

Cabinet

14 March 2018

Consultation Feedback on the Proposal for Changes to the Charging Policy for Non-Residential Social Care Services



Key Decision (AHS/03/17)

MTFP Savings Ref: AHS 3.2

Report of Corporate Management Team

Jane Robinson, Corporate Director of Adult and Health Services

John Hewitt, Corporate Director of Resources

**Councillor Lucy Hovvels, Portfolio Holder for Adult and Health
Services**

Councillor Alan Napier, Portfolio Holder for Finance

Purpose of Report

- 1 To provide Cabinet with the results of the consultation exercise on proposals to make changes to the non-residential charging policy in relation to the Minimum Income Guarantee (MIG) applied for people who receive social care services.

Background

- 2 On 18 October 2017 Cabinet agree that a consultation exercise should be undertaken on whether to change the current charging arrangements. The proposed changes approved by Cabinet would apply to the Minimum Income Guarantee allowances applied when assessing a person's contribution to the cost of their non-residential care services.
- 3 When the Care Act 2014 came into force on 1 April 2015, the Department of Health prescribed the minimum amount of income a person must be left with after charging for care and support. Councils can allow people to keep more income if they wish. This is referred to as the Minimum Income Guarantee (MIG). The MIG allowances can be found in the Care and Support (Charging and Assessment of Resources) 2014 regulations. Paragraph 8.42 of Care Act Guidance states that ' Because a person who receives care and support outside a care home will need to pay their daily living costs such as rent, food and utilities, the charging rules must ensure they have enough money to meet these costs. After charging, a person must be left with the minimum income guarantee (MIG), as set out in the Care and Support (Charging and Assessment of Resources) Regulation 2014. In addition, where a person

receives benefits to meet their disability needs that do not meet the eligibility criteria for local authority care and support, the charging arrangements should ensure that they keep enough money to cover the cost of meeting these disability-related costs.'

- 4 The Care and Support Statutory Guidance provides that 'There are differences in how income is treated in a care home and in all other settings. Charging a person in a care home is provided for in a consistent national framework. When charging a person in all other settings, a local authority has more discretion to enable it to take account of local practices and innovations.' (Care Act Statutory Guidance, Annex C, par 2).
- 5 Durham County Council currently use the weekly DWP benefit rates +25% as a mechanism by which service users can be left with a minimum income guarantee (MIG). The concept of weekly DWP benefit rates +25% was originally devised by Torbay Council in 2002/2003 when Fairer Charging was introduced for Adult Care financial assessments and was recommended as best practise by the Department of Health.
- 6 The Department of Health has issued a circular [LAC (DH) (2017) 1], which states that the MIG allowances for 2017/18 will remain frozen to the rates first set in 2015/16.
- 7 This puts Durham in a position where it is currently applying a minimum income guarantee higher than those defined in DH guidance, which applies a buffer equivalent to weekly DWP benefit rates + 18.6%. This results in service users in County Durham contributing less towards their care than if the allowances set out in the Department of Health's circular were applied.
- 8 The proposal put forward to Cabinet in October was to change the weekly DWP benefits rate+25% disregard and replace this with the disregards as set out in the DH guidance with this policy change applying to new service users only, subject to a public consultation on those proposals.
- 9 Based on a strategy of applying the changes to new service recipients, it is reasonable to assume that if the changes are implemented a MTFP savings of c£267,000 per annum across the period 2018/19 to 2020/21 can be achieved. The savings therefore would be as follows:

Year	Savings: MIG Changes Applied to New Service Users Only [AHS3.2]
2018/19	266,667
2019/20	266,667
2020/21	266,666
	800,000

- 10 The proposals reflect the need for the Council to carry out financial assessments which are equitable to all and which are bespoke to the individual service user.
- 11 The proposals are in line with the Care Act guidance in respect of charging and financial assessments by adopting the Department of Health national guidelines on the rate of minimum income guarantee. If agreed the changes would apply for all new financial assessments processed from 1 April 2018 for new service users. Existing service users will continue to have the old policy applied to them upon any future financial reassessment, i.e. they will be fully protected.
- 12 Analysis of case load data shows that in service users aged 65+ category there is an attrition rate of 34%, as they stop receiving non-residential services because they either go into residential/ nursing care or pass away. The attrition rate for people aged 18-64 is lower at 14%, as they are likely move into the aged 65+ cohort with the passage of time
- 13 All financial assessments comply with the Government's Care Act Guidance which will ensure that no-one is asked to pay more than they can afford, in line with national guidelines. During this assessment a benefit maximisation check is carried out for those who require it. It is not proposed to change the way in which financial assessments are carried out. The assessment is means tested and takes into account income, including welfare benefits, savings and assets. Allowances and disregards are applied in the financial assessment depending on individual circumstances.
- 14 These changes would bring the Council's policy in-line with a number of other authorities in the region. Four Local authorities in the region are now using the Department of Health thresholds rather than a MIG of weekly DWP benefit rate + 25%. None report any noticeable reduction in take up of services when they adopted the DH rate.

