

CABINET

8 MARCH 2016

REVIEW OF SHARED LIVES CLIENT LIVING EXPENSES

Portfolio Holder: Councillor David Brake, Adult Services

Report from: Barbara Peacock, Director of Children and Adults Services

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Summary

On 7 July 2015, Cabinet approved The Care and Support (Charging and Assessment of Resources) Regulations 2014 Policy, relating to charging for adult social care and support services.

This report provides an overview of a proposed addition to charging arrangements in Medway which will require amendment to the agreed policy.

1. Budget and Policy Framework

- 1.1 This report supports the Council Plan priority “Supporting Medway’s people to realise their potential”. It promotes the following way of working “Giving value for money”.
- 1.2 The information in this report provides Cabinet with an overview of the proposed changes to the charging arrangements for Shared Lives Clients in Adults Social Care as set out in the savings proposals in the revenue budget 2016/2017 agreed at Council on 25 February 2016.

2. Background

- 2.1 The Shared Lives scheme provides care and support to adults with a learning disability that meet the Care Act 2014 eligibility criteria to access our services and need support to live independently.
- 2.2 Support is provided in the homes of our approved Shared Lives carers and provides an alternative choice to traditional residential care for people who require support and enables the individual to share in family and community life, promoting independent living.
- 2.3 Medway Council exercises the right to charge for care and support services. There is a charge to use this service; the amount is determined by carrying out a financial assessment (means test).

- 2.4 These assessed client contributions relate to care charges only and currently Shared Lives clients do not make any contribution for normal living expenses, such as food and household bills.
- 2.5 This is not in line with other clients living in the community who are expected to pay for these items; and clients living in residential care are financially assessed to pay a much larger contribution towards their care which includes these costs.
- 2.6 Shared Lives Carers currently receive payment from Medway Council for care costs, which include these normal living expenses. They receive a separate payment in respect of the client's rent and the contribution from the client towards the cost of their care. These three payments create the cost to Medway Council for placing the client in the Shared Lives placement.
- 2.7 It has been identified that other Local Authorities charge Shared Lives clients for normal living expenses; the amounts range between £58.35 and £64.55 per week. The table below provides a breakdown of how these charges are calculated.

	Authority A	Authority B	Authority C
Heating	£15.25	£25.60	£2.95
Hot Water	£1.50	£2.95	£2.05
Lighting	0	£2.05	£1.90
Cooking	0	£2.95	0
Food	£25.30	£25.85	£25.85
Other	£22.50	£0.60	£25.60
Total	£64.55	£60.00	£58.35

- 2.8 To ensure all clients in receipt of a care and support service from Adult Social Care are charged in an equitable manner and that Medway Council fall in line with other local authorities, it is proposed to introduce a normal living charge to Shared Lives clients of £64.65 per week.
- 2.9 The table below clearly shows how the proposed charge has been calculated. This is comparable to the costs charged by other Local Authorities.

	Medway Council (proposed weekly charge)
Heating	£28.80
Hot Water	£3.35
Lighting	£2.30
Cooking	£3.35
Meals	£26.85
Total	£64.65

- 2.10 The proposed charge was calculated, by reviewing the Disability Rights Handbook and Child Poverty Action Group guidance regarding Housing Benefit ineligible charges. This identified the specific amounts in the table,

which relate to ineligible charges a local authority takes into account when it works out an individual's eligible rent.

3. Options

- 3.1 Local Authorities are asked to consider the need to consult local people, but should not be expected to consult formally if their approach to charging does not change.
- 3.2 The proposal to introduce the charge for normal living expenses for Shared Lives clients is a change to current policy and practice; therefore it is recommended that a consultation should take place.
- 3.3 There are three options available with regard to the proposed change:
 - Option 1 – Do nothing and continue with current practice.
 - Option 2 – Implement the proposed change without consultation.
 - Option 3 – Follow the Local Government Association's guidance and formally consult on the proposed changes.

4. Advice and analysis

- 4.1 As mentioned previously, this proposal is a change to current practice and policy and whilst it will only impact 22 clients, it will also impact future Shared Lives clients.
- 4.2 A Diversity Impact Assessment has been partially completed and will be completed in full (and included in the report back to Cabinet following consultation) if Cabinet agree to the recommendations in section 9 of this report.
- 4.3 The information below provides analysis for Cabinet to make a decision whether we should consult.
 - Option 1 – By continuing with current practice, we are not treating equally in ensuring all clients in receipt of Adult Social Care and Support services are charged fairly. Medway Council will also continue to pay the normal living expenses for clients in receipt of a Shared Lives service.
 - Option 2 – The LGA guidance advises that we should consult if proposed changes have an impact on clients. If we choose to implement the proposed charge without consultation, it may leave us open to challenge and in a difficult position with regard to complaints about charging for services; which can be a sensitive subject for many people.
 - Option 3 – By following LGA guidance and carrying out a consultation, it will minimise risk of challenge and whilst complaints may still occur, the ability to advise that a meaningful consultation has been carried out will enable the authority to respond appropriately.

