

8 October 2018

Agenda Item: 10

REPORT OF THE SERVICE DIRECTOR, STRATEGIC COMMISSIONING, SAFEGUARDING AND ACCESS

CHANGES TO THE WAY THE COUNCIL CALCULATES INDIVIDUAL CONTRIBUTIONS TOWARDS THE COST OF CARE AND SUPPORT

Purpose of the Report

1. The purpose of the report is:
 - a) To provide information about the response received to the consultation on proposed changes to the way the Council calculates the contributions that service users can afford to pay towards the cost of their adult social care and support.
 - b) To seek agreement for a report to be taken to Policy Committee recommending that the Council adopts in full the national Department of Health Guidance to Councils about the benefits they can take into account and the Minimum Income Guarantee levels that can be applied when determining the amount people are asked to contribute to their care costs.
 - c) To provide information about the support that the Council would offer to people affected by the proposal.

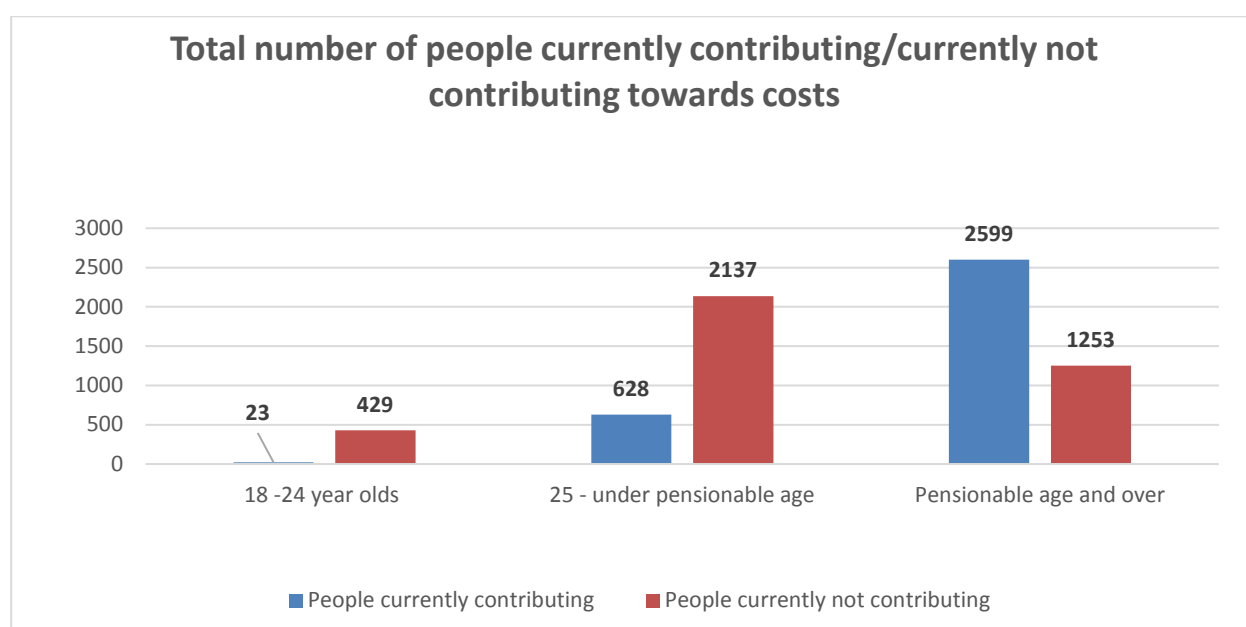
Information

2. Nottinghamshire County Council, like other local authorities, currently faces unprecedented financial pressures. The Adult Social Care and Public Health Department has delivered savings of £95m between 2011 and 2017/18. Additional savings of £17.83 million have been identified for delivery between 2018/19 and 2021/22. However, whilst the Council has made significant savings there is still a budget gap of £54 million.
3. The Council is always looking to provide services more efficiently to help address the budget position. In 2017, the Council consulted on a wider proposal on charging, some elements of which were progressed. After considering the feedback from the consultation, the Council made a decision not to progress a proposal to review the benefits and weekly living costs that are taken into account when assessing how much a person can afford to contribute towards their care and support, until further work had been carried out to:

- a) better understand how this change may affect people and
- b) to compare the benefits and weekly living costs taken into account in Nottinghamshire, when determining the amount that people can afford to contribute to their care costs, with the practice in other local authorities. This work has been completed and considered by the Committee at its meeting in July.

