

Cabinet – Supplementary agenda

A meeting of the Cabinet will be held on:

Date: 29 November 2011

Time: 3.00pm

Venue: Meeting Room 2 - Level 3, Gun Wharf, Dock Road, Chatham ME4
4TR

Items

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|----|---|------------------------|
| 5. | Medway Council's Vision for Commissioning and Providing Adult Social Care Services in Medway | (Pages 1 - 24) |
| 6. | Fairer Contributions for Access to Services | (Pages 25 - 34) |

For further information please contact Wayne Hemingway/Anthony Law, Democratic Services Officers on Telephone: 01634 332509/332008 or Email: democratic.services@medway.gov.uk

Date: 22 November 2011



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CABINET

29 NOVEMBER 2011

MEDWAY COUNCIL'S VISION FOR COMMISSIONING AND PROVIDING ADULT SOCIAL CARE SERVICES IN MEDWAY

Portfolio Holder: Councillor David Brake, Adult Services

Report from: Rose Collinson, Director, Children's and Adult Services

Author: David Quirke-Thornton, Assistant Director, Adult Social Care

Summary

The purpose of this report is to seek agreement from Cabinet to consult on the future of Balfour Day Centre, Robert Bean Lodge, Platters Farm Lodge and Nelson Court.

The Council owns each of the sites where these services are provided.

This paper sets out the reasons and the timetable for undertaking consultation and engagement on the proposal.

1. Budget and Policy Framework

1.1 The Balfour Day Centre, Robert Bean Lodge, Platters Farm Lodge and Nelson Court are provided by the council and therefore a matter for Cabinet. This decision is within the budget and policy framework.

1.2 The Cabinet is asked to accept this report as urgent to enable consultation to commence at the earliest opportunity.

2. Background

2.1 The council owns and provides services from the following four Adult Social Care services

(a) The Balfour Day Centre. The consultation will focus on the proposal for the day centre to be decommissioned.

(b) Robert Bean Lodge is a residential care home for older people with dementia and provides on-site day care services. The consultation will focus on the proposal for the care service to be outsourced to an independent provider.

- (c) Platters Farm Lodge is an intermediate care facility and provides on-site day care services. The consultation will focus on the proposal for the care service to be outsourced to an independent provider.
 - (d) Nelson Court is a residential care home for older people with dementia and provides on-site day care services. The consultation will focus on the proposal for the care service to be outsourced to an independent provider.
- 2.2 Medway Council is responding to the Government's Vision for a modern system of Adult Social Care built on seven principles:
- 2.2.1 **Personalisation:** individuals not institutions take control of their care. Personal Budgets and Direct Payments are provided to all eligible people. Information about care and support is available for all local people regardless of whether or not they fund their own care.
 - 2.2.2 **Partnership:** care and support delivered in a partnership between individuals, communities, the voluntary and private sectors, the NHS and councils.
 - 2.2.3 **Plurality:** the variety of people's needs is matched by diverse service provision with a broad market of high quality service providers.
 - 2.2.4 **Protection:** there are sensible safeguards against the risk of abuse or neglect. Risk is no longer an excuse to limit people's freedom.
 - 2.2.5 **Productivity:** greater local accountability will drive improvements and innovation to deliver higher productivity and high quality care and support services. A focus on publishing information about agreed quality outcomes will support transparency and accountability.
 - 2.2.6 **People:** we can draw on a workforce who can provide care and support with skill, compassion and imagination, and who are given the freedom and support to do so. We need the whole workforce, including care workers, nurses, occupational therapists, physiotherapists and social workers, alongside carers and the people who use services, to lead the changes set out here.
 - 2.2.7 **Prevention:** empowered people and strong communities will work together to maintain independence. Where the state is needed, it supports communities and helps people to retain and regain independence.
- 2.3 Competition can provide the impetus of choice for service users and carers, and increasing innovation amongst providers. Evidence from a wide range of public services shows that choice and competition can be a powerful tool to drive up quality and reduce and control costs. Benchmarking both quality and unit costs provides an important reference for councils as they grow a broader market of local care. Medway Council is working with the Institute of Public Care, Oxford Brookes University to develop an Adult Social Care market strategy with high quality care at its heart in line with public expectation, by March 2012.

- 2.4 Separating responsibility for commissioning and providing services is the approach being taken by Local Authorities. Many councils are therefore taking strategic decisions to provide services only where the local sector cannot provide such services.
- 2.5 Officers consider that the proposals are in line with best practice for the reasons set out in the advice and analysis and specifically described for each service below:
- 2.5.1 **Balfour Centre** is a day centre that supports adults with disabilities. The number of people using the service is falling and the number of people choosing Personal Budgets is rising. Therefore the unit cost of the service is increasing and the independent sector offers more cost effective and personalised alternatives. There are currently 108 Service Users with an average daily attendance of 34 Service Users (as of October 2011). In the last year attendance has been running at approximately 73% of booked places. Over the same period, Direct Payments (a Personal Budget where the Service User chooses a cash payment in lieu of a service and arranges personalised support) have increased by 17%.
- 2.5.2 Access to community facilities such as leisure services and adult education with specially adapted facilities including *Changing Place* toilets is now available in Medway. The Council is working with a number of providers and has been contacted over the last 12 months by organisations that are keen to provide day opportunities for people with disabilities.
- 2.5.3 **Robert Bean Lodge** (36 beds) and **Nelson Court** (28 beds) provide residential care for older people with dementia. Both sites have day care facilities. **Platters Farm Lodge** (43 beds) is an accommodation based intermediate care facility. It also provides on-site day care. The care provided is of a high quality. The benchmarking of the costs for these in-house services are significantly in excess of the independent sector unit costs. By outsourcing these services the council can widen access to these services for people who fund their own care without recourse to the council and also better use its resources in terms of purchasing services for those in most need.
- 2.6 Where a significant change occurs in relation to a service to the public, consultation is always required. Consultation is an opportunity to explain the reasoning for the proposals and to obtain the views of stakeholders, such as current users, family carers and staff, as to existing services and proposals and to give others the opportunity to put forward options on how to reshape the service. Even if the Council are able to demonstrate cogent reasons for the proposals (e.g. as set out in paragraph 2.5) the council must also mitigate against any unintended or consequential impact that the changes may cause. The Council mechanism for considering these impacts is an impact assessment, into which the Council will feed information it has regarding equalities, including information gathered through engagement with stakeholders. The Cabinet, as decision makers, will consider all that

