

CABINET – 22 MAY 2018

REVISIONS TO THE ADULT SOCIAL CARE CONTRIBUTIONS POLICY

Report by Director for Adult Services

EXECUTIVE SUMMARY

The Adult Social Care Contributions Policy outlines how the Council ensures a fair approach to assessing the financial contributions made by people with eligible care needs, towards the cost of the social care services they receive.

Following a review of the Policy in 2017 several changes were identified that would ensure a fairer and more consistent approach to assessing people's financial contributions, simplify the process, and better align the Policy with the Care Act 2014. A public consultation on these proposals was held between January and April 2018 to gather people's views on the potential impact of the changes.

Feedback from the consultation is set out below, as well as a rationale for each proposed change and the recommended way forward.

In summary, the Policy changes being recommended to Cabinet are:

- 1. Make an indicative 25% allowance for disability related expenditure in a person's financial assessment, but offer an individual assessment of these costs if a person feels their disability related expenses are greater than this.**
- 2. Reduce the initial fee the Council charges for arranging a person's care from £150 to £140, and introduce an annual fee of £210 where the Council is asked to manage the ongoing provision of care and support.**
- 3. Only offer a 12-week property disregard (where the Council does not include the value of person's property in their financial assessment for the first 12 weeks of care) to new residents entering a care home for a permanent stay or where there is an unexpected change in a person's financial circumstances.**
- 4. Financially assess everyone on an individual basis and no longer offer couples assessments in accordance with the Care Act 2014.**
- 5. Charge people the full cost of home care services, based on what care providers actually charge the Council, rather than an average hourly rate. This would not include contingency care where a person is in the Reablement Service and waiting for long term care.**
- 6. Clarify the policy on charging process for non-statutory services to ensure the Council:**

- **Continues the current charging practice for the Telecare service,**
- **Continues the current charging practice for the Laundry service, subject to a review of this service being completed, and**
- **Reserves the option to charge for one-off non-statutory services, such as Blitz cleans.**

If all of these recommendations were accepted and implemented an estimated 1,700 people would see an increase in their weekly contribution, whereas approximately 3,100 would see their weekly contribution fall or remain the same.

In implementing these changes, the Council would ensure that everyone affected is offered a full financial reassessment, to make sure any alteration in their weekly contribution is affordable. The Council may also carry out a review a person's care package to explore alternative, more affordable ways of meeting their needs.

No service user's finances would fall below the guaranteed minimum income level and where required, the Council's waiver scheme may be used to mitigate financial hardship.

Implementing all of the recommendations would generate estimated savings/income for the Council of £1.8 million. This would be reinvested in frontline services for adults of all ages with care and support needs.

Introduction

1. This paper sets out the key messages from the public consultation on proposed changes to the Adult Social Care Contributions Policy and recommends a way forward in response.
2. Changes to the Policy are being recommended to ensure a fairer and more consistent approach to assessing the financial contributions made by individuals towards the cost of the social care services they receive. As a result of the changes the financial assessment process is expected to be shorter, less invasive, and better aligned with Care Act 2014 guidance.
3. The recommended way forward will enable the Council to recover the actual costs of providing adult social care services to people in Oxfordshire. If accepted, the policy changes would create savings/income for the Council of £1.8 million¹ per year, which would be reinvested in frontline services for adults with care and support needs, ensuring the financial sustainability of adult social care in Oxfordshire. As a result of the changes it is likely that approximately 1,700 people will see an increase in their weekly contribution, whilst 3,100 people's contribution will decrease or stay the same.
4. Headline consultation responses for each proposed change are set out below, alongside a rationale for the recommended way forward. Over 620 people responded to the consultation, representing the views of adult social care users, their families, carers, partner organisations and members of the public.