4. Currently, in Nottinghamshire, **7,069** people are receiving adult social care and support services to help them to remain independent at home. Of these, **3,250** people pay a contribution towards the cost of their care and support and, based on the outcome of their financial assessment, **3,819** people do not currently pay a contribution. The breakdown across each of the three age groups discussed as part of this consultation can be seen below:

Figure 1:



5. The national Department of Health and Social Care provides guidance to councils on the benefits they can take into account when determining the amount people are asked to contribute to their care costs. However, not all councils do the same when undertaking financial assessments. In Nottinghamshire, the Council has previously taken a local decision to ignore some benefits that can be taken into account, whilst other councils have chosen to adopt the Department of Health Guidance in full.
6. The Council needs to review its current position in order to ensure that services are sustainable to the Council without it impacting on the provision of care and support for people with eligible needs. The Council is considering adopting the national Department of Health Guidance for how individual contributions towards the cost of care are calculated, in full, to bring the department into line with many other local authorities. This would mean that the number of people who would contribute towards their care and support would increase from 46% of service users (3,250 people) to 58% of service users (4,112 people). 196 more people aged 18-24 years would come into charging and 601 more people aged 25 years to pensionable age would come into charging. 65 people aged pensionable age

and over would come into charging. In total, 862 more people would be asked to contribute towards their care.

Figure 2:

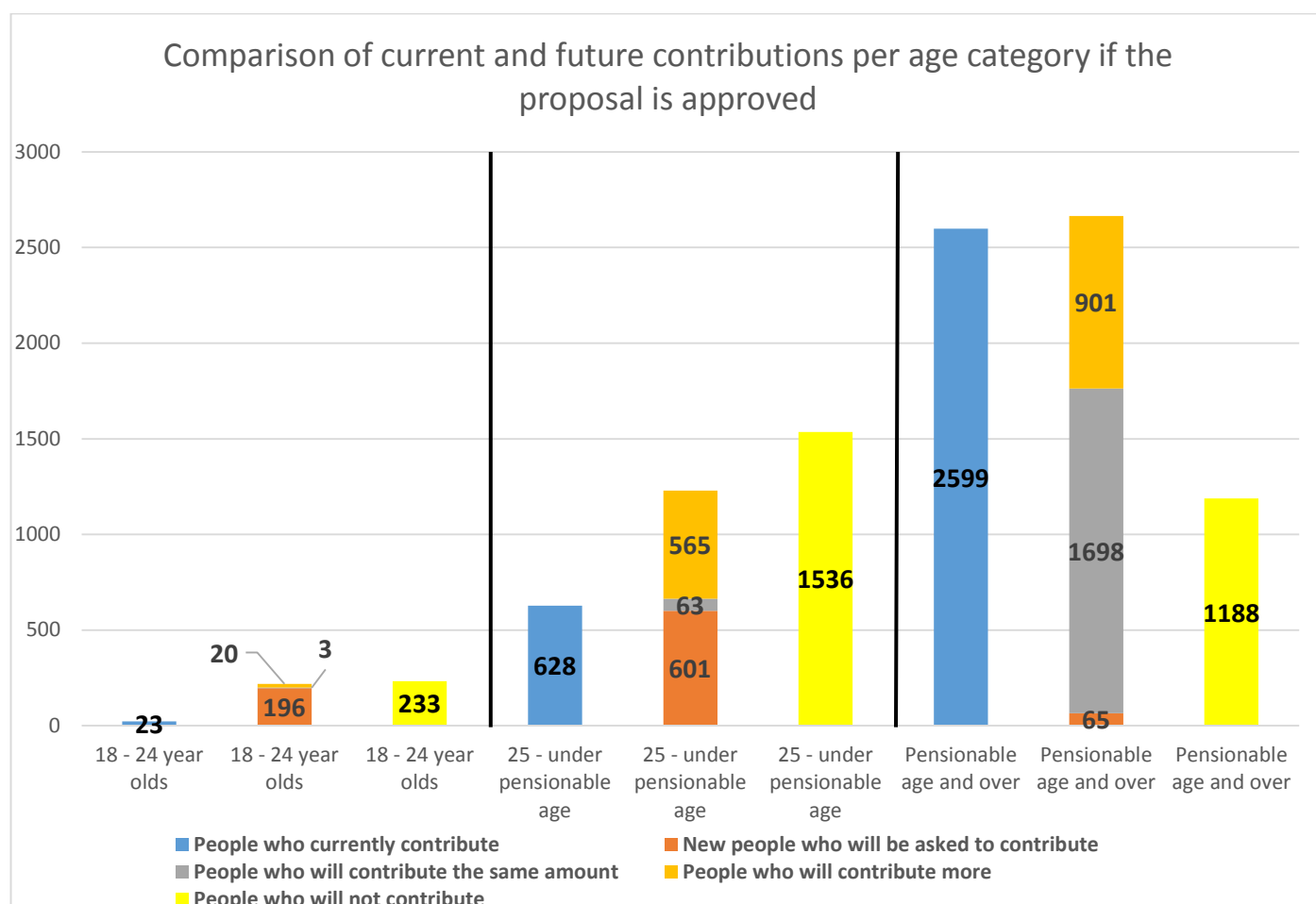


Figure 2: In the 18-24 year olds age range, 20 service users who currently contribute towards the cost of their care will be asked to contribute more and 3 service users will contribute the same.