Consultation

- 15 Consultation was carried out from 23 October 2017 to 14 January 2018. Explanatory information and a consultation questionnaires were signposted on the Council's website. A press release was issued on the 10 October 17 giving details of the proposals that would be put to Cabinet on 18 October 17.
- 16 In addition, the views of key stakeholders were invited from relevant disability charities and community and voluntary sector groups. Letters and supporting explanatory information were sent to 8 of the key stakeholder groups in the area:
 - Advice in County Durham Partnership;
 - Disability Partnership;
 - Durham Community Action;
 - Citizens Advice, County Durham;
 - Age UK;

- Mental Health Forum;
 - People's Parliament;
 - Durham County Carers Support.
- 17 The letter sent to these groups also stated that if the organisation would like someone to attend one of their meetings or forums to discuss the consultation to contact and this would be arranged. No organisations took up this offer.
- 18 Reminders were sent out twice during the consultation period via media and via reminder emails to the above stakeholder groups to encourage participation and responses to the consultation.
- 19 The questionnaire comprised of key questions. The consultation information and questionnaire are attached as Appendix 2.

Responses received from the Consultation

- 20 During the consultation period, 10 responses were received, all of which were online. The responses received were as follows:

Q1. I am responding to this Consultation as:

- A recipient of non-residential services - 10%;
- A carer of a person receiving non-residential services – 10%;
- A carer/disabled person not receiving non-residential services - 40%;
- Organisation or other respondent 40% of which:
 - Interested individual – 10%;
 - Resident – 10%;
 - Named organisation (not on list of those written to) – 10%;
 - Not defined – 10%.

Q2. As part of the council's financial challenges, we propose to follow the Department of Health national guidelines when assessing charges for new service users. From 1 April 2018 we propose to provide the Minimum Income Guarantee + 18.6%. Do you think that this proposal is fair or unfair? (please refer to the supporting information leaflet for more information)?

- Fair – 0%;
- Unfair – 100%.

Q3. If we proceed with the proposal, how do you feel this could affect you or your organisation?

- One person left this blank and one answered N/A;
- One person commented that to pay more for services would not be fair and would leave people on a low income more disadvantaged;

- One person commented that the whole system was unfair with no real support and the only interest is to take the little savings and income a person has off them;
- One stated that 'one shoe doesn't fit all' and that the Care Act gives discretion for Local Authorities for flexibility. They added that it was obvious that this was a cost saving exercise;
- The same respondent also stated that citing what other councils are doing is a well-used poor excuse for not fulfilling our obligation for equality in financial assessments to all recipients of care past, current and future;
- One respondent (the organisational response) commented on additional costs for disabled people and that when prices increased many people have no way of increasing their income through work; They stated that this was particularly the case for people with a severe learning disability;
- This same respondent also commented on the fact that as people have less money they are in less of a position to use universal community services to meet their needs and become socially isolated;
- The organisation that responded also made a comment regarding disability related expenditure. They said that there was little promotion of disability related expenditure and usually that the way it is assessed and put into practice did not take the full disability related expenditure into account. They made specific reference to concerns regarding taking disability related expenditure into account for people under financial protection who lack capacity as it appeared that a conflict of interest may exist. They added that an advocate should be available with good knowledge of the assessment process;
- This organisation also made reference to the introduction in universal credit and considered that this change would mean disabled people will be multi impacted and this should be taken into account when assessing whether the council is meeting its equality duties.

Q4. Do you have any further comments regarding these proposals, or alternative ways in which the savings can be made in non-residential care services?

- One respondent did not add any further comments;
- One respondent said they didn't think it would be fair to even consider making any further savings;
- There was a comment that Durham County Council has a Duty of Care towards its residents and that savings must be found from elsewhere;
- Another respondent commented that the proposal were unfair. They stated that people being cared for at home by unpaid family carers or friends were already saving the country a fortune, currently the cost of a second NHS, that they should not have to pay anything when it comes to them, or their carers, needing some help or support. They commented that they personally thought that no one should pay anything for homecare as most people have worked and paid tax all

their lives and that if home care keeps them out of hospital it is saving the country money;

- One person commented that they could not see why the changes have to be brought in. They commented on the fact that people already make a 'huge' contribution to their homecare costs as a result of financial assessment and that it seems that those who have achieved higher paid jobs, made adequate pension provision and saved for their later life are penalised by having to pay more than those who haven't;
- There was a comment that having to pay for homecare often affects people's quality of life and that of their spouse. This person also commented that many of the people affected by this are already paying the additional amount for Social Care that has been added to our Council Tax;
- One person commented that the 'consultation' had no real purpose other than a PR exercise and that no matter how badly it affects people, it will be done anyway;
- One person felt that there should be a review of assessment needs and reconsider disability related expenditure within the policy.
- The organisation that responded stated that it would welcome a council officer visiting the club and similar organisations to consult properly and accessibly with people with learning disabilities, to ensure the duties under the Equality act, care act and accessible information standards are fully met. They commented that online and postal consultation is not accessible and other forms of consultation and impact assessments should take place. This organisation is a small organisation that was not on the list of those contacted separately. The Learning Disability parliament, who have involvement of people with learning disabilities, was contacted, but did not respond;
- There was a comment that the consultation wasn't meaningful with comments about the consultation information, saying that it would have been helpful if the documentation provided more detail including on financial boundaries, what actual services were and how discretionary powers can and will be applied;
- This person also commented that there needed to be a valid reason for the change other than other councils are doing it so we may as well;
- One person commented that they understand the need to make changes because of the challenges the council faces but that they felt it was unfair just to target new recipients of care. They believed that a fairer way would be to introduce the reduced MIG + % to existing service users through a phased process perhaps over 2-3 years.