¹ £1.5 million per year was included in the MTFTP

Background

5. Social care is not a free service and national funding arrangements make it clear that councils need to collect income locally to contribute towards the cost of services. The Care Act 2014 permits the council to recover a reasonable charge for social care from people who use services who have insufficient means to pay for the service themselves. The Act is clear however, that Councils should take account of no more than the full cost of providing the service.
6. The Care Act ensures that everybody receiving care has enough income to pay for daily living costs. For residential care this is the Personal Expenses Allowance (PEA) and for non-residential care this is the Minimum Income Guarantee (MIG). These are allowances that are made when assessing how much a person can afford to pay for their care.
7. Income from charging for services where it is appropriate to do so is therefore an essential part of the council's financial strategy.
8. The Adult Social Care Contributions Policy was introduced in January 2014 and outlines how the Council ensures a fair approach to assessing the financial contributions made by people with eligible care needs, towards the cost of the social care services they receive.
9. In Spring 2017 an in-depth review of the policy was undertaken to ensure it remains fit for purpose. A number of opportunities to make the policy fairer and more consistent with national guidance were identified and consulted on.

Key Messages from the Consultation

10. A ten-week public consultation on the proposed changes launched on 24 January 2018 and concluded on 3 April 2018. More than 4,800 people directly affected by the proposals were written to and over 620 responses were received from adult social care users, their families, carers, partner organisations and members of the public. People shared their views in various ways, including via an online and paper questionnaire and through focus groups, emails and calls.
11. Many respondents indicated that the proposals were complex and it was difficult to understand the impact of the proposed changes on people's specific circumstances. A significant number of questionnaires were sent back incomplete or blank, which could indicate that people did not want or feel able to provide a response. There were calls for the policy changes to be much clearer and simpler to understand.
12. In response to this, answers to frequently asked questions were published online and sent to every person affected, alongside a second letter and copy of the questionnaire. Also included was a detailed example showing the

impact of the disability related expenditure proposal, as this was the proposed change that most people said they did not understand.

13. The Financial Assessment Team received a total of 442 telephone calls from people wishing to discuss the detail of the proposals and 66 people attended the face-to-face focus groups to gain a greater understanding and share their views. Indicative examples were shared at these focus groups, to demonstrate the impact of the proposed change to disability related expenditure on a person aged under 65 and over 65 years, as this was identified as particularly complex.
14. A number of people highlighted the need to ensure that people affected by any agreed policy changes are given sufficient notice to prepare for any change in their weekly contribution.
15. Clear and accessible information was requested about how savings from the policy changes will be spent to improve other aspects of adult social care. People and providers also said they want greater transparency around financial assessments and to see a fairer system for everyone.
16. A consistent message from individuals and providers was that the most vulnerable people should be protected from the negative effects of any policy changes. Many respondents emphasised the need for people to be treated as individuals and for their specific circumstances to be taken into account.
17. Providers said that they felt the impact of changes may be felt by family members who provide informal care. They also stressed that the change should be handled carefully as the people affected are vulnerable. They want plenty of notice given to people before changes take effect and evidence of how the savings are used in Adult Social Care.

Disability Related Expenditure

Consultation proposal

18. When people access adult social care, the Council has the ability to assess how much they are able to contribute towards the costs of meeting their care needs. This includes making an allowance for any specific or additional costs a person incurs due to their age or disability.
19. Currently specific amounts are included in a person's financial assessment for various disability related costs, with receipts only being requested when expenditure is over a certain level – this can lead to inconsistencies in the assessment process. On average these assessments mean that between 21% and 23% of a person's disability benefit is excluded from their financial assessment.
20. The proposal consulted on introduces an indicative allowance for disability related expenditure, rather than taking account of individual disability related costs. The allowance would be approximately 25% of a person's disability

benefit and would reflect the level of cost already taken into account in the majority of cases. If a person is not claiming disability benefits, no allowance would be made for disability related expenditure. However, people would be supported to make a claim via the Department of Work and Pensions or Age UK.

21. This approach would allow the Council to complete financial assessments using data from the Department of Work and Pensions, making the assessment process quicker and less invasive, because home visits from a Council officer would not be needed in every case.
22. If a person feels their disability related expenses are greater than this, they would be able to request an individual disability related expenditure assessment. The criteria applied would be more aligned with national guidance and receipts would be required for all items.
23. More than 3,100 people are likely to see no change in their weekly contribution or would see their contribution decrease as a result of this proposal. Approximately 1,700 people are likely to see an increase in their weekly contribution. Less than 10% of these people would see an increase of £30 per week or more in their assessed contribution towards their care. These figures will vary depending on the number of people who request an individual disability related expenditure assessment.
24. Based on current people who use services, this policy change would deliver additional income of approximately £1.1 million per year to the Council.