The proposal, if approved, would mean a reduction in the cost to the Council of £3.8 million a year.

7. At the July 2018 meeting, the Adult Social Care and Public Health Committee gave approval to:
 - a) hold an eight week consultation on the proposal to change the way that the Council calculates the contribution that people can afford to make towards the cost of their care and support.
 - b) bring a further report to the Committee on the outcome of the consultation process.
8. Prior to agreeing the consultation process and wording, comments were sought from two volunteer carers from the Learning Disability and Autism Partnership Board and from the Board's service user forum. Their feedback was used to inform the methods of consultation and the language used.

9. Letters about the consultation were sent to all individuals who receive adult social care and 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 throughout the County. A link to the survey was shared with the Experts by Experience group, carer groups and the Citizens' Panel, which is made up of over 2,000 residents. Information about 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. An easy read version was produced and made available through the Council's website or on request via the Customer Service Centre.
10. The consultation commenced on 2 August 2018 and closed on 25 September 2018. Between 2 August and 25 September a total of 991 people responded to the consultation. Of these responses: 194 (20%) were from members of the public; 380 (38%) from service users; and 384 (39%) from relatives, carers or friends of a service user. 33 respondents (3%) did not specify which group they belonged to. Some additional letters, e-mails and phone call responses have been received.
11. The questions people were asked to consider and the number of respondents, along with a summary of their views, are described from **paragraph 12** onwards of this report.

Consultation questions and responses

Benefits that are taken into account (Question 1)

12. The Department of Health Guidance allows for the higher rate of benefits to be taken into account when calculating contributions. At present in Nottinghamshire, when someone is paid the highest rate of Attendance Allowance, Disability Living Allowance care component or Personal Independence Payment, £28.30 a week is disregarded. The proposal is to take the full amount of each of these benefits into account. This means that some people will be asked to contribute more than they do currently towards their care and support.
13. **Question 1** of the consultation asked whether people thought that the Council should take the full amount of the higher rate benefit into account when determining a person's contribution towards their care and support. Of a total 991 respondents, 308 people (31%) agreed with the proposal; 520 people (52.5%) disagreed with the proposal; and 60 people (6%) said that they did not know. A further 103 people (10.5%) indicated that they neither agreed nor disagreed with the proposal.

Living costs (Question 2)

14. The Department of Health Guidance sets out the amount of money a week which people are allowed to keep to cover their daily living costs, for items such as food or bills. This is called the Minimum Income Guarantee (MIG). The Council currently allows £189 a week for everyone but the Department of Health Guidance recommends different rates for different age groups:

- 18-24 years old £132.45
- 25 years – under pensionable age £151.45
- Pensionable age and over £189.00

The proposal is that the Council uses these three rates. This means that some people will be asked to contribute more towards their care and support than they do currently and some people who have previously not paid a contribution will be asked to do so.

15. **Question 2** of the consultation asked whether people agreed that the Council should use the three specified rates. From the total response of 991, 361 people (36.5%) agreed with the proposal; 472 people (48%) disagreed with the proposal; 63 people (6%) said that they did not know; and a further 95 people (9.5%) said that they neither agreed nor disagreed with the proposal.

Response to questions 1 and 2

16. It is acknowledged that a significant proportion of respondents are not in favour of the proposal. Half of the respondents disagreed with the proposal to take the full amount of Attendance Allowance, Disability Living Allowance care component or Personal Independence Payment into account. 48% of respondents disagreed with the proposal to use the three Minimum Income Guarantee rates. However over a third of respondents agreed with the proposals.
17. The Council has made significant savings, however there is still an identified budget gap for adult social care of £54 million. This means that even if changes are approved to the way the Council calculates the contributions that service users can afford to pay towards the cost of their care, the Council will need to continue to look for other significant sources of savings in order to bridge the budget gap. Therefore, even though it is recognised that the proposal is not universally popular, in order to be able to maintain services for the most vulnerable in the community, it is considered, on balance, that it is appropriate to recommend the proposal is adopted and to work with people affected by the proposal to support them to manage the impact.
18. The consultation survey also asked people to provide information about how they thought the proposal would affect them and what support they might need. A summary of this information and the response to this is described in **paragraphs 19-29** of this report.

