

**9 July 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 this report is to seek approval to hold an eight week consultation on a proposal to change the way that the Council calculates the contribution that people will make towards the cost of their care and support. It proposes to take in to account the higher rate for Disability Living Allowance, Attendance Allowance and Personal Independence Payment and also to adopt the Minimum Income Guarantee levels recommended by the Department of Health.
2. Approval is also sought to bring a further report to the Committee on the outcome of the consultation process.

**Information**

3. Nottinghamshire County Council, like other local authorities, faces unprecedented financial pressures. The Adult Social Care and Health department has delivered savings of £95m from 2011 to 2017/18 through 171 savings projects. Additional savings to be delivered from 2018/19 to 2021/22 are £17.83m. The Adult Social Care Strategy underpins the approach to savings by managing demand through early resolution, promoting independence and review of packages of support. However, whilst the Council has made significant savings there is still a budget gap of £54 million.
4. In 2017, as part of a wider review of the Adult Social Care 'Contributions Towards a Personal Budget Guidance', the Council consulted on a proposal to review the benefits and weekly living costs taken into account in the calculation to assess how much a person can afford to contribute towards their care and support. A decision was made not to progress the proposal at that time but to undertake further work. This has now been concluded and this report sets out the Council's proposed approach.
5. Some people receive benefits to support them to manage their disability. These include Attendance Allowance, Disability Living Allowance care component and Personal Independence Payment care component. The amount of benefit received varies according to the person's needs.

6. The Department of Health Care and Support Statutory Guidance and The Care and Support (Charging and Assessment of Resources) Regulations allow for higher rate benefits to be taken into account in contribution calculations. Many other councils have reviewed their contribution policies and either adopted in full, or moved closer to, the guidance provided. In Nottinghamshire, a local decision has previously been made to discount the higher rate benefits paid to people. This means that the Council does not currently take into account £27.45 that is paid to some people when it is working out what people in Nottinghamshire can afford to pay towards the cost of the care and support they receive. This local decision is no longer sustainable and the Council proposes to adopt the Department of Health guidance and take higher rate benefits into account in full.
7. This might mean that some people will have to pay more towards their care costs, however the Council will support people to ensure that they are only asked to pay what they can afford.
8. The Department of Health guidance also sets out the amount of money a week people are allowed to retain to cover their daily living costs, for example for food or bills. This is known as the Minimum Income Guarantee. The Council currently allows £189 a week for everyone but the Department of Health guidance recommends different rates for different age groups as follows:
  - 18-24 years old £132.45
  - 25 years – under pensionable age £151.45
  - Pensionable age and over £189.00
9. As part of the work undertaken since last year, the Council has looked more closely at what other local authorities take in to account when undertaking financial assessments and determining the amount that people are required to contribute to their care costs, and what support can be provided to people who would be affected by changes to the current policy.
10. Many other councils have already adopted in full, or moved closer to, the Minimum Income Guarantee levels recommended by Department of Health guidance and the Council also proposes to adopt these levels. This means that people aged 18-24 years old will still be allowed to retain a minimum of £132.45 a week after rent or housing costs have been paid, before they are asked to make a contribution toward the cost of their care and support. In addition, the Council will support people to ensure that they are only asked to pay what they can afford. A table of other local authorities benefit rates and MIG levels is shown at **Appendix 1**.
11. The inclusion of higher rate benefits and the adoption of the Minimum Income Guarantee levels recommended by the Department of Health 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 £3.873 million a year. This figure is estimated as the numbers of service users and their circumstances are subject to change in the future.
12. The Council would as now have the discretion to agree short term waivers from assessed contributions for reasons of financial difficulty or significant hardship. Currently managers are able to approve a temporary waiver for a maximum period of six months at which point the waiver has to be reviewed.

13. The Council would also support service users to maximise their benefits as part of the financial assessment process. The Council 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.
14. The Council would continue to provide the additional disability related expenditure allowance of £20 per week to ensure that the service user has enough money to cover any additional expenditure they may incur due to their disability. This is in addition to the Minimum Income Guarantee. This includes the purchase, maintenance and repair of disability related equipment, heating costs, electricity and water if the person needs their home to be heated more or has to do extra laundry. If the service user believes that this amount is insufficient to meet their needs they can request an increase in this allowance through discussion with their social worker.
15. In the event of changes being made to the contributions of service users towards their care and support, additional temporary capacity would be provided to support people who were affected.
16. Approval is sought to consult on the proposal to change the benefit rates and Minimum Income Guarantee levels used to calculate individual service users' contributions towards the cost of their care and support, and to bring a further report to the Committee on the outcome of the consultation process.

### **Other Options Considered**

17. The Council could maintain the local decision previously taken and continue to discount some benefits that can be taken into account when calculating what someone can afford to contribute towards their care costs, however this is no longer financially sustainable.
18. The Council could take a local decision to move towards the recommended Minimum Income Guarantee levels, but take a local decision to adopt two, rather than three, Minimum Income Guarantee levels. This would reduce the potential level of cost reduction that would be delivered by the proposal.

### **Reason for Recommendation**

19. 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 in the region of £3.873 million a year.
20. In light of the current and ongoing financial pressures faced by the Council, these proposals are considered to be preferable to making further reductions to the provision of care and support to people with eligible needs.

### **Statutory and Policy Implications**

21. 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**

22. In line with recent changes to legislation introduced by the General Data Protection Regulations (GDPR) Act a summary data privacy impact assessment (DPIA) has been completed.

### **Financial Implications**

23. 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 costs of packages of care and support by £3.873 million a year. A proportion of the budget reduction will be delivered by reductions in Direct Payments paid to people who have eligible care needs who have chosen to manage their own care, with the remaining proportion delivered through increased income.

### **Human Resources Implications**

24. There are no Human Resource implications.

### **Public Sector Equality Duty implications**

25. An equality impact assessment has been produced and is available as a background paper to this report.

### **Implications for Service Users**

26. 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% (3,250 people) of service users to 58% (4,117 people) of service users. 196 more people aged 18-24 will come into charging and 606 more people aged 25 to 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, 867 more people will be asked to contribute towards their care. 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**

That:

- 1) approval is given to hold an eight week consultation on the proposal to take into account the higher rate for Disability Living Allowance, Attendance Allowance and Personal Independence Payment, and to adopt the Minimum Income Guarantee levels

recommended by the Department of Health, when calculating the amount a service user can afford to pay towards their care costs.

- 2) a further report is brought to the Committee on the outcome of the consultation process.

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#### **Constitutional Comments (LM 28/06/18)**

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

#### **Financial Comments (DG 28/06/18)**

28. The financial implications are contained within paragraph 23.

#### **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
- Equality Impact Assessment – Adult Social Care Charging
- Contributions towards a Personal Budget Guidance

#### **Electoral Division(s) and Member(s) Affected**

All.

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