Headline consultation responses

25. This proposal generated the greatest number of responses. Approximately 50% of respondents agreed with the proposed change and 50% disagreed.
26. There was strong feeling that people need to be treated as individuals and the financial assessment should take account of a person's specific circumstances. Others welcomed the proposal for a more systematic and fairer approach to assessing disability related costs, particularly if this would provide greater clarity for people who use services.
27. There was support for the proposal where it would reduce administrative costs and make the assessment process simpler and easier to understand. People were particularly keen to see the savings reinvested in adult social care.
28. Some concern was expressed about the accuracy of the information held by the Department of Work and Pensions. A number of respondents suggested that excluding an indicative allowance of 25% of a person's disability benefit from their financial assessment is too little. Others assumed that a person's disability benefit would entirely be spent on disability related items and others suggested 50% would be more appropriate. There were also concerns that a blanket policy would discriminate against people with the most complex conditions and significantly increase costs for them.

29. There were a number of requests for greater clarity about the type of costs included in an assessment of disability related expenditure. The Council does not have a definitive list of items, but uses guidance from the National Association of Financial Assessment Officers to inform its assessment process. It would not be possible to provide a complete list of items that may be included, as expenditure is often unique to the individual.
30. Social Care providers said that they agreed with the proposals in principle, but expressed concern that more people will request an individual disability related expenditure assessment, and this could cause delays in the process. They said this would be particularly felt by agencies helping people to obtain benefits.

Recommendation

31. **The recommendation is to implement the proposal as consulted on:**
Make an indicative 25% allowance for disability related expenditure in a person's financial assessment when a person is receiving a disability benefit and offer an individual assessment if a person feels their disability related expenses are greater than this.
32. This new approach will mean that:
 - a. The assessment process is more equitable, as there is a direct link between a person's disability benefit and their disability related expenditure, and this will increase annually in line with benefit changes.
 - b. In many cases a person will not need to undergo a home visit from a council officer to complete the financial assessment.
 - c. In many cases a person will not need to provide details of their disability related expenditure, some of which can be personal in nature.
 - d. It is likely to lead to a quicker and simpler financial assessment, so that a person knows how much they will be expected to contribute sooner.
33. Where an individual assessment is undertaken, receipts would be required for all items taken into account. The outcome of this assessment will be the figure used in calculating the person's contribution, whether this is above or below 25%.

Fees for Arranging a Person's Care

Consultation proposal

34. The Council is able to charge an arrangement fee for people with eligible care and support needs who have financial assets above £23,250 (the nationally set threshold) and ask the Council to arrange their care.
35. The arrangement fee reflects the cost to the council of negotiating and/or managing the contract with a provider and covers any administration costs incurred.

36. Currently the Council charges two different levels of *one-off* arrangement fees depending on the extent of its involvement in providing someone's care:
 - *Level 1 - £150* - Where the council sources the care, but the person enters in to a private arrangement with the care provider.
 - *Level 2 - £500* - Where the council sources the care and manages the ongoing provision of care and support.
37. Individuals currently pay the same one-off fee whether they receive care arranged by the Council for 2 months or 2 years. Introducing an annual ongoing fee instead would mean a fairer approach to charging for the costs incurred by the Council in monitoring a person's ongoing care and support. The fee would also be applied on a pro rata basis so that people who receive care for only part of a year would be charged a proportionate fee.
38. The proposal is therefore, to reduce the one-off arrangement fee from £150 to £140 and introduce an annual fee of £210 where the Council is asked to manage the ongoing provision of care and support.

Headline consultation responses

39. Just over half of those who shared their views on this proposal were supportive of the change to arrangement fees. Some respondents commented that the annual arrangement fee is set too high, however the majority were in favour of the fees being cost neutral. It was important for people that the fees remain fair, consistent and transparent.
40. Many people who responded indicated that this proposal would not affect them as their savings are below the national threshold. There were some queries about what the Council would charge if a person asked for their care provider to be changed.
41. Providers said that they would like to see clear information on how the fees relate to services provided.