information and assessment when making decisions regarding these services.

3. Options

- 3.1 The consultation will look at the future of each service with all stakeholders including existing service users, carers, staff and the agencies that refer into the respective services.

3.1.1 Balfour Day Centre

3.1.1.1 Do Nothing

The number of people attending the day centre is falling. This is mainly due to the personalisation agenda, which has encouraged choice and raised expectations from Service Users and carers. The day centre is becoming increasingly expensive to run when benchmarked against other providers of daytime opportunities for support. Moreover there is a need to move away from day centres to daytime opportunities relating to getting working age adults, where appropriate, into employment, volunteering, training or education.

3.1.1.2 Outsource as per Health and Adult Social Care Overview and Scrutiny Committee recommendation in 2008

The recommendation was that the Balfour Day Centre should be outsourced to a third sector organisation. Officers considered this option with others and concluded that this was only viable if the numbers were maintained and investment maintained. However, the government's national targets relating to personalisation: 7% in 2009/10 and 30% in 2010/11 has meant that people have exercised their choice in relation to day activities and the number of people attending the Balfour Day Centre has fallen.

Third sector organisations are responding positively to the personalisation agenda and therefore are ensuring that the services offered are personalised and financially sustainable. The Balfour Day Centre, due to its size, is predicated on high attendance numbers which makes personalised activities – and meaningful outcomes - more difficult to achieve.

Given that the number of attendees is falling and the day centre is therefore becoming more expensive to run, it would not be appropriate to outsource the service, which is considered to be financially unsustainable given changes in the sector locally..

3.1.1.3 Outsourcing through open competition

Officers considered this option with others and concluded that this was only viable if the numbers were maintained and investment maintained. However, the government's national targets relating to personalisation: 7% in 2009/10 and 30% in 2010/11 has meant that people have exercised their choice in relation to day activities and the number of people attending the Balfour Day Centre has fallen.

Whilst open market competition will provide more certainty about achieving best value, the issues relating to a falling number of attendees and therefore the day centre becoming more expensive to run will cause the tendering opportunity to be an unattractive proposition.

3.1.1.4 **Decommission**

The number of people attending the Balfour Day Centre is falling. This is mainly due to the personalisation agenda, which has encouraged choice and raised expectations from service users and carers. The day centre is becoming increasingly expensive to run when benchmarked against other providers of daytime opportunities for support.

Personal Budgets would be allocated to service users based on eligible needs and agreed outcomes. The process of agreeing outcomes will encourage active discussions about choices.

Having considered the above options, officers recommend that the option of decommissioning be consulted upon.

3.1.2 **Robert Bean Lodge, Nelson Court and Platters Farm Lodge**

3.1.2.1 **Do Nothing**

The bed price for each service is very expensive compared to that of the independent sector. The previous publication of ratings by the Care Quality Commission demonstrates that comparable quality of care can be achieved at a less expensive price.

As these are in-house services they are only available to those with eligible needs that are supported by the council. By moving these services into the independent sector, this will make the services available to the wider community and in particular those people who fund their own care known as self-funders. The council has an interest in supporting self-funders through market facilitation.

3.1.2.2 **Decommission**

Decommissioning the services at Robert Bean Lodge and Nelson Court will cause the sector locally to lose an important supply of good quality care in Medway which is required at this time to respond to the demographic pressures of an aging population. Equally the need for intermediate care in Medway is currently under review with an expectation that there is a need for more opportunities to access rehabilitation rather than less.

3.1.2.3 **Outsourcing through open competition**

The previous publication of ratings by the Care Quality Commission demonstrates that comparable quality of care can be achieved at a less expensive price. The council contracts with many providers in Medway who deliver high quality care at significantly lower cost and they remain sustainable.

Having considered the above options, officers recommend that the option of outsourcing be consulted upon.

4. Advice and analysis

- 4.1 In 2010/11, Medway Council spent 21% of its Older People residential care budget, £4.3 million, on in-house services; the bed capacity represents 3% of the market. In the same year, 91% of the day care budget, £613,799, was spent on in-house services for people with disabilities.
- 4.2 Outsourcing in Adult Social Care started with the NHS and Community Care Act 1990, which established councils' central functions as assessing need and funding and commissioning care, rather than service delivery.
- 4.3 Medway Council has demonstrated its commitment to ensuring that the local Adult Social Care sector benefits from excellent training. All provider services (in-house and external providers) can access training from the Medway College of Social Care, which is run by the Medway Adults Community Learning Service.
- 4.4 Officers have considered the risk of providers not offering individuals the best care and value for money. Officers consider the risk to be low because the personalisation agenda is about making sure individual service users can get the service that they need in the way that they would want. Good information, advice and guidance available in Medway supports Service Users to obtain the services they want.
- 4.5 Quality assurance is at the heart of commissioning and the council has robust contract monitoring arrangements in place that ensure that service providers offer high quality services and value for money.