If these proposals were implemented, how would it affect you? (Question 3)

19. Question 3 of the consultation asked people to say how they would be affected. 732 people (74%) chose to provide information in response to this question. A wide range of responses were received. Although some people said they were unsure or anxious about how the proposal would affect them, others said that although they would need to plan for the changes they understood the reason behind the proposal and felt that on balance it was fair. Some people agreed that their family member would be able to contribute more towards the cost of their care. However, a number of respondents were concerned about the level of increase they might be asked to contribute and that this would leave them less able to manage other costs linked to their disability or long term health condition. Some people said they were worried that they would have to reduce the level of service they accessed and that this would have an adverse impact on the quality of their and their family's lives.

Response to question 3

20. A number of people indicated that they would have less remaining money each week to manage other costs linked to their disability or long term health condition. However, the Council would continue to provide an additional disability related expenditure allowance of £20 a week to ensure that people have enough money to cover this additional expenditure. If, on an individual basis, people believe that this amount is insufficient to meet their needs, they can request an increase in this allowance through discussion with their social care worker. The Council would also continue to support service users to maximise their benefits as part of the financial assessment process by helping people to identify any benefits that they are entitled to that they are not claiming. The Council also makes an allowance for housing costs that are not covered by housing or council tax benefit and supports service users to claim their full entitlement to housing benefit and council tax discounts.
21. The Council would, as now, have the discretion to agree short term waivers from collecting contributions for reasons of financial difficulty or extreme hardship. Currently Group Managers are able to approve a temporary waiver from adult social care contributions for a maximum period of six months at which point the waiver has to be reviewed.
22. A number of respondents indicated that they felt they would need to reduce the level or quality of service they accessed as a result of the proposal: this proposal seeks only to review the way the Council assesses the level of contribution that a service user can afford to pay towards the cost of their care and support.
23. The level of service accessed would only be amended as a result of a transparent review process that the service user and their support network would be able to take part in. The Council would continue to work with people to ensure that their identified support needs are met. The level of contribution is based on the outcome of a financial assessment. This is compared with the cost of the service and the service user pays the lower of the two. A reduction in the cost of the service does not usually result in a lower contribution, as the majority of service users pay far less than the cost of their care package.

If these proposals were implemented, what help or support might you need? (Question 4)

24. 611 (62%) of respondents chose to give extra information in response to question 4 of the consultation which asked what help or support people might need if the proposals were implemented. Many of the responses were similar to those given to question 3. In addition, a number of people said that they were unsure about what help they would need or that they felt they would definitely need help and support to understand the financial impact on them and their lifestyle and to budget for any changes.

Response to question 4

25. It is acknowledged that people need to be informed as quickly as possible about any changes to their level of contribution. The Council will write to service users as soon as a decision has been made by the Council's Policy Committee, which is scheduled to consider a report about the proposal on 17 October.

26. Those people who needed support to understand and adapt to any changes would be able, in the first instance, to talk to a Financial Assessment Officer from the Council's Adult Care Financial Services Team. The Financial Assessment Officers are experienced in benefit maximisation, assessing disability related expenditure and supporting with budget management. In certain circumstances where someone needed more help to understand the changes the Financial Assessment Officers could meet with them in person. If someone needed additional support to understand the benefits available to them beyond this, a referral could be made to the Council's Benefits, Information, Training and Advice Team or to a social care worker. In addition, support from the Reviewing Teams would be sought to review care packages where a new assessment was requested by the service user.

Other comments or suggestions (Question 5)

27. Question 5 asked people to provide any other comments or suggestions, to which 432 people (44%) responded. Although many respondents said that they agreed with the proposal to adopt the Department of Health Guidance in full, others, particularly in respect of the Minimum Income Guarantee levels, did not feel that age alone made a difference to someone's living costs. Many felt that other factors should be taken into account, such as the nature of someone's disability or their accommodation status. Some people commented that they were happy to contribute more than see cuts in services, and that contributions need to be in line with other local authorities to prevent any 'postcode lottery'. A range of suggestions were provided by people as an alternative to this proposal, such as an increase in Council Tax and business rates; stopping spending on non-essential care such as shopping and cleaning; to rent out Council rooms/properties to generate income or to spend Council reserves.