21 Although the views of those who responded to the consultation indicated that there was consensus that the changes proposed were considered to be unfair, support is provided for service users where there are concerns about charges. This is detailed below. Disability Related Expenditure is always taken into account when completing financial assessments.

- 22 There was only one comment about introducing changes in a phased way for all recipients of non-residential care. Paragraph 12 above indicates that there would be an attrition rate due to service users moving to residential care or passing away. This would mean that after a period of some years all service users would be on the new rate.
- 23 Taking into account the MTFP savings required, work is undertaken when examining proposals to benchmark these proposals with what other Local Authorities are doing. Decisions are not made on this alone.
- 24 There were comments about how service users should not have to pay for residential services. The legal framework for charging is set out in sections 14 and 17 of the Care Act. When a local authority has decided to charge it must carry out a financial assessment of what the person can afford to pay. In carrying out the assessment the local authority must have regard to the detailed guidance set out in Annexes B and C of the Care Act.
- 25 In addition, a wider consultation in respect of the councils budget approach and savings proposals for 2018/19 was undertaken with the public and stakeholders between October and December 2017. This included a specific reference to changes in charging. In total, the council engaged over 3,300 people and received 1,175 responses. Overall, 78.1% of respondents stated the approach to making future savings is reasonable, although there were some specific comments made with regard to fee levels and the need to ensure that when increasing charges the most vulnerable are not priced out of much needed services

Equality Impact Assessment

- 26 The Equality Impact Assessment (EIA) has been updated following the consultation to assess the impact on the groups most likely to be affected by the proposals and to take into account the consultation responses. The EIA is attached at Appendix 3. The EIA has also been updated following the consultation to reflect current figures. It is noted that there is very little change in numbers or ratios from the EIA submitted with the Cabinet report in October 2017, therefore analysis of the effect of the changes remains the same.
- 27 The EIA shows that existing service users are more likely to be older and female. It can be anticipated that future service users will form a similar age and gender profile. Overall these groups are more likely to be adversely affected through the financial impacts of additional charging as a result of this policy change. These impacts will be mitigated through the support to service users detailed below.

Support for Service Users

- 28 Advice and support is always given to help service users to maximise their income and benefit entitlement wherever possible during the financial assessment process. This is undertaken through joint work between the Financial Assessments Team and Welfare Rights, who also support the appeals process.
- 29 Care management and social work teams will have carried out a care assessment and identified any care needs, they will draw up a care plan to identify how these needs should be met. Should service users consider that their charges are prohibitive and subsequently decline a service, a reassessment of the service user's care needs can be undertaken.
- 30 Service users who are unhappy with the contribution they would be assessed to make will be offered a further review of their financial assessment on request through our fast track review process. The appeal would be considered by an independent officer and with the support of the Welfare Rights Team.
- 31 In line with general charging principles there is the potential to consider the waiving of charges in exceptional circumstances due to severe hardship or if care management / social work staff consider a person to be at risk.
- 32 When assessing financial contributions for non-residential service disability related expenditure is taken into account. DRE's are actively promoted by the Financial Assessment Team and reference to DRE's is included in the script the team use when they speak to the service user (usually with their families / carers) when completing the financial assessment.
- 33 The rollout of full service Universal Credit in Co Durham will mean that working age service users will undergo a migration from their existing benefits from 2019. The DWP have indicated that those service users that move from their existing legacy benefits will be protected at the point of change.

Conclusion

- 34 This report provides the results of the consultation exercise on the proposals to make changes to the non-residential charging policy for people who receive social care services in respect of the Minimum Income Guarantee. The changes would apply to new clients only from 1 April 2018.
- 35 The proposal is to change the weekly DWP benefit rate +25% disregard and replace this with the disregards as set out in the DH guidance with this policy change applying to new service users only. This would bring the Councils policy in line with other Councils.

- 36 Analysis of caseload data shows that every year 34% of service users aged 65+ stop receiving non-residential services because they either go into residential/ nursing care or pass away. The attrition rate for people aged 18-64 is lower at 14%, as they are likely move into the aged 65+ cohort with the passage of time. The attrition rate is a reason for applying the new rate to new service users only as after a period of time the new rate will apply to all service users.
- 37 There was a limited response to the consultation, possibly reflecting the fact that the Council was not seeking to make these changes for existing recipients of service and the fact that the changes proposed are based on an actual assessment of need. There were only 10 responses, 9 from individuals and 1 from a small organisation. One person who did respond thought that the changes should be made for current service users as well as new service users.
- 38 All of those responding stated that they thought that the change being proposed was unfair and should not proceed.
- 39 The savings from the proposed changes are estimated at c£267,000 per annum across the period 2018/19 to 2020/21 can be achieved, a total of £800,000, which has been built into MTFP(8), as agreed by Council on 21 February 2018.