5. Risk Management

Risk	Description	Action to avoid or mitigate risk
Complaints from Service Users and family carers at the Balfour Day Centre	Poor communication could lead to a poor relationship between the council and the Service Users and carers.	<p>Ensure that we appropriately consult and communicate with all service users and carers, and provide clear information.</p> <p>Ensure that decision takers take into account all relevant factors and comply with all legal requirements.</p>
Complaints from Service Users and carers at the residential care services	Service Users and carers may be concerned about maintaining the quality of service and the long term plans for the care homes.	<p>Ensure that we appropriately communicate and consult with Service Users and carers, to provide reassurance that demonstrates the council's mechanisms for managing quality assurance and due diligence in relation to sustainability.</p> <p>Ensure that decision takers take into account all relevant factors and comply with all legal requirements</p>

6. Consultation

- 6.1 The Council's legal requirements as to consultation are set out below.
- 6.2 Consultation periods are suggested to ensure that the council can undertake a thorough consultation process.
- 6.3 The Balfour Day Centre, Robert Bean Lodge and Nelson Court are suggested for 60 days consultation given the significance for Service Users at the Balfour Day Centre and the fact that Robert Bean Lodge and Nelson Court are the homes of over 60 residents. Officers want to ensure that there is sufficient time to undertake a thorough consultation process and obtain all views, comments and suggestions.
- 6.4 Platters Farm Lodge has a transient (temporary) population of up to 43 people at any one time and therefore consultation is scheduled for 30 days. This timescale is different to the other services because it is not people's home.
- 6.5 Consultation will also include this paper being presented to the Health and Adult Social Care Overview and Scrutiny Committee on 26 January 2012.

- 6.6 In developing consultation paperwork for these services, FAQ information will be included to ensure that the key messages about why the services need to change is explained in a transparent and clear way.
- 6.7 The consultation process will further inform the Diversity Impact Assessment for each service in the attached appendices.
- 6.8 Consultation will involve engagement with all those affected by the proposals. Correspondence will be made available in easy read versions. The consultation materials will also be published on the council's website and made available to Medway's Local Involvement Network which brings together people and organisations with an interest in health and social care services.
- 6.9 Consultation will also include fully assemble consultation meetings at the residential care services and day centre so that people can share with officers their views, comments and suggestions.

6 Legal, Financial and HR implications

6.1 Legal

- 6.1.1 The Council has a range of statutory duties and powers to provide services to vulnerable adults such as older people, people with learning disabilities, physically disabled people, people with mental health problems, drug and alcohol misusers and carers. Duties and powers are contained within the National Assistance Act 1948, the Chronically Sick and Disabled Persons Act 1970, the NHS and Community Care Act 1990, the Mental Health Act 1983 together with other statutes and regulations. Local Authorities can provide or commission services in a variety of ways to meet the needs of those it assesses as eligible for services. Indeed the personalisation agenda encourages moves away from direct provision by councils to personal budgets allowing service users the choice to purchase services from a range of providers.
- 6.1.2 Where any consultation is undertaken it must be undertaken at a time when proposals are still at a formative stage; it must include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and an intelligent response; adequate time must be given for this purpose; and the product of consultation must be conscientiously taken into account when the ultimate decision is taken.
- 6.1.3 When considering making changes to service provision, the decision maker needs to comply with its obligations as to equalities under the Equality Act 2010. In essence this requires decision makers to have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - 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.

- 6.1.4 Protected characteristics, as defined in the 2010 Act, are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 6.1.5 Having due regard to the above needs involves
- removing or minimising disadvantages suffered by people due to their protected characteristics.
 - taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
 - encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.
- 6.1.6 In order to comply with its equality duties, the Council is required to engage with service users, representative groups, staff and unions and to use the information and views gathered as a result of such engagement (together with other equality information the local authority has) in assessing the equality impact of the proposals.
- 6.1.7 Where the Council will be procuring services as a result of the transfer of properties to the private sector, it must carry out a procurement exercise. The services that would be procured are Part B under the Public Contracts Regulations 2006 (as amended) which means that only some of the EU procurement rules apply – namely, obligations relating to technical specifications (i.e. non-discriminatory specification requirements) and post-award information (i.e. a requirement to send a Contract Award Notice to the Office of Publication of the OJEU).
- 6.1.8 It is established case law that the award procedures for contracts must comply with the general principles derived from the Treaty on the functioning of the European Union, in particular the principle of equal treatment and the consequent obligation of transparency. This means that the contract should still be given a sufficient degree of advertising necessary in order to alert likely potential suppliers of the opportunity to bid. Competition remains the main mechanism by which the Council can ensure both improvements in quality and innovation of service provision, and value for money. The invitations to tender will still need to be accompanied by agreed evaluation criteria that are designed to determine the bid that represents the best solution to deliver the specified requirements. The best value for money bid will be that which is judged to offer the optimum combination of service capability and quality (including safeguarding standards, safety, deliverability and other specified areas).
- 6.1.9 The Council also needs to taken into account the human rights of residents under the Human Rights Act 1998. The human rights relevant under the Human Rights Act 1998 are those set out in Article 8, the First Protocol, Article 1 of the European Convention on Human Rights.