5. Risk management

5.1 The following risks have been identified.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Potential increase in complaints regarding Adult Social Care charges.	Intended charging policy changes are not welcomed by Shared Lives clients and carers and we may see an increase in complaints.	<p>The completion of a consultation will not avoid the risk of an increase in complaints completely due to the sensitive nature of charging for care.</p> <p>However, the ability to advise that a meaningful consultation has been carried out and changes to policy approved will enable the Local Authority to respond appropriately.</p>	C2
Clients challenge policy changes.	<p>The Local Authority is challenged on the proposed changes to charging.</p> <p>This may occur if the changes are implemented without consultation taking place.</p>	<p>The completion of a consultation will not avoid the risk of challenge due to the sensitive nature of charging for care.</p> <p>However, the ability to advise that a meaningful consultation has been carried out and changes to policy approved will enable the Local Authority to respond appropriately.</p>	C2

6 Consultation

6.1 It is recommended to Cabinet that a public consultation is carried out in this respect. The following clients and partner organisations will be included in the consultation, although responses to the consultation from any interested parties will be welcomed. The consultation will be carried out through meetings and letters/emails. Legal Services have recommended that the consultation is carried out for a period of 8 weeks.

- Shared Lives Clients
- Shared Lives Carers
- Local voluntary organisations supported and represented by Medway Voluntary Action.
- Carers First
- The Learning and Physical Disability Partnerships Boards.

7 Financial implications

- 7.1 The income received from charging for social care is an important aspect of the Council's overall funding. By implementing the proposed charge, there is potential for the Council to reduce the overall cost of the Shared Lives service based on the current number of clients by £73,959.

8 Legal implications

- 8.1 The Care Act 2014 provides the legal framework for charging for care and support. Section 14 of the Act enables local authorities to charge a person in receipt of care and support services where it is permitted to charge, and Section 17 of the Act permits local authorities to undertake an assessment of an individual's financial resources to determine the amount, if any, that they will be required to pay towards the cost of their care.
- 8.2 The Care Act, together with the supporting regulations and statutory guidance sets out a single framework model for charging people whose eligible needs are met within a care home setting, and also requires local authorities to develop and maintain a policy for charging people with care and support needs that are met in settings other than care homes. These form the basis of the council's charging policy, except where the council exercises its power of discretion.
- 8.3 It is recommended that the consultation outlined in this report is carried out to provide robust background to the changes in practice rather than to comply with a strict legal requirement prior to adopting the current policy of practice.
- 8.4 Where a consultation is necessary in the interests of fairness but is not actually held, if there is a third party challenge it is likely that a court could hold the change of practice or policy involved to be unlawful.
- 8.5 Medway Council has a legal obligation under section 149 Equality Act 2010 to have due regard to the need to eliminate discrimination, advance equality, and foster good relations between those with a protected characteristic (pregnancy and maternity, age discrimination, disability, gender reassignment, marriage and civil partnerships, race, religion or belief, sex and sexual orientation) and those who do not share it.

9. Recommendations

- 9.1 It is recommended that Cabinet agree to a public consultation being carried out which will propose the introduction of the normal living charge for clients in receipt of a Shared Lives Service.
- 9.2 It is recommended that the outcome of the consultation is returned to Cabinet to enable the consideration of consultation responses and decisions to be made in respect of:
- 9.2.1 The introduction of the proposed charge
- 9.2.2 The amendment of the current charging policy to include this charge.

10. Suggested reasons for decision(s)

- 10.1 The public consultation is recommended to provide feedback to Cabinet and enable an informed decision about the proposed charge and change to the policy to be made. This will, in turn, minimise risk of challenge and enable the authority to respond to potential complaints appropriately.
- 10.2 Furthermore, It is imperative that to enable care and support services to be provided to Medway's most vulnerable people that income is maximised and additional costs avoided. The proposed change in charging Shared Lives Clients will reduce the overall cost of the Shared Lives service to Medway Council.

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Appendices

None

Background papers

July 2015 Cabinet Report – The Care Act (Charging and Assessment of Resources) Regulations 2014
<http://democracy.medway.gov.uk/mglIssueHistoryHome.aspx?IId=14957>

Disability Rights Handbook: Chapter 25 – Housing Benefit
<http://democracy.medway.gov.uk/mglIssueHistoryHome.aspx?IId=16413&PlanId=245>

Child Poverty Action Group: Part 2: Main means-tested benefits and tax credits:
Chapter 4 – Housing Benefit
<http://democracy.medway.gov.uk/mglIssueHistoryHome.aspx?IId=16413&PlanId=245>