

Equality Impact Assessment (EqIA)

Introduction

This EqIA is for:

Changes to the way the Council calculates individual contributions towards the costs of care and support

Details are set out:

Report of 10 December, 2018 Report to Adult Social Care and Public Health Committee: Individual contributions towards the cost of care and support update to the below reports:
Report to the 8 October 2018 Adult Social Care & Public Health Committee: Changes to the way the Council calculates individual contributions towards the costs of care and support.
Approved to move forward for consultation at the 9 July 2018 ASCPH Committee

Officers undertaking the assessment:

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Assessment approved by:

Paul Johnson, Service Director Strategic Commissioning, Adult Access and Safeguarding

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The Public Sector Equality Duty which is set out in the Equality Act 2010 requires public authorities to have due regard to the need to: Eliminate unlawful discrimination, harassment and victimisation; Advance equality of opportunity between people who share a protected characteristic and those who do not; Foster good relations between people who share a protected characteristic and those who do not.

The purpose of carrying out an Equality Impact Assessment is to assess the impact of a change to services or policy on people with protected characteristics and to demonstrate that the Council has considered the aims of the Equality Duty.

Part A: Impact, consultation and proposed mitigation

1 What are the potential impacts of proposal? *Has any initial consultation informed the identification of impacts?*

Impact:

If the proposal was applied some people who have their services managed and commissioned by the Council on their behalf will experience an increase in the contributions they are required to pay. The total number of people assessed as being required to pay a contribution towards their care and support would increase from 46% (3250 people) to 58% (4112 people) based on the existing numbers of people receiving support.

Some people who receive a Direct Payment from the Council, so that they can manage their own care and support needs, will experience a reduction in the value of their Direct Payment as their contributions are netted off the amount of the Direct Payment before it is paid to them.

There are two elements to the proposal:

Benefit Rates: Disability benefits are paid at different rates. The highest rate is usually paid for people needing help both at night and in the day. The Council currently disregards the night time element of £28.30 when calculating the amount a service user can afford to contribute towards their care costs. This has been a local decision however the national framework (based on Department of Health and Social Care statutory guidance) allows the Council to take higher rate benefits into account in financial assessments. If, as proposed, higher rate benefits are taken into account when calculating the amount a service user can afford to pay towards their care costs, some people will experience an increase in the contributions they are required to pay. Increases, where experienced, will vary on an individual basis depending on the different combinations of benefit and any other weekly income available to the service users. It will also depend on how the total value of weekly income compares to the Minimum Income Guarantee level for that individual.

Minimum Income Guarantee: The Council currently uses £189 as the weekly Minimum Income Guarantee Level a service user needs to have available to them before consideration is given to requiring service users to pay a contribution. If, as proposed, the Council adopts the different levels recommended in Department of Health and Social Care guidance the Minimum Income Guarantee level for people aged 18-24 will reduce to £132.45. For people aged 25-pensionable age the Minimum Income Guarantee level will reduce to £151.45. This means that, depending on their individual circumstances and a financial assessment of their ability to contribute towards the cost of their care, some people aged 18-pensionable age may be required to pay more a week toward the cost of their care. The Minimum Income Guarantee level for people aged pensionable age and over will remain at £189. This proposal will have a greater financial impact on service users aged 18-24 as the proposed Minimum Income Guarantee level of £132.45 would be the lowest of the three levels.

Based on 7,069 service users receiving a service in the community, the proposal to have three Minimum Income Guarantee levels, the total number of service users who will be charged a contribution towards their care costs will increase from 46% (3,250 people) to 58% (4,112 people). 196 more people aged 18-24 would come into charging and 601 more people aged 25-59 would come into charging. 65 people aged 60+ would come into charging as a result of including higher rate disability benefits in the financial assessment. In total, 862 more people would have to contribute towards their care costs.

Previous consultation:

Proposals to consider these changes formed part of a public consultation, between November 2017 and January 2018. The feedback received is summarised below:

1. Many respondents expressed concern about the impact of the proposal on people with disabilities with low incomes and their ability to manage any additional costs associated with their disability or long term condition, as well as sustain a good quality of life. There were a number of comments suggesting that all benefits should be ignored in the financial assessment process and that, in particular, people were in receipt of higher rate benefits in recognition of the additional costs incurred as a result of their disability or long term condition. Some people noted that the care and support package provided by the Council may not cover all the needs associated with a disability. However, there were as many comments from respondents who stated that the benefits were paid to people to be used towards their care and support needs, and therefore it was appropriate for the Council to take them into account. Some people queried what other Councils do and why Nottinghamshire has operated in a different way until now.
2. There were a number of comments recognising that the financial circumstances of people in receipt of these benefits would vary widely, so some people would be affected more than others. Some people suggested that the Council could take a more individual approach to what people should contribute to their care.
3. A number of comments were focused on the national policy approach to the welfare system and the funding of adult social care, with concerns expressed about support for people with disabilities more generally. A significant number of comments expressed concern and surprise about the national framework for the benefit rates and Minimum Income Guarantee levels. However a high number of comments stated their agreement to a universal rate across the country to promote consistency. Many people felt that Nottinghamshire should align more closely with the national recommended rates and that there was room for a reduction, but there was considerable concern expressed about

the reduction in income that this proposal would effect. As a result there were a number of comments suggesting that the Council should continue to set its own Minimum Income Guarantee rates at a higher level than those recommended in the national framework, or that a gradual introduction of the recommended rates is implemented.

4. Finally, there were a number of comments stating that although their preferred approach would be to continue with the current policy, there was acknowledgment of the financial challenges faced by the Council and the need to address these. Some respondents suggested a phased introduction of this proposal, or a proposal to ignore a smaller amount of benefit rather than taking the full benefit into account as part of the assessment.

Second Consultation

The consultation lasted for 8 weeks (2 August 2018 to 25 September 2018) and all existing service users received a letter about the proposal. We shared in advance information with Advocacy Groups, Experts by Experience, Citizen's Panel and the Learning Disability and Autism Partnership Board. Direct Services and External Provider staff were briefed in advance so that they can support service users who would be affected by the proposal so that they can contribute to the consultation. We provided an Easy Read format version of the consultation for the Learning Disability Service User Group. Focus Groups for the Learning Disabled Service User Group were facilitated to enable them to contribute to the consultation process. There was an on line survey format for all service user groups. This was advertised through the Council's internet pages and via a message on service user invoices.

Proposed mitigation:

Under the proposal the Council would still be working within national guidance which sets out what income and benefits have to be disregarded and the Council's responsibility to take into account additional costs which a service user may incur as a result of living with a disability or long term health condition.

The Council already makes a disability related expenditure allowance of £20 a week to ensure that service users have enough money to cover any additional expenditure they may incur due to their disability or long term health condition. This may include 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. This practice will continue.

The Council would also, as now, continue to 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 user to claim their full entitlement to housing benefit and council tax discounts.

The Council also has discretion to agree short term waivers from charging for reasons of financial difficulty or extreme hardship. Currently Group Managers are able to approve a temporary waiver from adult social care charges for a maximum period of 6 months at which point the waiver has to be reviewed and this would continue to be the case.

2 Protected Characteristics: Is there a potential positive or negative impact based on:

Age	<input type="checkbox"/> Positive	<input checked="" type="checkbox"/> Negative	<input type="checkbox"/> Neutral Impact
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Disability	<input type="checkbox"/> Positive	<input checked="" type="checkbox"/> Negative	<input type="checkbox"/> Neutral Impact
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Gender reassignment	<input type="checkbox"/> Positive	<input type="checkbox"/> Negative	<input checked="" type="checkbox"/> Neutral Impact
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Pregnancy & maternity	<input type="checkbox"/> Positive	<input type="checkbox"/> Negative	<input checked="" type="checkbox"/> Neutral Impact
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Race including origin, colour or nationality	<input type="checkbox"/> Positive	<input type="checkbox"/> Negative	<input checked="" type="checkbox"/> Neutral Impact
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Religion	<input type="checkbox"/> Positive	<input type="checkbox"/> Negative	<input checked="" type="checkbox"/> Neutral Impact
Gender	<input type="checkbox"/> Positive	<input type="checkbox"/> Negative	<input checked="" type="checkbox"/> Neutral Impact
Sexual orientation including gay, lesbian or bisexual	<input type="checkbox"/> Positive	<input type="checkbox"/> Negative	<input checked="" type="checkbox"/> Neutral Impact

3 Where there are potential negative impacts for protected characteristics these should be detailed including consideration of the equality duty, proposals for how they could be mitigated (where possible) and meaningfully consulted on:

How do the potential impacts affect people with protected characteristics <i>What is the scale of the impact?</i>	How might negative impacts be mitigated or explain why it is not possible	How we consulted
<ul style="list-style-type: none"> Some people with a disability or long term health condition will experience an increase in the contributions they are asked to contribute towards the cost of their care and support. The proposals to reduce the Minimum Income Guarantee levels used by the Council will have a greater financial impact on younger people aged 18-24 and 25-pensionable age than it will have on people of pensionable age and over. The greatest financial impact would be on people aged 18-24. The Council already uses the Minimum Income Guarantee level set out in the national framework for people of pensionable age - this is the reason for the neutral impact on people of pensionable age and over. 	<ul style="list-style-type: none"> The Council will continue to make a disability related expenditure allowance of £20 a week to ensure that service users have enough money to cover any additional expenditure they may incur due to their disability or long term health condition. The Council will continue to support service users to maximise their benefits as part of the financial assessment process. Where appropriate, the Council will exercise its discretion to agree short term waivers from charging for reasons of financial difficulty or extreme hardship. 	<p>The Council held a public consultation. An on-line survey was made available on the Council's website and paper copies of the survey were placed in public libraries. A link to the survey was shared with the Experts by Experience group, the Learning Disability and Autism Partnership Board and the Citizens' Panel. Letters and copies of the survey were made available in an easy read format.</p>

Part B: Feedback and further mitigation

4 Summary of consultation feedback and further amendments to proposal / mitigation

Approval was given at the 9 July ASCPH Committee to undertake a period of consultation on the proposal as outlined above and in the Committee report of 9th July, with a recommendation to return to Committee to advise of the outcome of the consultation process following closure of the consultation. Details of the response to the consultation are outlined in the ASCPH Committee report of 8th October, 2018 and summarised below:

- The consultation period took place between 2nd August and 25th September, with a total of 991 people responding. Of these 991, 194 (20%) identified themselves as members of the public; 380 (38%) as service users; and 384 (39%) as relatives, carers or friends of a service user. A further 33 respondents (3%) did not specify to which group they belonged. 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,

and 48% of respondents disagreed with the proposal to use the three Minimum Income Guarantee rates. However over a third of respondents agreed with the implementation of these proposals.

2. In response to being asked how they felt that they would be affected, 732 people (74%) chose to provide information with a wide range of responses being 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.
3. In response to what help or support people felt they might need, 611 people (62%) chose to provide comment. Whilst some people gave specific responses, 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 would need help to budget for any changes.
4. Asked to provide any additional comments, 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.
5. Whilst it is acknowledged that a significant proportion of respondents are not in favour of the proposal, 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 that the proposal be adopted and to work with those people affected by the proposal to support them to manage the impact.

Proposed mitigation:

Following the consultation there are no identified changes to the initial proposal and all mitigation measures identified above remain unchanged. In addition to these measures, people who need/request 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.

Further mitigation/changes to the initial proposal following ASCPH Committee on 10 December 2018:

As a result of feedback received from some service users, their carers and other people in their support networks, it has been recognised that sufficient time is needed to enable people to adjust to the impact of the changes outlined in the contributions policy. In light of this feedback, the Committee was asked to consider, and subsequently agreed, for the timescale over which the changes are implemented to be extended, in order to allow people sufficient time to prepare and to ensure that people who wish to do so have time to fully discuss their circumstances with the Council. Following Committee meeting on 10 December, 2018 it has been agreed to implement the above in two stages: Phase 1 from 8 April 2019, and Phase 2 from 4 November 2019. Details are as set out as follows:

1. Phase 1: will start on 8 April 2019. From this date the Council will adopt the national Department of Health and Social Care guidance to councils about the benefits that they can take into account when calculating contributions. The Council will also introduce an interim change to the Minimum Income Guarantee levels used when calculating contributions. Currently the Council allows a Minimum Income Guarantee level for all age groups of £189 a week. From 8 April 2019 the Minimum Income Guarantee levels that the Council will use to calculate a person's ability to contribute towards their care costs will be as follows:
 - 18-24 years old £160.73
 - 25 years – under pensionable age £170.23
 - Pensionable age and over £189.00
2. The Minimum Income Guarantee levels described for 18-24 year olds and for people aged 25 to under pensionable age reflect the mid-point between the current level used by the Council of £189 and the level recommended by the Department of Health and Social Care guidance.
3. Phase 2: will start on 4 November 2019. From this date the Council will implement in full the Minimum Income Guarantee levels recommended by the Department of Health and Social Care guidance. These are:
 - 18-24 years old £132.45
 - 25 years – under pensionable age £151.45
 - Pensionable age and over £189.00

Every service user will be informed of their new contribution, with a minimum of six weeks' notice. Advice and guidance will continue to be available to service users who contact the Council at any time between April and November, and beyond.

Completed EqlAs should be sent to equalities@nottsgov.uk and will be published on the Council's website.