Article 8 states as follows:

- (1) *Everyone has the right to respect for his private and family life, his home and his correspondence.*

- (2) *There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*

Article 1 of the First Protocol states as follows:

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

In making a final decision Cabinet will need to take in to account any issues raised by residents including any alternative options put forward, and ensure that the agreed action is proportionate to the aims pursued by the Council.

6.2 Financial

- 6.2.1 The council must make efficiencies in order to deliver a balanced budget over the next three years and to respond to the reduction in funding available to the council from central Government.
- 6.2.2 Adult Social Care is the second highest spend in the council, after schools. By better using resources so that the same or better outcomes are delivered in an affordable way this will enable the council to continue to make the same range of services available to the growing population of those with substantial and critical needs.
- 6.2.3 It is estimated that the options for outsourcing the residential care services will deliver a saving in the region of £1.1m pa.
- 6.2.2 In addition to this, it is estimated that decommissioning the Balfour Day Centre and re-providing services through Personal Budgets and alternative services, would save a further £200,000 pa.

6.3 Human Resources

- 6.3.1 Any reorganisation of services will have an impact on employees. Where an undertaking (e.g. the management and operation of a care home) is transferred as a going concern the Transfer of Undertakings (Protection of Employment) Regulations 2006 will apply. In most cases, any staff assigned to that undertaking will be transferred on mainly the same terms and conditions to the new provider.

6.3.2 Where a provision is closed without being transferred to a new provider it is likely that the staff will be redeployed or redundant. The Council must ensure that the process for any proposed redundancies complies with the required statutory obligations to inform and consult employees both collectively and individually under Section 188 of The Trade Union and Labour Relations (Consolidation) Act 1992. The Council is also under a duty to inform the Secretary of State under Section 193 of the above Act about proposed redundancies. In addition, the process adopted with regard to potential redundancies must be in accordance with the Council's redundancy procedure and comply with the general principles of fairness.

8. Recommendations

8.1 That officers commence a consultation process with Service Users, family carers, staff and stakeholders in respect of the proposals and report the outcome to Cabinet on 14 February 2011.

9. Suggested reasons for decisions

9.1 Officers consider that the proposals are desirable because of the reasons set out in the options and advice and analysis sections of this report.

9.2 Consultation with Service Users, carers, staff and other key stakeholders will ensure that the council has a clear understanding about the views of those with an interest in the service, understanding and mitigating any potential adverse impact and ensuring that the appropriate option is presented to Cabinet for a decision.

9.3 In particular, benchmarking of Robert Bean Lodge, Nelson Court and Platters Farm Lodge against the independent sector demonstrates that the services are relatively expensive and that efficiencies can be achieved without compromising the quality of outcomes delivered by each service

9.4 The number of attendees at the Balfour Day Centre is falling. This is mainly due to the personalisation agenda, which has encouraged choice and raised expectations from service users and carers. The centre is becoming increasingly expensive to run when benchmarked against other providers of daytime opportunities with support.

Lead officer contact details

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Background Papers:
None

Appendix 1

Diversity Impact Assessments

Directorate Children and Adults	Name of Function Balfour Day Centre		
Officer responsible for assessment Genette Laws	Date of assessment November 2011	New or existing? existing	
Defining what is being assessed			
1. Briefly describe the purpose and objectives	Decommission the Balfour Day Centre		
2. Who is intended to benefit, and in what way?	The taxpayer will continue to fund the needs of current and future potential service users in more cost effective ways that provide the same or better outcomes.		
3. What outcomes are wanted?	More choice and control for people with eligible needs. Cost effective solutions for individuals and the council.		
4. What factors/forces could contribute/detract from the outcomes?	<u>Contribute</u> A responsive independent sector An improved process of understanding people's needs and agreeing meaningful outcomes	<u>Detract</u> Severe weather may lead to a delay in the programme in terms of consultation or implementation.	
5. Who are the main stakeholders?	Service users Carers Employees Referral agencies		
6. Who implements this and who is responsible?	Social Care Commissioning team will facilitate the consultation and will be responsible for implementation of the decision by Cabinet.		
Assessing impact			
7. Are there concerns that there <u>could</u> be a differential impact due to <i>racial groups</i>?	NO	There is no significant over-representation of a minority ethnic group.	
What evidence exists for this?	Information held on Care Director		
8. Are there concerns that there <u>could</u> be a differential		The service is designed for people with disabilities – not just physical disabilities but	

impact due to <i>disability</i> ?	NO	also learning disabilities. There are sixteen people with learning disabilities.
What evidence exists for this?	Information from the in-house service monitoring arrangements.	
9. Are there concerns that there <u>could</u> be a differential impact due to <i>gender</i> ?	NO	The service users of the Balfour Day Centre reflect the gender profile of people that receive care and support from Adult Social Care
What evidence exists for this?		
10. Are there concerns there <u>could</u> be a differential impact due to <i>sexual orientation</i> ?	NO	There is no information to indicate this nor refute it.
What evidence exists for this?	The monitoring of sexual orientation is a challenge for the council.	
11. Are there concerns there <u>could</u> be a have a differential impact due to <i>religion or belief</i> ?	NO	There is no information to indicate this nor refute it.
What evidence exists for this?	The monitoring of religion is a challenge for the council.	
12. Are there concerns there <u>could</u> be a differential impact due to people's <i>age</i> ?	NO	
What evidence exists for this?	Information from the in-house service monitoring arrangements and Care Director.	
13. Are there concerns that there <u>could</u> be a differential impact due to <i>being transgendered or transsexual</i> ?	NO	There is no information to indicate this nor refute it.
What evidence exists for this?	The monitoring of transgender or transsexual is a challenge for the council.	
14. Are there any <i>other</i> groups that would find it difficult to access/make use of the function (e.g. people with caring responsibilities or dependants, those with an offending past, or people living in rural areas)?	NO	
What evidence exists for this?		
15. Are there concerns there <u>could</u> be a have a differential		

