

12th March 2018**Agenda Item: 5****REPORT OF THE CORPORATE DIRECTOR, ADULT SOCIAL CARE AND
HEALTH****OUTCOME OF ADULT SOCIAL CARE AND HEALTH CONSULTATION****Purpose of the Report**

1. The purpose of this report is to:
 - a) provide information about the response received to the consultation on proposed changes to the Adult Social Care Charging Policy
 - b) recommend some proposed changes to the Adult Social Care Charging policy to Policy Committee for approval, with effect from April 2018 and June 2018 respectively.
 - c) recommend that the Council reviews its contractual processes to recover waived charges for poor service from independent sector care providers.
 - d) seek permission for further exploration of the proposal to amend the minimum income levels used to calculate contributions towards care and support costs, and for the outcome to be brought back to a future meeting of the Committee for consideration.

Information

2. Looking to the future, the Council will need to make further significant savings. As part of setting the budget for 2018/19, the Medium Term Financial Strategy identifies a further £54.2m shortfall by 2020/21, in addition to the £241m savings already approved by Full Council since 2010. Like all Council departments, in order to identify ways to provide services more efficiently and help to manage the Council's budget pressures, the Adult Social Care and Health Department undertakes a regular programme of service reviews to consider the way in which social care and support is provided to adult service users in Nottinghamshire.
3. At the October 2017 meeting, the Adult Social Care and Public Health Committee gave approval to consult with the public on four proposals:
 - a) a proposal to review the Adult Social Care and Health Charging Policy in order to reflect the different rates and guidance set out in the 2016 and 2017 Department of Health (DOH) Local Authority circulars 'Social Care - Charging for Care & Support'
 - b) a proposal to apply the charge to service users, for particular social care and support services, in advance (pre-payment) rather than in arrears
 - c) a proposal to ensure that the Council's existing homecare charging policy is applied for people who continue to require and receive home care after receiving non-charged reablement support where they are awaiting a longer term package of home care

d) a proposal to review the way that support is provided to carers.

4. The consultation response to proposals c) and d) was reported back to the Adult Social Care and Public Health Committee on 8 January 2018 and the recommendations were approved.
5. The Care Act 2014 brought in a revised legal framework for the assessment of the financial contributions people pay towards their care and support. As part of the programme of regular service reviews, the Council has proposed making some changes to the current Adult Social Care Charging Policy in order to reduce the cost to the Council whilst continuing to ensure that charges are applied in a fair way and that people are able to afford the care and support they require. The Council has previously taken the decision to maintain financial assessment calculations agreed as part of the earlier Fairer Charging Guidance. The proposed changes to the charging policy and the consultation responses received are outlined from **paragraph 10** of the report.
6. Currently, in Nottinghamshire 7,547 people are receiving adult social care and support services to help them to remain independent at home. Of these 3,574 people pay a contribution towards the costs of their care and support and, based on the outcome of their financial assessment, 3,973 people do not pay a contribution.
7. Letters about the consultation were sent to people who receive adult social care support from the Council. An on-line survey was made available on the Council's website and paper copies of the consultation were placed in public libraries. A link to the survey was shared with the Experts by Experience group and the Citizens' Panel which is made up of over 2,000 residents. The consultation was also discussed at the Learning Disability and Autism Partnership Board. The consultation was also promoted through social media and on the Council's website.
8. The consultation commenced on 6 November and initially closed on 5 December 2017. In response to feedback about the availability of easy-read information for some people who may be affected by the Adult Social Care Charging proposals, it was agreed that the Council would ensure that people had access to an easy-read version of the consultation information and that the period of the Adult Social Care Charging consultation would be extended to 22 January to allow people time to respond. Information about the extended consultation period along with an easy read version of the consultation was circulated to internal and external day service providers and to Supported Living providers, with a request for them to make the document available within their services.
9. The consultation received a very good response, with a total of 1,425 people responding. 1,194 people responded between 6 November and 5 December and 231 people responded to the extended consultation period. It is assumed that the responses to the extended consultation period were submitted by or on behalf of people with a learning disability. Adding in the 47 easy read paper responses received between November and December, at least 278 easy read responses were received on or behalf of people with a learning disability. This represents 20% of the total responses received to the consultation.

Outcome of the consultation

10. The consultation questions people were asked to consider, the number of respondents and their views, as well as the Council's response are described in **paragraphs 11 – 31**. A summary of the comments received in relation to each question is available in **Appendix 1**.