Recommendations

- 40 Cabinet is recommended to accept the proposal that:
- a) with effect from 1 April 2018, we change the figures used when calculating a MIG from weekly DWP benefit rates +25% to the Department of Health MIG rate;
 - b) the Council do not revise the current financial assessment for people currently receiving services who will remain under the existing policy.

Background Papers

Care Act 2014

Charging Policy for Non-residential Care Services

Proposal for Changes to the Charging Policy for Non-Residential Social Care Services – Report to Cabinet 18 October 2017

Medium Term Financial Plan 2018/19 to 2021/22 and Revenue and Capital Budget 2018/19 – Report to Council 21 February 2018

Contact:	Lee Alexander	Tel: 03000 268180
	Paul Darby	Tel: 03000 261930

Appendix 1: Implications

Finance - If the policy changes proposed in this report are implemented then MTFP savings in the region of £800,000 would be achieved over a three year period. Implementation would be in April 2018 and apply to the financial assessments of new service users only, therefore, based on average caseload and customer turnover, savings would accrue across the period 2018/19 to 2020/21.

Staffing – None. Financial assessments are already undertaken and this policy change will be applied to new assessments for new service users and implemented as part of business as usual.

Risk – Should service users consider that their charges are prohibitive and decline a service then a reassessment of the service user’s care plan could be undertaken.

If a service user considered that their charges are prohibitive and declined a service and the social worker considered that there could be risks to the service user’s well-being as a consequence they would need to carry out a risk assessment and consider reviewing the care plan or if there are sufficient risks to consider waiving charges.

Equality and Diversity/Public Sector Equality Duty – An Equality Impact Assessment is attached to this report.

Accommodation – None

Crime and Disorder - None

Human Rights - None

Consultation – This is a significant policy change which requires consultation. A consultation took place between the 23 October 2017 and 14 January 2018. The Council sought the views of key stakeholders and the wider public, including relevant disability charities and Community and Voluntary Sector groups, through both targeted and open consultation on the proposed changes in adopting the Department of Health’s Minimum Income Guarantee. There was a poor response to the consultation.

This report gives details of the result of the consultation, to enable members to make a final decision on these proposals, taking into account the outcome of the consultation.

Procurement - None

Disability Issues – The proposed policy changes set out in this report would impact on the financial assessment of people with a disability. However, the intention is to adopt the Department of Health’s Minimum Income Guarantee and bring DCC charging policy into line with national guidelines. The proposals in this report will ensure that the council treats all care users fairly and equitably in the financial assessment.

Legal Implications – People in receipt of non-residential services are required to have a financial assessment to calculate how much they can afford to contribute towards the services they receive. The assessment is a means test, is undertaken in line with statutory guidance and takes into account income, including welfare benefits, savings and assets that the person receives.

Allowances and disregards are included in the financial assessment, depending on individual circumstances.

The regulations governing the financial assessment are set out in SI No. 2672 – The Care and Support (Charging and Assessment of Resources) Regulations 2014, which were updated in line with the Care Act 2014.

Within these regulations the Government has also set a minimum income guarantee and if income is below this level service users are not required to pay for their services. The minimum income guarantee is dependent on age and if the person has an underlying entitlement to Severe Disability Premium.



Non-residential Charging Policy

Changes to non-residential charging policy

Q1 Are you responding to this survey as:

- A recipient of non-residential services
- A carer of a person receiving non-residential services
- A carer/disabled person not receiving non-residential services
- An organisation
- Another respondent

If an organisation or another respondent, please specify.

Q2 As part of the council's financial challenges, we propose to follow the Department of Health national guidelines when assessing charges for new service users. From 1 April 2018 we propose to provide the Minimum Income Guarantee + 18.6%. Do you think that this proposal is fair or unfair? (please refer to the supporting information leaflet for more information)

- Fair Unfair Don't know

Q3 If we proceed with the proposal, how do you feel this could affect you or your organisation?

Q4 Do you have any further comments regarding these proposals, or alternative ways in which the savings can be made in non-residential care services?

About you

Our aim is to involve as many people as possible in local decision making and, as such, we would like to make sure everyone has the opportunity to become involved. If you could answer a few questions about yourself it will help us to monitor our performance. Your answers will be confidential and we will only use the information for this consultation.

These questions are entirely optional.

Q5 Are you:

Male

Female

Q6 What is your age?

Under 18

35-44

65-74

18-24

45-54

75-84

25-34

55-64

85+

Q7 Do you consider yourself to be a disabled person? (This may include any long-standing illnesses, disability or infirmity which has a substantial effect on your day-to-day life. Long-standing means it has lasted, or is likely to last, for at least a year.)

Yes

No

Q8 What is your sexual orientation?

Heterosexual/straight

Bisexual

Gay man

Other

Gay woman/lesbian

If other, please specify.

Q9 What is your religion or belief?

Christian

Muslim

Buddhist

Hindu

Jewish

None

Sikh

Other

If other, please specify.

Q10 What is your ethnicity?

White British

Arab or Middle Eastern

White non-British

Mixed Race

Asian or Asian British

Travelling Community

Black or Black British

Other

If other, please specify.