Recommendation

42. **The recommendation is to implement the proposal as consulted on:**
Reduce the initial arrangement fee from £150 to £140 and introduce an annual fee of £210 where the Council is asked to manage the ongoing provision of non-residential care and support for an individual.
43. All new service users will be charged these adjusted fees from when the new Policy is agreed. People whose care is already managed by the Council will be charged the ongoing fee where they have been receiving this for more than a year.

44. The Council will reserve the right to charge a person the initial arrangement fee whenever they request that their care is delivered by a different provider. This will not be the case where a person pays an annual fee for the Council to manage the ongoing cost their care, as this fee already includes provision for care reviews.

12-Week Property Disregard

Consultation proposal

45. For the first 12 weeks after a person enters a care home, the value of their home is not taken into consideration by the council in its assessment of how much they should contribute to their care home costs. This gives people breathing space to decide whether they wish to stay in care permanently, without the pressure of having to sell their property straight away to fund this. It also enables people to acquire the funds required to pay for the cost of their care if this is tied up in property.
46. Currently the Council offers a 12-week property disregard to everyone with eligible care needs, including people who have previously placed themselves in a private care home and then approach the Council for financial assistance.
47. In line with legislation set out in the Care Act, the proposal is to only offer the 12-week property disregard to new permanent residents in care homes or where there is an unexpected change in a person's financial circumstances.
48. The recommended policy change will better align the approach to property disregards with the Care Act 2014. This states that authorities must provide a disregard when a person first enters a home as a permanent resident, and where there is an unexpected change in an individual's financial circumstances, including after a different type of property disregard ends.
49. Based on the information gathered for the financial year 2016-17 the Council would see an increase in income of approximately £60,000 per year as a result of this proposal. The actual figure will depend on the number of people applying for the disregard and their individual financial circumstances.

Headline consultation responses

50. The majority of respondents agreed that this proposal is reasonable, although many indicated that they would not be affected because they do not own property.
51. Some people queried what would happen if a spouse or partner is still living in the property and whether the policy means that their home would need to be sold within the 12-week period. Concerns were also expressed that the 12-week period puts additional stress on a person and their family, and may not be a long enough period. People also queried how property disregards are applied where people enter a care home for a significant period of time, but do not become a permanent resident.

52. Providers said they were broadly in favour of aligning the current policy to the Care Act, however they would like to see clear definitions around discretionary disregards.

Recommendation

53. **The recommendation is to implement the proposal as consulted on:**
Only offer a 12-week property disregard to new residents entering a care home for a permanent stay or where there is an unexpected change in a person's financial circumstances.
54. It will be assumed that people who have placed themselves privately in a care home and then approach the Council for care and support, will have already considered what to do with their property. A 12-week property disregard will therefore, not be offered in these cases.
55. How the 12-week property disregard is implemented will not change. After the 12-week period is finished a person can either choose to make their own arrangements or ask the Council to assist with a deferred payment agreement until the property is sold. If a person's former home continues to be occupied by a spouse or other close relative the Council must disregard the value of the property. This is different from the 12-week property disregard.
56. This policy change will only apply to people who newly enter care homes on a permanent basis. No backdated charges will be applied to people who were in private care and requested a 12-week property disregard under the previous policy.

Assessment of Couples

Consultation proposal

57. Currently, people living with a partner in their own home are offered the option to receive both an individual and joint financial assessment. The assessment with the lowest contribution is then used to determine a person's contribution. This approach goes further than the Care Act 2014 requires, at considerable cost to the Council.
58. The Care Act 2014 statutory guidance states that:
"The local authority has no power to assess couples or civil partners according to their joint resources. Each person must therefore be treated individually" (Care and Support Statutory Guidance, para 8.8)
59. However, the guidance is also clear that where a person receives income as part of a couple, the presumption is that they have an equal share of that income.

60. The proposal is to financially assess everyone as an individual. This would better align the Policy with the Care Act 2014.
61. As a result of this change the Council's income would increase by an estimated £0.3 million per year.