Response to question 5

28. It is acknowledged that adopting the Department of Health Guidance in full would have a greater impact on people below pensionable age and in particular on those aged 18-24 years. Although it would be the intention to adopt the three Minimum Income Guarantee levels set out in the Department of Health Guidance, the Council would (as described in **paragraph 20**) continue to take account of the extra cost incurred by people as a result of their disability or long term health condition, as well as their housing costs.
29. The Council has made significant savings, however there is still an identified budget gap of £54 million. This means that even if changes are approved to the way the Council calculates the contributions that service users can afford to pay towards the cost of their care, the Council will need to continue to look for other significant sources of savings in order to bridge the budget gap. A number of the other suggestions raised by respondents are already under consideration and the Council continues to make regular representations to Central Government about sustainable funding for social care.

Other Options Considered

30. Rather than seeking to adopt Department of Health Guidance in full, as other local authorities have done, the Council could maintain the local decision previously taken to ignore some benefits that can be taken into account and to allow a Minimum Income Guarantee level of £189 for all age groups, when calculating what a person can afford to

contribute towards the cost of their care. However, whilst the Council has made significant savings there is still a budget gap of £54 million. Therefore, in order to significantly reduce costs at the same time as being able to maintain services for the most vulnerable in the community, it is considered, on balance, that it is appropriate to recommend the proposal is adopted and to work with people affected by the proposal to support them to manage the impact.

Reasons for Recommendation

31. The proposal to change the way the Council calculates individual service user contributions towards the cost of care and support, if approved, will reduce the cost to the Council by £3.8 million a year. The proposal will also bring the Council into line with many other local authorities who have already adopted the Department of Health Guidance in full.

Statutory and Policy Implications

32. 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.

Financial Implications

33. The adoption of the Minimum Income Guarantee levels recommended by the Department of Health and the inclusion of higher rate disability benefits in the calculation to assess the amount a service user can afford to pay towards their care costs will reduce the cost of packages of care and support by an estimated £3.8 million a year. This will support the Council to address some of the budget gap of £54 million identified for future years. However, even if the changes are approved to the way the Council calculates the contributions that service users can afford to pay towards the cost of their care, the Council will need to continue to look for other significant sources of savings in order to bridge the budget gap fully.

Human Resources Implications

34. Staff will be asked, on a voluntary basis, to undertake additional temporary hours if extra capacity is required to provide the support for service users described in **paragraph 26**. Any additional hours worked will be paid in line with the Council's agreed terms and conditions of employment relating to the payment of overtime.

Public Sector Equality Duty implications

35. An Equality Impact Assessment is available as a background paper to this report.

Implications for Service Users

36. The total number of people who will be asked to pay a contribution towards their care and support, as a result of the proposals contained in this report, will increase from 46% of service users (3,250 people) to 58% of service users (4,112 people). 196 more people aged 18-24 years will come into charging and 601 more people aged 25 years to under pensionable age will come into charging. 65 people aged pensionable age and over will come into charging as a result of including higher rate disability benefits in the financial assessment. In total, 862 more people will be asked to contribute towards their care. 20 people aged 18-24 years, who currently contribute towards their care costs, will be asked to contribute more if the proposal is approved. 565 people aged 25 years to under pensionable age and 901 people over pensionable age will be asked to contribute more. In total 1,486 people who currently contribute towards their care cost will be asked to contribute more. As outlined earlier in the report, the Council will provide support to service users affected by the changes and will continue to ensure that people are in receipt of all the benefits and allowances that they are entitled to.

RECOMMENDATION/S

- 1) That Committee agrees that a report be taken to Policy Committee to seek approval for the Council to adopt in full the national Department of Health Guidance to Councils about the benefits they can take into account and the Minimum Income Guarantee levels that can be applied when determining the amount people are asked to contribute to their care costs.

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Constitutional Comments (LM 26/09/18)

37. The Adult Social Care and Public Health Committee is the appropriate body to consider the contents of the report.

Financial Comments (DG 24/09/18)

38. The financial implications are contained within paragraph 33 of this report.

HR Comments (SJ 21/09/18)

39. Any HR implications are outlined in paragraph 34.

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
- Adult Social Care and Health Consultation - report to Adult Social Care and Public Health Committee on 8 January 2018
- Outcome of the Adult Social Care and Health Consultation - report to Adult Social Care and Public Health Committee on 12 March 2018
- Changes to the way the Council calculates individual contributions towards the cost of care and support - report to Adult Social Care and Public Health Committee on 9 July 2018
- Equality Impact Assessment
- Contributions towards a Personal Budget Guidance

Electoral Division(s) and Member(s) Affected

All.

ASCPH588 final