impact due to <i>multiple discriminations</i> (e.g. disability and age)?	NO	
What evidence exists for this?	Please see above	
Conclusions & recommendation		
16. Could the differential impacts identified in questions 7-15 amount to there being the potential for adverse impact?	NO	
17. Can the adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or another reason?		Not applicable
Recommendation to proceed to a full impact assessment?		
NO	Please see comments above which will be further informed by the outcome of consultation.	
NO BUT ...	What is required to ensure this complies with the requirements of the legislation? (see DIA Guidance Notes)?	
YES	Give details of key person responsible and target date for carrying out full impact assessment (see DIA Guidance Notes)	

Action plan to make Minor modifications		
Outcome	Actions (with date of completion)	Officer responsible
Planning ahead: Reminders for the next review		
Date of next review		

Areas to check at next review (e.g. new census information, new legislation due)		
Is there <i>another</i> group (e.g. new communities) that is relevant and ought to be considered next time?	No	
Signed (completing officer/service manager) Genette Laws, Social Care Commissioning and Voluntary Sector Manager	Date November 2011	
Signed (service manager/Assistant Director)	Date	

Directorate Children and Adults	Name of Function Nelson Court, Robert Bean Lodge		
Officer responsible for assessment Genette Laws	Date of assessment November 2011	New or existing? existing	
Defining what is being assessed			
1. Briefly describe the purpose and objectives	Outsource services		
2. Who is intended to benefit, and in what way?	The allocated budget for people with adult social care needs will be used in a more cost effective way so that the efficiencies realised from the outsourcing can help assist the growing numbers of people calling on the council for support.		
3. What outcomes are wanted?	Better use of resources for people with adult social care needs and in particular those living with dementia. To maintain, and where possible, improve the good outcomes currently being delivered.		
4. What factors/forces could contribute/detract from the outcomes?	<u>Contribute</u> A responsive and cost effective independent sector	<u>Detract</u> Severe weather may lead to a delay in the programme in terms of consultation or implementation.	
5. Who are the main stakeholders?	Service users Carers Employees Referral agencies		
6. Who implements this and who is responsible?	Social Care Commissioning team will facilitate the consultation and will be responsible for implementation of the decision by Cabinet.		

Assessing impact		
7. Are there concerns that there <u>could</u> be a differential impact due to <i>racial groups</i>?	YES	There is no significant over-representation of a minority ethnic group.
	NO	
What evidence exists for this?	Information held on Care Director	
8. Are there concerns that there <u>could</u> be a differential impact due to <i>disability</i>?	YES	The service is designed for people with frailties and disabilities who are living with dementia.
	NO	
What evidence exists for	Pen pictures of those that are resident at the service	

this?		
9. Are there concerns that there <u>could</u> be a differential impact due to <i>gender</i> ?	YES	The service users for both services reflect the gender profile of people that receive care and support from Adult Social Care
	NO	
What evidence exists for this?		
10. Are there concerns there <u>could</u> be a differential impact due to <i>sexual orientation</i> ?	YES	There is no information to indicate this nor refute it.
	NO	
What evidence exists for this?	The monitoring of sexual orientation is a challenge for the council.	
11. Are there concerns there <u>could</u> be a have a differential impact due to <i>religion or belief</i> ?	YES	There is no information to indicate this nor refute it.
	NO	
What evidence exists for this?	The monitoring of religion is a challenge for the council.	
12. Are there concerns there <u>could</u> be a differential impact due to people's <i>age</i> ?	YES	The service is designed for older people.
	NO	
What evidence exists for this?	Information from the in-house service monitoring arrangements	
13. Are there concerns that there <u>could</u> be a differential impact due to <i>being transgendered or transsexual</i> ?	YES	There is no information to indicate this nor refute it.
	NO	
What evidence exists for this?	The monitoring of transgender or transsexual is a challenge for the council.	
14. Are there any <i>other</i> groups that would find it difficult to access/make use of the function (e.g. people with caring responsibilities or dependants, those with an offending past, or people living in rural areas)?	YES	
	NO	
What evidence exists for this?		
15. Are there concerns there <u>could</u> be a have a differential impact due to <i>multiple discriminations</i> (e.g. disability <u>and</u> age)?	YES	Brief statement of main issue
	NO	
What evidence exists for this?	Please see above	

Conclusions & recommendation		
16. Could the differential impacts identified in questions 7-15 amount to there being the potential for adverse impact?	YES	
	NO	
17. Can the adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or another reason?	YES	Not applicable
	NO	
Recommendation to proceed to a full impact assessment?		
NO	Please see comments above which will be further informed by the outcome of consultation over 60 days.	
NO BUT...	What is required to ensure this complies with the requirements of the legislation? (see DIA Guidance Notes)?	
YES	Give details of key person responsible and target date for carrying out full impact assessment (see DIA Guidance Notes)	

Action plan to make Minor modifications		
Outcome	Actions (with date of completion)	Officer responsible
Planning ahead: Reminders for the next review		
Date of next review		
Areas to check at next review (e.g. new census information, new legislation due)		