Changes to financial assessments for non-residential care services



Consultation from 23 October 2017 – 14 January 2018

Supporting Information

We are proposing changes from 1st April 2018 to the way in which those who will receive non-residential services are financially assessed. **Existing service users will not be affected by these proposals.**

Background

Non-residential services include a wide range of social care services which enable people to stay in their homes and include home care, day care and extra care services.

In line with national policy, Durham County Council charges for non-residential services if individuals have income over a certain amount. That amount is set by Government. To assess the contribution a person is required to pay towards the cost of their non-residential services a financial assessment is completed that takes into account a number of factors including a person's income and outgoings. Disability related expenditure is also taken into account. This could include additional money a person has to spend because of their disability (for example additional heating or laundry costs).

When the Care Act 2014 came into force on 1 April 2015 the Department of Health prescribed the minimum amount of income a person must be left with after paying for their care and support. Councils can allow people to keep more income than this amount if they wish. This amount is called the minimum income guarantee (MIG) The MIG allowances can be found in the Care and Support (Charging and Assessment of Resources) 2014 regulations.

Currently Durham County Council applies the minimum income guarantee + 25% meaning service users are left with a basic income plus a 25% buffer over and above the minimum income guarantee.

What is being proposed?

For new applicants for non-residential care, we propose to change the allowance from MIG + 25% to a buffer that is equivalent to MIG + 18.6%. This is in line with Department of Health guidance

This approach of using the figures given in the Department of Health Guidance will bring us into line with a number of other authorities who are also making similar changes.

Whilst the proposal is for a reduction to the allowance, the proposed change would still allow new recipients of non-residential services to retain more than the minimum income guarantee to pay for their living costs. Moreover, the local authority will take account of people's circumstances and consider exercising its wider discretion in cases of financial hardship.

To have your say

You can have your say by visiting our website on <http://www.durham.gov.uk/consultation> and filling in our online survey.

You can also contact us for a paper version of the survey on 03000 268252 or email PSOServiceSupportTeam@durham.gov.uk. To assist with collating responses, please do not photocopy the paper version.

The closing date for comments is 14 January 2018

From: Lee Alexander
Email: lee.alexander@durham.gov.uk
Direct Line: 03000 268180
Fax: 0191 3898150
Your ref:
Our ref: LA/CB/DS



23 Oct 2017

Dear Colleague

Over the last six years the council has faced one of the greatest financial challenges in its history and will, by March 2018, have had to save more than £200 million. There is still a long way to go to reach savings of £250 million by 2022. The outlook remains challenging as government funding continues to reduce and demand for some services is rising.

It is against this backdrop of financial challenge that I am writing to inform you that the council is consulting on a proposal to change the Minimum Income Guarantee level that is used when assessing a service user's contribution towards the cost of their non-residential social care services. The consultation will run from 23 October 2017 to 14 January 2018.

The proposed changes will take into account the Department of Health guidance on applying a Minimum Income Guarantee (MIG) and buffer that is equivalent to MIG + 18.6% when calculating a service users contribution towards the cost of their non-residential care services. Currently the figure that is used by Durham County Council is MIG + 25%. The proposed change would bring the Council's financial assessment in line with a number of other local authorities in the northern region. If the proposal is agreed, it will apply to new services users from 1 April 2018. **Existing service users will not be affected by these proposals.**

Further information is provided in the enclosed leaflet and on-line on our website www.durham.gov.uk.

You can let us know your views by filling in our survey on-line or by requesting a paper version of the questionnaire by contacting us on 03000 268252 or emailing

Adults and Health Services (AHS)

Durham County Council, County Hall, Durham DH1 5UJ

Main Telephone 03000 260000

Text messaging service: 07786027280 – please start your message with the word INFO

Jane Robinson, Director

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denise.scott@durham.gov.uk. To assist with collating responses, please do not photocopy the paper version. The closing date for comments is 14 January 2018.

If your organisation would like someone to attend one of your meetings or forums to discuss the consultation please contact by email or telephone and we will arrange to attend.

Following the end of the consultation, the results of the survey will be analysed and a report will be presented to Cabinet in March 2018 for a final decision to be made that takes into account the consultation responses.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Lee Alexander', with a long horizontal flourish extending to the right.

Lee Alexander
Head of Adult Care

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Appendix 3 - Durham County Council –Equality Impact Assessment Form

Durham County Council Equality Impact Assessment

NB: The Public Sector Equality Duty (Equality Act 2010) requires Durham County Council to have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity and foster good relations between people from different groups. Assessing impact on equality and recording this is one of the key ways in which we can show due regard.

Section One: Description and Screening

Service/Team or Section	Adult Services
Lead Officer	Lee Alexander
Title	Review of Adult Social Care Charging
MTFP Reference (if relevant)	AHS 3.2
Cabinet Date (if relevant)	18 October 2017
Start Date	September 2017
Review Date	January 2018 March 2018

Subject of the Impact Assessment

Please give a brief description of the policy, proposal or practice as appropriate (a copy of the subject can be attached or insert a web-link):

This relates to a change to the Adult Social Care Charging policy. Proposals are to change the approach to calculating the Minimum Income Guarantee (MIG) that is part of the Adult Social Care Financial Assessment for charging.