Headline consultation responses

62. Most people agree with the principle of individual assessments, however, there is concern that women may be negatively impacted, as they are more likely to have lower pensions or fewer assets. Some people think that the change should only apply to new assessments.
63. It was suggested that some individuals would want to be treated as part of a couple at such a vulnerable stage of their lives and that assessing everyone individually does not reflect the spirit of the Care Act.
64. Providers suggested that this is likely to affect men with higher incomes. They would like the Council to ensure that the lower income partner is supported. Other providers agreed that it was sensible to align with the Care Act and assess individually.

Recommendation

65. **The recommendation is to implement the proposal as consulted on:
Financially assess everyone on an individual basis and no longer offer couples assessments.**
66. The change will apply to all new clients from when the new Policy is agreed. People who have previously been assessed as part of a couple will also be reassessed as an individual, which will mean that their contribution may change.

Recovering the full cost of services

Consultation proposal

67. The Council currently uses an average hourly rate of £19.40 to calculate how much a person should contribute to the cost of their home care. This does not reflect the amount the Council is charged by care providers for the cost of care and support it manages on behalf of individuals. This means in some cases the Council is partially subsidising the cost of care for people who would otherwise be wholly funding their care.
68. To make the Policy fairer, the proposal is to ensure the contribution people make towards the cost of the home care they receive covers the full cost of these services to the Council, basing this on what care providers actually charge, rather than an average hourly rate. Certain services would not be

charged at full cost, such as contingency care where a person remains with the Reablement Service awaiting long term care.

69. It is anticipated that just over half of those affected by this policy change would see no change or a reduction in their weekly contribution.
70. If the policy change is implemented the Council's income would increase by an estimated £0.4 million annually. The actual figure will depend on the actual hours of care being delivered.

Headline consultation responses

71. More people disagreed with this proposal than those that agreed. Many people think that the average hourly rate of £19.40 is not a realistic reflection of the cost of care in Oxfordshire. There were fears that the cost of privately arranged care is higher because providers are compensating for the lower hourly rate they receive from the Council.
72. There is significant concern that the use of actual hourly rates will mean that some people will pay more for the care and support they receive depending on where they live in the county. If people cannot afford an increased contribution, there were fears that this could compromise the quality and level of care they receive. It was suggested that the Council should negotiate a uniform hourly rate, to reduce the impact of market forces on the costs it incurs.
73. Respondents were clear that choice and quality are important and should not be compromised by this change.
74. Providers expressed concern that people may decide to stop receiving the required amount of care if it costs more. They said that this may lead to longer-term effects on health and wellbeing and suggested this could put a strain on the Council and partner organisations.

Recommendation

75. **The recommendation is to implement the proposal as consulted on:**
Charge people the full cost of home care services, based on what care providers actually charge the Council, rather than an average hourly rate.
76. The Council works closely with providers to ensure there is a diverse, sustainable and high-quality care market in Oxfordshire. It is important to ensure that a range of care and support services are available for people to have choice over how their needs are met and to enable them to achieve things that are important to them.
77. Most councils in England already operate the way we are proposing to operate in future – reflecting the actual cost of care, which differs town by town and village by village, typically linked to the general costs of living in that particular

area. In a large county there is bound to be more variation in the actual cost of living.

Charging for non-statutory services

Consultation proposal

78. The Council commissions several non-statutory services (services which the council is not obliged to provide) that can be used to meet a person's eligible care needs, examples include:
 - Telecare
 - Laundry
 - Blitz Cleans of service user homes
79. In some cases, these services are used as part of a person's Support Plan to meet their eligible care needs, and in other cases people with no eligible needs are receiving these services and not being charged.
80. The proposal is to ensure that where the Council provides a non-statutory service to a person who does not have eligible needs or whose eligibility has not been established, they will be charged the full cost of that service.
81. This new approach would provide clarity about when people should be charged for using these services. This could result in some people's contribution increasing and others contributing where they had previously not done. In the case of the Telecare Service the changes would also streamline the financial assessment process by removing the current benefits check.

Headline consultation responses

82. Most people agree with the proposal that services which do not form part of a person's support plan should be charged for. A small number disagreed with the proposal.
83. Providers raised concern that this proposal could impact on people receiving income-supporting benefits, such as Pension Credit, who require equipment to maintain their independence, but do not meet the eligibility criteria for social care. There is fear that those who currently receive a free non-statutory support service would no longer choose to pay for this if it became chargeable, leaving them at risk.