Is there <i>another</i> group (e.g. new communities) that is relevant and ought to be considered next time?	No	
Signed (completing officer/service manager) Genette Laws, Social Care Commissioning and Voluntary Sector Manager	Date November 2011	
Signed (service manager/Assistant Director)	Date	

Directorate Children and Adults	Name of Function Platters Farm Lodge Intermediate care service		
Officer responsible for assessment Genette Laws	Date of assessment November 2011	New or existing? existing	
Defining what is being assessed			
1. Briefly describe the purpose and objectives	Outsource Platters Farm Lodge		
2. Who is intended to benefit, and in what way?	The allocated budget for people with adult social care needs will be used in a more cost effective way so that the efficiencies realised from the outsourcing can be reinvested in other services such as prevention.		
3. What outcomes are wanted?	Better use of resources for people with social care needs. To maintain, and where possible, improve the good outcomes currently being delivered.		
4. What factors/forces could contribute/detract from the outcomes?	<u>Contribute</u> A responsive and cost effective independent sector	<u>Detract</u> Severe weather may lead to a delay in the programme in terms of consultation or implementation.	
5. Who are the main stakeholders?	Service users Carers Employees Referral agencies		
6. Who implements this and who is responsible?	Social Care Commissioning team will facilitate the consultation and will be responsible for implementation of the decision by Cabinet.		

Assessing impact		
7. Are there concerns that there <u>could</u> be a differential impact due to <i>racial groups</i>?	YES	There is no significant over-representation of a minority ethnic group.
	NO	
What evidence exists for this?	Information held on Care Director	
8. Are there concerns that there <u>could</u> be a differential impact due to <i>disability</i>?	YES	The service is designed for older people with frailties and disabilities who are in recovery.
	NO	
What evidence exists for	Pen pictures of those that are resident at the service	

this?		
9. Are there concerns that there <u>could</u> be a differential impact due to <i>gender</i> ?	YES	The service users reflect the gender profile of people that receive care and support from Adult Social Care
	NO	
What evidence exists for this?		
10. Are there concerns there <u>could</u> be a differential impact due to <i>sexual orientation</i> ?	YES	There is no information to indicate this nor refute it.
	NO	
What evidence exists for this?		The monitoring of sexual orientation is a challenge for the council.
11. Are there concerns there <u>could</u> be a have a differential impact due to <i>religion or belief</i> ?	YES	There is no information to indicate this nor refute it.
	NO	
What evidence exists for this?		The monitoring of religion is a challenge for the council.
12. Are there concerns there <u>could</u> be a differential impact due to people's <i>age</i> ?	YES	The service is designed primarily for older people.
	NO	
What evidence exists for this?		Information from the in-house service monitoring arrangements
13. Are there concerns that there <u>could</u> be a differential impact due to <i>being transgendered or transsexual</i> ?	YES	There is no information to indicate this nor refute it.
	NO	
What evidence exists for this?		The monitoring of transgender or transsexual is a challenge for the council.
14. Are there any <i>other</i> groups that would find it difficult to access/make use of the function (e.g. people with caring responsibilities or dependants, those with an offending past, or people living in rural areas)?	YES	
	NO	
What evidence exists for this?		
15. Are there concerns there <u>could</u> be a have a differential impact due to <i>multiple discriminations</i> (e.g. disability <u>and</u> age)?	YES	Brief statement of main issue
	NO	
What evidence exists for this?		Please see above

this?	
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Conclusions & recommendation		
16. Could the differential impacts identified in questions 7-15 amount to there being the potential for adverse impact?	YES	
	NO	
17. Can the adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or another reason?	Yes	Not applicable

Recommendation to proceed to a full impact assessment?		
NO	Please see comments above which will be further informed by the outcome of consultation over 30 days.	
NO BUT ...	What is required to ensure this complies with the requirements of the legislation? (see DIA Guidance Notes)?	
YES	Give details of key person responsible and target date for carrying out full impact assessment (see DIA Guidance Notes)	

Action plan to make Minor modifications		
Outcome	Actions (with date of completion)	Officer responsible

Planning ahead: Reminders for the next review	
Date of next review	

Areas to check at next review (e.g. new census information, new legislation due)		
Is there <i>another</i> group (e.g. new communities) that is relevant and ought to be considered next time?	No	
Signed (completing officer/service manager) Genette Laws, Social Care Commissioning and Voluntary Sector Manager	Date November 2011	
Signed (service manager/Assistant Director)	Date	



CABINET

29 NOVEMBER 2011

FAIRER CONTRIBUTIONS FOR FAIRER ACCESS TO SERVICES

Portfolio Holder: Councillor David Brake, Adult Services

Report from: Rose Collinson, Director, Children's and Adult Services

Authors: David Quirke-Thornton, Assistant Director, Adult Social Care

Summary

The purpose of this report is to decide whether to consult upon proposed changes to the council's policies on charging contributions for non residential Adult Social Care services and Disabled Facility Grant for adaptations.

1. Budget and Policy Framework

1.1 Fairer contributions for non-residential Adult Social Care services

Adult Social Care contributions have been set by the council under its charging policy, and fees and charges are a matter for Full Council. This decision is within the council budget and policy framework.

1.2 Disabled Facilities Grant

There is a statutory duty to provide mandatory Disabled Facilities Grants to disabled people under the Housing Act 1989 for essential home adaptations. This provision was revised through The Housing Grants, Construction and Regeneration Act 1996, which provides the current legislative framework. The maximum grant available under the DFG is £30,000 in England and subject to a nationally determined means test, which applies to those over 18 to establish their contribution to the cost of the works. Those service users aged under 18 are not means tested for the DFG. This decision is within the council budget and policy framework.