Currently the policy is based on weekly DWP benefit rates PLUS 25%. It is proposed that the new policy is brought in line with DoH guidance, which changed in 2014 and which now equates to weekly benefit rates PLUS 18.6%.

Other Councils have already or are considering this approach (4 in the region have already moved to this position). Transitional arrangements will be used similar to those in other policy changes, where existing recipients will see no change in their current arrangements, but new clients, would be subject to the new rules from 01.04.18.

People in receipt of non-residential services are required to have a financial assessment (means tested) to calculate how much they can afford to contribute towards the services they receive. The financial assessment is undertaken by telephone (on a pre-arranged time and date), in order to ease the burden on service users in terms of completing a financial assessment form themselves, by qualified and trained assessment officers, who have access to care assessment undertaken by care and social work officers which identifies the individuals care needs and the care plan for how these needs will be met.

All financial assessments comply with the Government's Care Act Guidance which will ensure that no-one is asked to pay more than they can afford, in line with national guidelines. During this assessment a benefit maximisation check is also carried out for those who require it. It is not proposed to change the way in which financial assessments are carried out.

The assessment is means tested and takes into account income, including welfare benefits, savings and assets. We also make allowances and disregards in the financial assessment depending on individual circumstances. The Government has set a minimum income and if the assessment income is below this level service users are not required to pay for their services.

Prior to the financial assessment people will have had a care assessment with a social worker and their care needs will be identified and a care plan will be drawn up with the service user to identify how these needs will be met. When undertaking the care needs assessment social workers will ask the service user whether they have someone who helps them with their finances and whether they want or need them present at the point of undertaking the financial assessment.

If at any time during the course of a financial assessment it becomes clear that the service user is struggling to understand or answer the questions or their carer or family member is not present then the assessment is rearranged and potentially a home visit arranged to undertake the assessment.

Following a review of the remaining discretionary elements of the Councils Non-Residential Care charging policy, potential changes to the treatment of service users in receipt of non-residential services have been identified in the use of the Minimum Income Guarantee (MIG).

When the Care Act 2014 came into force on 1 April 2015, the Department of Health prescribed the minimum amount of income a person must be left with after charging for care and support. However local councils can allow people to keep more income if they wish. This is referred to as the Minimum Income Guarantee (MIG). The MIG allowances can be found in the Care and Support (Charging and Assessment of Resources) 2014 regulations.

The Care and Support Statutory Guidance provides that 'There are differences in how income is treated in a care home and in all other settings. Charging a person in a care home is provided for in a consistent national framework. When charging a person in all other settings, a local authority has more discretion to enable it to take

account of local practices and innovations.’ (Care Act Statutory Guidance, Annex C, par 2).

Durham County Council currently use the weekly DWP benefit rates +25% as a mechanism by which service users can be left with a basic income plus a 25% buffer. The concept of using weekly benefit rate +25% was originally devised by Torbay Council and at the time recommended as best practice by the Department of Health (DH).

This puts DCC in a position where it is currently applying allowances that are 6.4% higher than those defined in DH guidance, which applies a buffer equivalent to weekly DWP benefit rates + 18.6%. This results in service users in Co Durham contributing less towards their care than if the allowances set out in the Department of Health’s circular were applied.

One area that DCC can use to mitigate any increase in charges is to take account of disability related expenses (DRE’s) of the allowances made in the financial assessment. Finance Officers can refer to the care plan when DRE’s are identified during the financial assessment.

A 12 week consultation is now complete and analysis of this is available in the evidence section below

This change to the charging policy is estimated to achieve around £800,000 in savings through additional adult social charging income if implemented in 2018/19.

Who are the main stakeholders? (e.g. general public, staff, members, specific clients/service users):

- Service users, families and carers
- Social workers and finance staff
- Relevant disability charities and Community / voluntary groups.

Screening

Is there any actual or potential negative or positive impact on the following protected characteristics?

Protected Characteristic	Negative Impact Indicate: Y = Yes, N = No, ? = unsure	Positive Impact Indicate: Y = Yes, N = No, ? = unsure
Age	Y	N
Disability	Y	N
Marriage and civil partnership (workplace only)	N	N

Pregnancy and maternity	N	N
Race (ethnicity)	N	N
Religion or Belief	N	N
Sex (gender)	Y	N
Sexual orientation	N	N
Transgender	N	N

Please provide **brief** details of any potential to cause adverse impact. Record full details and analysis in the following section of this assessment.

The adverse effect will derive from the increase in care costs predominantly affecting older disabled women.

How will this policy/proposal/practice promote our commitment to our legal responsibilities under the public sector equality duty to:

- eliminate discrimination, harassment and victimisation,
- advance equality of opportunity, and
- foster good relations between people from different groups?

It is anticipated that this policy will implement consistency across all new service users post April 2018.

Evidence

What evidence do you have to support your findings?
Please **outline** your data sets and/or proposed evidence sources, highlight any gaps and say whether or not you propose to carry out consultation. Record greater detail and analysis in the following section of this assessment.

This saving relates to an increase in charging income in respect of adult social care provision by adopting the Department of Health’s disregard known as minimum income guarantee (MIG).

