the other supportive measures described within the policy and guidance. Consideration should also be given to supporting the employee via the Managing Attendance and Medical Capability Policy and Procedure if the underlying cause of poor performance is found to be linked to stress, anxiety and/or</p>

			depression associated with their transitioning journey.
	<b>Marriage and Civil Partnership</b>		✓
	<b>Pregnancy and Maternity</b>		✓ Covered in Attendance and Medical Capability Policy – if there are capability concerns linked to pregnancy related illness, supportive approach is advised. For medical capability cases, Corporate HR will be given from the start.
	<b>Race</b>		✓
	<b>Religion or Belief</b>		✓
	<b>Sex</b>	✓	The policy and procedure is applied consistently across the organisation, and is giving everyone the same opportunities to improve and develop. Additional support can be given to employees based on individual circumstances as appropriate. * <b>(Applies to other characteristics)</b> *  Menopause symptoms (which usually affect a certain age and gender group) may potentially affect employee's ability to perform in their role. Guidance on Supporting Employees during Menopause is signposted in the policy, and if performance issues are directly linked to ill health, it may be appropriate to manage the issues under the Attendance and Medical Capability Policy instead (to ensure appropriate medical opinion and support are in place).
	<b>Sexual Orientation</b>		✓
	<b>Other groups</b>	✓	



	e.g. rural isolation, deprivation, health inequality, carers, asylum seeker and refugee communities, looked after children, deprived or disadvantaged communities			If performance issues are linked to the employee being a carer, there is specific guidance on support available.
	<b>Community Cohesion</b>		<b>N/A</b>	
<b>11.</b>	<p>Are the human rights of individuals <b><i>potentially</i></b> 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 <a href="#">article in the Human Rights Act</a> may apply to the 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>			
		<b>Yes</b>	<b>No</b>	<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>	✓		<p>The policy aims to provide a fair and transparent process.</p> <p>The hearing panel : This will consist of a Chair and a representative from Corporate HR. The Chair of the hearing will be an independent manager with an appropriate level of seniority. They will also not have had any prior involvement in the employee's case and will not have management responsibility for the employee or the manager presenting the case. Where the panel do not agree on the outcome</p>

				<p>of the hearing, the Chair will have the casting vote.</p> <p>Any outcomes and decisions will be clearly communicated and confirmed in writing. There is a right to appeal against any disciplinary sanctions taken against an employee during the performance management process. The appeal procedures are outlined in the policy and guidance documents, as well as any letters where appropriate.</p> <p>Employees will be given appropriate notice and be provided with evidence, documentation and witness information before proceedings, so that they can prepare and present their side of the situation and respond to the management case.</p> <p>Any grievances or allegations made against the manager undertaking the process will be investigated, to ensure there is no detrimental impact on the case.</p> <p>To be a fair process, any barriers to employees attending or participating within the hearing process should be considered and where possible reduced or removed. For example, where an employee's first language is not English, it may be necessary to use an interpreter during the hearing and ensure any documentation is translated beforehand.</p> <p>If the employee has a disability which may impact upon their ability to attend and participate in the hearing process, managers must consider whether any reasonable adjustments are required.</p>
	<p><b>Article 7: No punishment without law</b></p>		<p>✓</p>	

	<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>	✓		<p>The policy aims to provide fair, reasonable and consistent approach to performance issues management across LCC also in application of the other Convention rights (such as the Right to a fair trial in this case).</p> <p>If any barriers based on individual circumstances are recognised, there is guidance on support and advice available to managers and employees. All reasonable steps to support employees will be taken in application of the policy.</p>	
<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>		✓		
<b>Section 2</b>					
<b>D: Decision</b>					
<b>13.</b>	Is there evidence or any other reason to suggest that:		<b>Yes</b>	<b>No</b>	<b>Unknown</b>
	a) the policy could have a different affect or adverse impact on any section of the community;			<p>✓ If barriers are recognised, there are support mechanisms in place to remove them.</p>	

	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 the 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"/>
<b>Note: If the decision is 'Negative Impact' or 'Impact Not Known', an EHRIA Report is required.</b>				
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.

**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.

## 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 the policy and to critically examine whether it is *likely* to have a positive or negative impact on different groups within our diverse communities. It should also identify any barriers

that may adversely affect under-represented communities or groups that 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)

**16.** 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.**

**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?

<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?

<b>Section 3</b>	
<b>B: Recognised Impact</b>	
<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 <b>likely</b> to 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</b> e.g. rural isolation, deprivation, health inequality, carers, asylum seeker and refugee communities, looked after children, deprived or disadvantaged communities	
	<b>Community Cohesion</b>	

<b>20.</b>	Based on any evidence and findings, use the table below to specify if any particular Articles in the Human Rights Act are <b>likely</b> to apply to the 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.

NB:

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 consultation 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 the 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? <i>e.g. policy reviews, annual plans and use of performance management systems</i>

**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 the Digital Services Team via [web@leics.gov.uk](mailto:web@leics.gov.uk) 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): .....



Karolina Kosikowska

Date: .....07.07.2022.....

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



Date: 8/8/22