1.3 The Cabinet is asked to accept this report as urgent to enable consultation to commence at the earliest opportunity.

2. Background

2.1 The current charging arrangements for home care and other non-residential services were introduced in 2002. The charges are based on the *type* of care delivered. This form of charging is focused on care services and not on the

personalised care and support which is now offered. With personalisation, the emphasis is outcome based and the personal budget is set to meet the outcomes, i.e. there is no *type* of care defined. Currently Medway Council collects over £9 million of income in client contributions for residential, respite and home care services. The Council does not currently charge for day care or transport services.

- 2.2 On 24 February 2011, Full Council agreed, as part of the budget setting that “The legitimate emphasis that has been placed on personalisation and direct budgets has exposed anomalies in the way in which the Council calculates contributions for social care. These will be addressed to create an equalised and fairer system ...”
- 2.3 In order to create an equalised and fairer system, it is proposed that the contributions policy for Adult Social Care services or a direct payment should have regard to the personal financial circumstances of the individual in receipt of a service or a direct payment to provide such. The current system results in some people not being assessed to make a contribution because of the *type* of service that they receive.
- 2.4 The Disabled Facilities Grant (DFG) is a finite budget and in order to make it go further and ensure fair access to this limited funding it is important to ensure that where people can repay a contribution after benefiting from a DFG, that this should be implemented to ensure that more people can benefit from this support.

3. Advice and analysis – Personal Budgets

- 3.1 A Personal Budget funds a person to achieve outcomes, regardless of the activities undertaken. It is equitable for all support funded by Adult Social Care to all client groups to be assessed for contributions with the exception of services which must be provided free of charge by virtue of statutory provisions, such as services under Section 117 of the Mental Health Act 1983 and minor adaptations. By collecting income from all people in receipt of Adult Social Care support who are means tested as liable for charging it will also enable Medway Council to sustain the funding available to vulnerable adults in Medway.

4. Advice and analysis – Disabled Facilities Grants (DFG)

- 4.1 A DFG is a grant given by the council to a person who needs to make adaptations to their home in order for them to live safely and with dignity and respect, for example a downstairs bedroom or bathroom, where a complex adaptation is essential, the maximum DFG of £30,000 can be insufficient to fund the work.
- 4.2 Where the cost of the adaptations exceeds the DFG limit of £30,000, the proposal is that the Council could offer funding as a maximum loan of up to £25,000, which would enable a bedroom or bathroom extension to be supported for those with a substantial disability requiring adaptations. Loans would be secured by legal charge against the property and would be repayable when the property is sold; or there is significant change in financial

circumstances enabling repayment; or the applicant or their carer is not able to maintain their commitment to provide care at home.

5 Risk management

Risk	Description	Action to avoid or mitigate risk
Complaints from service users	The Council may receive complaints or potentially a legal challenge if the council cannot demonstrate that it has meaningfully consulted and engaged with people about the proposed changes to the Contributions Policy.	Ensure all communication and consultation is appropriate and meets the needs of service users, carers and others being consulted, and that consultation is undertaken in a variety of ways to ensure that all who wish to comment are able to do so, and that everyone has an opportunity to engage in the consultation exercise

6 Consultation

- 6.1 It is proposed that a consultation on a revised fair charging (contributions) policy be undertaken with Service Users, carers and other stakeholders for 60 days. Consultation material will be produced in paper copy and electronic copy. Fully accessible material in easy read format and audio/video format will be made available and will enable people with disabilities and sensory impairments to fully engage in the consultation process.
- 6.2 Consultation events will take place in fully accessible locations and will take the form of an engagement with the use of multi-media support. The consultation material will then be posted on the council's website to ensure that those that cannot attend consultation sessions or those who want to reflect on the information that they have received, will have access to the consultation material. For people without access to the Internet, they will be supported to do so via the council's 16 libraries, on request.
- 6.3 It is recommended that the proposals should be presented to Health and Adult Social Care Overview & Scrutiny Committee on 26 January 2012 so that they have the opportunity to provide scrutiny as part of the consultation process.
- 6.4 To date, the DFG policy change has been subject to discussion at the Physical Disability Partnership Board, where Service Users and Carers are both represented. There has also been involvement from other Council departments.
- 6.5 The consultation process will further inform the Diversity Impact Assessment.

7 Financial and Legal implications

7.1 Financial

- 7.1.1 If the fairer contributions changes are implemented there will be an increase in income as all service users means tested as liable for charging would contribute to their Personal Budget and other services. This would bring

1,400 Service Users into the contributions arrangement. This includes 491 Service Users who only receive day care and up to 700 Mental Health Service Users not subject to S.117. The change in policy would also bring transport in scope which would result in contributions for transport or fewer people using council transport. The financial benefit is estimated to be in the region of up to £1m.

7.1.2 The threshold for means testing is proposed to remain the same at £23,500. Fee levels are set by Full Council each year as part of the budget setting process and are not affected by this proposal.

7.1.3 The DFG proposal will result in a greater level of income being collected from the loans. The table below shows the income that would be collected under the current and proposed policies. This is based on a sample of 16 cases over the past three years. The loans are interest free and the increase in income is a direct result of placing legal charges on properties.

Current Policy	14,918
New Policy	146,563

7.2 Legal

7.2.1 When considering making changes to service provision, the decision maker needs to comply with its obligations as to equalities under the Equality Act 2010. In essence this requires decision makers to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- 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.