There are currently 6,364 service users receiving a non-residential services.

The current caseload has been used as a proxy for future caseload in terms of this Equality Impact Assessment screening. Of the existing clients receiving this disregard the following demographic characteristics currently apply:

Age Group	Clients
18 – 24	312
25 - 64	2,161
65+	3,891

Client Group	Clients
---------------------	----------------

Older People	3,632
Learning Disabilities	1,535
Mental Health	394
Physical Disability	696
Other	107

Gender	Clients
Female	3,639
Male	2,701
Transsexual	less than 5
Blank	23

At this stage it is clear that the affected clients are more likely to be older and female and in need of some support with their daily living. It can be anticipated that future clients will form a similar age, gender and disability profile. Overall these groups are more likely to be adversely affected through the financial impacts of additional charging as a result of this policy change. These impacts are planned to be mitigated through specific support for clients.

There are 6,364 service users receiving non-residential care services. Of these 4,939 (77.6%) make a financial contribution towards their care costs based on a means tested financial assessment in line with national guidance and the DCC policy framework.

1,425 (22.4%) of all service users currently are on zero charge because they are already on minimum income i.e. no chargeable income.

1,990 (31.3%) of all service users, 40.3% of those who make a financial contribution towards the cost of their care, currently pay for the full cost of their non-residential care services.

The level of care being delivered to them is dependent on the assessed level of care needs, some will pay more if the level of their care increases. The amount a service user pays is dependent on the level of care they receive and their financial circumstances.

As the levels of service provided can vary on a weekly basis, making accurate projections is difficult. However, in view of the fact that just over 50% of those receiving a non-residential service would be unaffected it is projected that the increase in income from a policy change where adopting the figures published on an annual basis in the Department of Health Local Authority Circulars (DH LAC) rather than the weekly DWP rate +25% would be circa £800,000.

Support for Service Users

- Advice and support is always given to help service users to maximise their income and benefit entitlement where ever possible during the financial assessment. This is undertaken through joint work between the Financial Assessments Team and Welfare Rights, who also undertake the appeals.

- Care management and social work support will be available to clients if required. Should clients find that the charges are prohibitive and decline a service, and then a reassessment of the service user's care plan could be undertaken.
- An assessment of a client's disability related expenditure forms an integral part of the financial assessment and is explained to clients when the assessment is carried out. This allows the client to be confident that all their disability related expenditure has been taken into account and that the financial assessment process had been fair, balanced and tailored to their individual needs.
- Clients who are unhappy with the contribution they would be assessed to make would be offered a further review of their financial assessment on request through our fast track review process. The appeal would be considered by an independent officer and with the support of the Welfare Rights team. In line with general charging principles there is the potential to consider the waiving of charges in exceptional circumstances due to severe hardship.

Further Evidence

- Growing demand for social care services and demographic information as set out in the JSN
- As more clients are women, then the potential is for women to be more affected by any changes than men. (Source: SSID data).
- Most clients consulted will have some form of physical disability, mental health condition, or general frailty due to old age.

Consultation

- A 12 week consultation has been undertaken regarding changes to the charging policy. The consultation closed on 14 January 2018. There has been a total of 10 responses, one from a small organisation and 9 from individuals. The views expressed during the consultation were unanimous in the fact that the proposed changes were seen as being unfair. In comments they stated that people should not be charged for non-residential services, that changes would affect the poorest and that Disability Related Expenditure (DRE) was not taken into consideration. DRE is taken into account in financial assessments and the department has a legal obligation to charge for services. Individual financial assessments are undertaken and support is offered in individual circumstances.

Screening Summary

On the basis of this screening is there:	Confirm which refers (Y/N)
Evidence of actual or potential impact on some/all of the protected characteristics which will proceed to full assessment?	Y
No evidence of actual or potential impact on some/all of the protected characteristics?	N

Sign Off

Lead officer sign off: Lee Alexander	Date: September 2017 and January 2018
Service equality representative sign off: Research and equalities manager	Date: September 2017 and January 2018

Section Two: Data analysis and assessment of impact

Please provide details on impacts for people with different protected characteristics relevant to your screening findings. You need to decide if there is or likely to be a differential impact for some. Highlight the positives e.g. benefits for certain groups, advancing equality, as well as the negatives e.g. barriers for and/or exclusion of particular groups. Record the evidence you have used to support or explain your conclusions. Devise and record mitigating actions where necessary.