Recommendation

84. **The recommendation is to:**
 - (a) Continue the current charging practice for the Telecare service,
 - (b) Continue the current charging practice for the Laundry service, subject to a review of this service being completed, and

(c) **Reserve the option to charge for one-off non-statutory services, such as blitz cleans.**

85. In light of feedback from professionals, service providers and the public it is recommended that the approach to charging for non-statutory services differs according to the type of support delivered.
86. The Telecare service helps older and vulnerable people remain independent and feel safer in their own home through the use of monitoring equipment and sensors. People who are currently not charged for this service and who have not had a care and support assessment are usually people receiving Employment Support Allowance, Housing Benefit, Income Support or Guarantee Pension Credit, who are passported to the service.
87. It is likely that this service is playing a key role in helping prevent their need for longer term care and support, through maintaining their independence. Charging for the Telecare service could increase costs for the Council through the provision of other forms of longer-term support, where these individuals choose not to pay the charge to continue receiving the service.
88. Laundry service is in the process of being reviewed and charging practice will remain the same until that review is complete.
89. Blitz cleans may be chargeable according to a person's eligible need. If an eligible need was not established, the person may be charged the full cost of the service. If they have an eligible care need then this will be charged in line with their assessed contribution. These charges will be made subject to managerial discretion.

Implementation of Policy Changes

90. Several responses to the consultation emphasised that people affected by the proposed changes are some of the most vulnerable, therefore the implementation of the revised Policy will need to be managed carefully.
91. If the recommended changes are agreed a financial re-assessment will be offered to everyone who currently contributes to the cost of their care. This will ensure every person affected will know the impact on them individually. The level of contribution may increase for some, but may decrease or stay the same for others.
92. No one will be left with less than the minimum level of income needed to maintain a reasonable quality of life, as stipulated in the Care Act 2014, as a result of the recommended changes. Where appropriate the Council will work with people to review their care package, and consider alternative ways of meeting their needs, to minimise an increase in costs.

93. People whose contribution changes will not be expected to make any back dated payments for services previously received before the new charging policy is brought into effect.
94. If the policy changes are agreed, all individuals affected by the changes will be contacted by July 1st 2018 to inform them of the difference in their weekly contribution.
95. Options were explored around phasing the policy for those adversely affected. They were deemed to be too costly for the council as well as being less easy to understand, which may as a result pose a risk to vulnerable people.
96. **The recommendation is to introduce the policy changes from 1st October 2018.**

Financial and Staff Implications

97. If all of the policy changes are implemented the projected savings/income for the Council is estimated at £1.825 million per year on an on-going basis.

	Annual savings/ increased income
Disability Related Expenditure	£1.140 million
Arrangement fees	£0.005 million
12-Week Property Disregards	£0.060 million
Assessment of Couples	£0.260 million
Recovering the full cost of services	£0.360 million
TOTAL	£1.825 million

98. In implementing these changes there would be additional costs to the Council of approximately £87,000, incurred in the following areas:
- An estimated 4 additional full time visiting officers in the Financial Assessment Team for 16 weeks to undertake visits to people affected by these changes.
 - External support from AGE UK to manage disability benefit applications where these are not already taken up by individuals.
 - Social worker input to determine appropriate disability related expenditure allowances and identified needs within the support plan.
 - Technical updates to the council's financial systems to take account of the policy changes, including new billing arrangements.

Equalities Implications

99. A Service and Community Impact Assessment has been completed and updated as a result of the consultation feedback received. Cabinet has a duty to consider this Assessment prior to making its decision, specifically to consider the potential impact of the changes, particularly on individuals with protected characteristics.
100. A Service and Community Impact Assessment has been completed to consider the potential impact of the changes, particularly on individuals with protected characteristics. This is appended to the report and has been updated as a result of the consultation feedback received.

RECOMMENDATION

101. **Informal Cabinet is asked to:**
 - (a) **Consider the results of public consultation on the proposed changes to the Adult Social Care Contributions Policy,**
 - (b) **Approve the recommended policy changes, and**
 - (c) **Approve the implementation of the policy changes from October 2018**

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