Protected characteristics, as defined in the 2010 Act, are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Having due regard to the above needs involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics.
- taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

In order to comply with its equality duties, the Council is required to engage with service users, representative groups, staff and unions and to use the information and views gathered as a result of such engagement (together with

other equality information the local authority has) in assessing the equality impact of the proposals.

- 7.2.2 Where any consultation is undertaken it must be undertaken at a time when proposals are still at a formative stage; it must include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and an intelligent response; adequate time must be given for this purpose; and the product of consultation must be conscientiously taken into account when the ultimate decision is taken.

8. Recommendation

- 8.1 That officers commence a consultation process with service users and other stakeholders in respect of proposed changes to the council's policies on charging for non-residential services and Disabled Facilities Grant; reporting the outcome to Cabinet in February 2012.

9. Suggested Reasons for Decision

- 9.1 The current charging policy for non-residential Adult Social Care services was introduced in 2002 and it has not kept pace with changes in the way Adult Social Care is provided, specifically the impact of Personalisation.

In order to better capture the way Service Users are choosing to receive care and support; and to ensure that contributions are made on the basis of ability to contribute rather than any artificial categories, it is proposed that a full and open consultation process will inform a decision to amend the policy thereby making it fairer and fit for purpose.

- 9.2 Providing loans of up to £25,000 to recipients of DFG will ensure that people who need complex and specialist major adaptations are able to proceed with the work and to remain at home safely, with dignity and respect.

Lead officer contact details

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Background papers

- Fairer Charging for Home Care and Other non-residential services 2002
- Capital and Revenues Budget 2011/12 at <http://democracy.medway.gov.uk/mgConvert2PDF.aspx?ID=7088>

Diversity Impact Assessment: Screening Form

Directorate	Name of Function or Policy or Major Service Change		
Children & Adults	Consultation on changes to charging policy for adult social care		
Officer responsible for assessment	Date of assessment	New or existing?	
Chris Gell	17/11/11	New	
Defining what is being assessed			
1. Briefly describe the purpose and objectives	Changes need to be made to the current charging policy, as service users contributions have to be assessed differently with personalisation.		
2. Who is intended to benefit, and in what way?	The changes will ensure that all service users of adult social care will be financially assessed in a fair and equal manner.		
3. What outcomes are wanted?	Acceptance of the changes to ensure equality among all adult social care users		
4. What factors/forces could contribute/detract from the outcomes?	Contribute	Detract	
5. Who are the main stakeholders?	Service users of adult social care.		

Assessing impact		
7. Are there concerns that there <u>could</u> be a differential impact due to <i>racial groups</i>?		Brief statement of main issue
	NO	
What evidence exists for this?	All groups are currently charged this is just a different scope of charging	
8. Are there concerns that there <u>could</u> be a differential impact due to <i>disability</i>?		Brief statement of main issue
	NO	
What evidence exists for this?	All groups are currently charged this is just a different scope of charging	
9. Are there concerns that there <u>could</u> be a differential impact due to <i>gender</i>?		Brief statement of main issue
	NO	
What evidence exists for this?	All groups are currently charged this is just a different scope of charging	
10. Are there concerns there <u>could</u> be a differential impact due to <i>sexual orientation</i>?		Brief statement of main issue
	NO	
What evidence exists for this?	All groups are currently charged this is just a different scope of charging	
11. Are there concerns there <u>could</u> be a have a differential impact due to <i>religion or belief</i>?		Brief statement of main issue
	NO	
What evidence exists for this?	All groups are currently charged this is just a different scope of charging	
12. Are there concerns there <u>could</u> be a differential impact due to people's <i>age</i>?		Brief statement of main issue
	NO	
What evidence exists for this?	All groups are currently charged this is just a different scope of charging	
13. Are there concerns that there <u>could</u> be a differential impact due to <i>being trans-gendered or transsexual</i>?		Brief statement of main issue
	NO	
What evidence exists for this?	All groups are currently charged this is just a different scope of charging	
14. Are there any <i>other</i> groups that would find it difficult to access/make use		If yes, which group(s)?

of the function (e.g. people with caring responsibilities or dependants, those with an offending past, or people living in rural areas)?	NO	
What evidence exists for this?	All groups are currently charged this is just a different scope of charging	
15. Are there concerns there <u>could</u> be a have a differential impact due to <i>multiple discriminations</i> (e.g. disability <u>and</u> age)?		Brief statement of main issue
	NO	
What evidence exists for this?	All groups are currently charged this is just a different scope of charging	
Conclusions & recommendation		
16. Could the differential impacts identified in questions 7-15 amount to there being the potential for adverse impact?		Brief statement of main issue
	NO	
17. Can the adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or another reason?	YES	Please explain
	NO	N/a
Recommendation to proceed to a full impact assessment?		
NO	This function/ policy/ service change complies with the requirements of the legislation and there is evidence to show this is the case.	
		Minor modifications necessary (e.g. change of 'he' to 'he or she', re-analysis of way routine statistics are reported)

Action plan to make Minor modifications		
Outcome	Actions (with date of completion)	Officer responsible

Planning ahead: Reminders for the next review		
Date of next review		
Areas to check at next review (e.g. new census information, new legislation due)		
Is there <i>another</i> group (e.g. new communities) that is relevant and ought to be considered next time?		
Signed (completing officer/service manager)	Date	
Signed (service manager/Assistant Director)	Date	