Protected Characteristic: Age										
What is the actual or potential impact on stakeholders?	Record of evidence to support or explain your conclusions on impact.	What further action or mitigation is required?								
Existing clients are more likely to be older and female. It can be anticipated that future clients will form a similar age and gender profile. Overall these groups are more likely to be adversely affected through the financial impacts of additional charging as a result of this policy change.	<table border="1"> <thead> <tr> <th>Age Group</th> <th>Current Clients</th> </tr> </thead> <tbody> <tr> <td>18 – 24</td> <td>312</td> </tr> <tr> <td>25 - 64</td> <td>2,161</td> </tr> <tr> <td>65+</td> <td>3, 891</td> </tr> </tbody> </table>	Age Group	Current Clients	18 – 24	312	25 - 64	2,161	65+	3, 891	These impacts will be mitigated through the support to new clients including the use of DRE's.
Age Group	Current Clients									
18 – 24	312									
25 - 64	2,161									
65+	3, 891									

Protected Characteristic: Disability														
What is the actual or potential impact on stakeholders?	Explain your conclusion considering relevant evidence and consultation	What further action or mitigation is required?												
All clients will have had an assessment of their needs and will have a degree of disability in order to access services. All those people affected by this financial change will have a disability.	<table border="1"> <thead> <tr> <th>Group</th> <th>Current Clients</th> </tr> </thead> <tbody> <tr> <td>Older People</td> <td>3,632</td> </tr> <tr> <td>Learning Disabilities</td> <td>1,535</td> </tr> <tr> <td>Mental Health</td> <td>394</td> </tr> <tr> <td>Physical Disability</td> <td>696</td> </tr> <tr> <td>Others</td> <td>107</td> </tr> </tbody> </table>	Group	Current Clients	Older People	3,632	Learning Disabilities	1,535	Mental Health	394	Physical Disability	696	Others	107	These impacts will be mitigated through the support to new clients. Reasonable adjustments will be made where required
Group	Current Clients													
Older People	3,632													
Learning Disabilities	1,535													
Mental Health	394													
Physical Disability	696													
Others	107													

Protected Characteristic: Marriage and civil partnership (workplace only)		
What is the actual or potential impact on stakeholders?	Explain your conclusion considering relevant evidence and consultation	What further action or mitigation is required?
N/A		

Protected Characteristic: Pregnancy and maternity

What is the actual or potential impact on stakeholders?	Explain your conclusion considering relevant evidence and consultation	What further action or mitigation is required?
Insufficient evidence available to show whether or not impact is likely.		

Protected Characteristic: **Race (ethnicity)**

What is the actual or potential impact on stakeholders?	Explain your conclusion considering relevant evidence and consultation	What further action or mitigation is required?
There is no evidence available to show whether or not impact is likely.		

Protected Characteristic: **Religion or belief**

What is the actual or potential impact on stakeholders?	Explain your conclusion considering relevant evidence and consultation	What further action or mitigation is required?
There is no evidence available to show whether or not impact is likely.		

Protected Characteristic: **Sex (gender)**

What is the actual or potential impact on stakeholders?	Explain your conclusion considering relevant evidence and consultation	What further action or mitigation is required?										
58% of clients affected are expected to be female based on the current client profile. On average they will likely see an increase in their charge.	<table border="1"> <thead> <tr> <th>Gender</th> <th>Current Clients</th> </tr> </thead> <tbody> <tr> <td>Female</td> <td>3,639</td> </tr> <tr> <td>Male</td> <td>2,701</td> </tr> <tr> <td>Transsexual</td> <td>less than 5</td> </tr> <tr> <td>Blank</td> <td>23</td> </tr> </tbody> </table>	Gender	Current Clients	Female	3,639	Male	2,701	Transsexual	less than 5	Blank	23	These impacts will be mitigated through the support to new clients.
Gender	Current Clients											
Female	3,639											
Male	2,701											
Transsexual	less than 5											
Blank	23											

Protected Characteristic: **Sexual orientation**

What is the actual or potential impact on stakeholders?	Explain your conclusion considering relevant evidence and consultation	What further action or mitigation is required?
There is no evidence available to show whether or not impact is likely		

Protected Characteristic: **Transgender**

What is the actual or potential impact on stakeholders?	Explain your conclusion considering relevant evidence and consultation	What further action or mitigation is required?
There is less than five transgender service user in receipt of services.	Transgender: less than five	These impacts will be mitigated through the support to new clients

Section Three: Conclusion and Review

Summary

Please provide a brief summary of your findings stating the main impacts, both positive and negative, across the protected characteristics.

The EIA does say that there are impacts of the change overall, (affected people are more likely to be older, female and obviously have some form of severe disability), but it also says that future clients are likely to be of a similar profile to existing clients. So it is unlikely that there is to be any disproportionate effects with respect to the protected characteristics by taking these transitional measures. Transitional arrangements have been used in other policy changes, where existing recipients will see no change in their current arrangements, but new clients, after a specific point in time, are subject to the new rules.

Will this promote positive relationships between different communities? If so how?

Action Plan

Action	Responsibility	Timescales for implementation	In which plan will the action appear?
12 week public consultation has been completed.	Lee Alexander	Oct 2017 – if agreed at Cabinet	
Report to Cabinet following the close of the public consultation	Lee Alexander	March 2018 for implementation of changes on 1 April 2018 if agreed by Cabinet	
Reasonable adjustments will be made for disability where required	Lee Alexander	1 April 2018 and ongoing	

Review

Are there any additional assessments that need to be undertaken? (Y/N)	N
When will this assessment be reviewed? Please also insert this date at the front of the template	January 2018

Sign Off

Lead officer sign off: Lee Alexander, Head of Adult Care	Date: September 2017 and January 2018
Service equality representative sign off: Research and equalities manager	Date: September 2017 and January 2018

Please return the completed form to your service equality representative and forward a copy to equalities@durham.gov.uk