Living costs and benefits taken into account when calculating how much someone can contribute towards the cost of their care and support

11. Attendance Allowance (AA), Disability Living Allowance Care Component (DLA) and Personal Independence Payment (PIP) are tax free benefits paid to help people with the extra costs of long term ill-health or disability. The amount paid, which is due to increase from April 2018, varies according to how the condition affects the person. At present, when someone receives the higher rate of AA, the higher rate of DLA or the enhanced PIP, the Council ignores the first £27.45 when calculating their personal contribution towards the cost of their care. If the Council took the full benefit amount paid to the person into account, the contributions of some people may increase but the Council would be able to reduce its overall costs.
12. Question 1 of the consultation asked people to say what they thought about this proposal. 17% of respondents (247 people) agreed with the proposal; 66% (925 people) did not agree; 14% (195 people) said that they did not know; and 3% (48 people) did not answer this question.
13. People receiving Council funded care and support need to retain a certain amount of income to cover their living costs. This is known as the minimum income level. The Council had proposed a review of the minimum income level.
14. Question 4 of the consultation asked people to say what they thought about this. 22% of respondents (316 people) agreed with the proposal; 52% (743 people) did not agree; 22% (318 people) said that they did not know; and 4% (48 people) did not answer this question.

Response

15. The Council acknowledges that the proposals to review the minimum level of income a person must retain and to take higher rate disability benefits into account when calculating how much someone can contribute towards the cost of their care are unpopular with many of the respondents to the consultation. In the light of the feedback received to questions 1 and 4 the Council does not propose to progress the changes at this time but will instead further explore the impact that these changes may have on people.

The way the Council calculates how much someone who has a spouse or partner can pay towards the cost of their care and support

16. At present, when a person needing support has a spouse or partner, they are financially assessed as an individual and as part of a couple. For a couple's assessment, the person not receiving a service also has to provide details of their income and savings. Some people find this intrusive. If both members of a couple receive a service then three financial assessments are calculated, with the person being charged the lowest amount. This can be a time consuming process. In order to simplify the process, be less intrusive and to reduce

the cost to the Council, it is proposed that the Council will cease couple's assessments and assess people as a single person only when calculating the contribution they can afford to pay towards the cost of their care and support.

17. Question 2 of the consultation asked people to say what they thought about this proposal. 60% of respondents (857 people) agreed with the proposal; 22% (309 people) did not agree; 15% (210 people) said that they did not know; and 3% (49 people) did not answer this question.

Response

18. The majority of respondents supported this change and it is therefore proposed that the Council will cease couples' assessments and assess people as a single person when calculating the contribution they can afford to pay towards the cost of their care and support.

Getting in touch with the Council about the way contributions have been calculated

19. Currently if a person makes a complaint about the quality of a service received from a care provider and the Council upholds the complaint, the Council will, in certain circumstances, waive the charge for that service. Presently the Council has to absorb that cost.
20. Question 3a of the consultation asked people to say what they thought about the proposal to seek to recover the cost of waived charges from the care provider if it relates to the delivery of poor quality care. 73% of respondents (1,036 people) agreed with the proposal; 11% (163 people) did not agree; 13% (183 people) said that they did not know; and 3% (43 people) did not answer this question.
21. At present, if people are unhappy about the way the contribution toward their care and support has been calculated they have to use the Council's complaints process. In order to ensure a more consistent approach and to ensure that the Council can respond more quickly, it is proposed that an appeals process is introduced for people who want to challenge the way in which the Council has calculated the amount they have to contribute towards the cost of their care.
22. Question 3b of the consultation asked people to say what they thought about this. 54% of respondents (775 people) agreed with the proposal; 21% (300 people) did not agree; 20% (276 people) said that they did not know; and 5% (74 people) did not answer this question.

Response

23. The majority of respondents agreed with the proposal to seek to recover the cost of waived charges from the care provider if it relates to the delivery of poor quality care. Work will be undertaken to look at including this in future contracts.
24. In response to the positive feedback, it is proposed that an appeals process is introduced to consider representations from people who are unhappy about the way their contribution towards their care and support has been calculated. If, on an individual basis, this process does not resolve the concerns that have been raised, people would be able, as now, to refer the matter to the Local Government Ombudsman. It is however hoped that the bespoke

appeals process will allow people to raise their concerns and have them addressed at an early a stage as possible.

Charging for some services in advance

- 25. The Council currently charges people for services after they have received the service.
- 26. Question 5 of the consultation asked people to say what they thought about paying for some services in advance. 28% of respondents (406 people) agreed with the proposal; 53% (748 people) did not agree; 15% (208 people) said that they did not know; and 4% (63 people) did not answer this question.

Response

- 27. As with the proposals to review the financial calculations made to assess what contributions people are required to pay towards the cost of their care and support, this proposal has provoked concern among some respondents.
- 28. Based on the responses, this proposal will not be progressed at this time. However longer term, the Council as a whole is exploring ways to offer an on-line based pre-payment facility for some services. This will allow people to access their account at any time and will enable the Council to reduce costs. This work will need to be concluded and considered by the relevant Committees.

Dealing with service cancellations

- 29. Different services have different ways of dealing with charges for late cancellations. This may mean that other people who would have liked to use the service miss out and in most circumstances the Council still has to absorb this cost. It is proposed that the Council will introduce a cancellation policy and charge service users who cancel their service at short notice, unless they have been admitted to hospital or the service has ended.
- 30. Question 6 of the consultation asked people to say what they thought about this. 51% of respondents (720 people) agreed with the proposal; 30% (432 people) did not agree; 14% (204 people) said that they did not know; and 5% (69 people) did not answer this question.

Response

- 31. In the light of the feedback to the consultation it is recommended that the Council progress the proposal to introduce a short notice cancellation policy. An early draft of the policy will be shared with existing service user forums over the next 3 months to ask for feedback on the clarity of the draft policy and in order to speak with people about the most appropriate short cancellation duration.

Proposals for Policy Committee approval

- 32. In summary, it is therefore recommended that the Adult Social Care Charging Policy is revised to introduce the following changes:

- a) cease couples' assessments and assess people as a single person when calculating the contribution they can afford to pay towards the cost of their care and support, from April 2018
 - b) introduce an appeals process for people who wish to challenge the way in which their contribution towards the cost of their care and support has been calculated, from April 2018
 - c) introduce a service cancellation policy from June 2018.
33. The proposals would be implemented as detailed in **paragraph 32**, subject to approval by the Council's Policy Committee. The Council will ensure that an easy read version of the revised charging policy is available for discussion with service users and their families and carers.
34. In addition to the above the Council will look at opportunities to introduce full cost recovery from providers for waived charges resulting from poor service delivery into the contractual arrangements that the Council has with care providers.

Other Options Considered

35. The Adult Social Care and Health consultation also asked people to consider a proposal to review the minimum level of income, and to take higher rate disability benefits into account when calculating how much someone can contribute towards the cost of their care. In the light of the feedback received to the consultation the Council does not propose to progress the changes at this time but will instead further explore the impact that these changes may have on people.
36. The consultation also asked people what they thought about a proposal to charge for some services in advance. Based on the responses, this proposal will not be progressed at this time. However longer term, it will be explored as part of a corporate initiative looking at ways to offer an on-line pre-payment facility for some services.

Reason for Recommendations

37. The proposed changes to the Adult Social Care Charging Policy will reduce the number of assessments any one service user is subject to, offer a bespoke way for people to raise any concerns about their contributions and clearly set the Council's approach to service cancellations.

Statutory and Policy Implications

38. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Data Protection and Information Governance

39. Any changes to the Adult Social Care Charging assessment process will need to be compliant with the relevant data protections and information governance legislation.

Financial Implications

40. In response to the consultation, the Council does not propose to progress the following changes at this time:
- a) a proposal to review the Adult Social Care and Health Charging Policy in order to reflect the different rates and guidance set out in the 2016 and 2017 Department of Health (DOH) Local Authority circulars 'Social Care - Charging for Care & Support'
 - b) a proposal to apply the charge to service users, for particular social care and support services, in advance (pre-payment) rather than in arrears.
41. As a result there will be no savings achieved, although it will enable the Council to streamline processes.

Human Resources Implications

42. No direct impact on staff posts has been identified in any of the changes described.

Public Sector Equality Duty implications

43. Equality Impact Assessments are available as background documents to this report.

Implications for Service Users

44. Currently, in Nottinghamshire 7,547 people are receiving adult social care and support services to help them to remain independent at home. Of these 3,574 people pay a contribution towards the costs of their care and support and may need support to adapt to the change to being charged for some services which are provided in the community in advance.
45. There are currently 710 people assessed as part of a couple who going forward will be assessed as a single person only. In some cases the person may have a small increase in their charge and in other cases a small decrease.

RECOMMENDATIONS

That Committee:

- 1) recommends the proposed changes to the Adult Social Care Charging policy to Policy Committee for approval, with effect from April 2018 and June 2018, as stated in **paragraphs 32 and 33** of the report.
- 2) recommends that the Council reviews its contractual processes to recover waived charges for poor service from independent sector care providers, as stated in **paragraph 34**.

- 3) gives permission for further exploration of the proposals to take the full benefit amount paid to a person into account and to review, as stated in **paragraphs 13 and 15**, the minimum income levels used to calculate the amount a person can afford to contribute towards their care and support and for the outcome to be brought back to a future meeting of the Committee for consideration.

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Constitutional Comments (SMG 23/01/2018)

46. The Committee has responsibility for adult social care matters. The proposals outlined in this report fall within the remit of this Committee.

Financial Comments (KAS 28/02/18)

47. The financial implications are contained within paragraphs 40 and 41 of the report.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Adult Social Care and Health Consultation – report to Adult Social Care and Public Health Committee on 9 October 2017

Equality Impact Assessments

Electoral Division(s) and Member(s) Affected

All.

ASCPH536