

CABINET

7 JUNE 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

Author: Jackie Brown, Head of Social Care Business Units

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 and feedback from the public consultation relating to the proposal (following Cabinet's approval on 8 March 2016 for consultation to be undertaken on the proposal).

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, the report to Cabinet on 8 March 2016 which sought approval to consult on the proposal, and feedback from the public consultation relating to the proposal.

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.

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

2.9 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 client is a change to current policy and practice; therefore it was recommended to Cabinet on 8 March 2016 that a consultation should take place.

3.3 There were 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.

3.4 Medway Council decided to consult (option 3), details of which are set out in paragraph 4 below.

4. Advice and analysis

4.1 This proposal is a change to current practice and policy and whilst it will only impact 21 clients, it will also impact future Shared Lives clients.

4.2 The information below provided analysis for Cabinet on 8 March 2016 to make the decision whether or not 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 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.

4.4 As a consequence of the analysis the Cabinet agreed for the Council to carry out a consultation. As such, the Council engaged with clients their representatives between 21 March 2016 and 13 May 2016.

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.	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. 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.	C2
Clients challenge policy changes.	The Local Authority is challenged on the proposed changes to charging. This may occur if the changes are implemented without consultation taking place.	The completion of a consultation will not avoid the risk of challenge due to the sensitive nature of charging for care. 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.	C2

6 Consultation

6.1 The consultation exercise ran for eight weeks and was undertaken to inform people about the details of the proposed policy changes and to invite views so that the Council could better understand the direct impact of the changes.

The consultation included contacting and notifying:-

- Shared Lives clients who manage their own finances
- Shared Lives carers
- Families who manage the finances of Shared Lives clients.
- Medway Council's Corporate Appointee and Deputy.

6.2 Letters were sent to those directly affected by the consultation. Included with the letter was a survey (Appendix A).

An easy read version of the survey was also produced (Appendix B).

A webpage was specifically created which provided further information including example scenarios. The webpage was visited by six people.

Respondents were asked to say how much they either agreed or disagreed with the proposal.

Respondents were also given an opportunity to give alternative proposals and what if anything should be considered when making final decisions.

6.3 The Consultation Results

The response to the consultation has been minimal; only ten responses were received. However, this should be deemed proportionate as the proposal only affects 21 clients.

Six responses were received through completion of the survey. Table 1 demonstrates whether respondents either agree or disagree with the proposal.

Table 1

Response	Number of responses
Strongly Agree	1
Agree	2
Disagree	0
Strongly Disagree	1
No Opinion	2

Three responses were received through completion of the easy read survey. Table 2 shows whether respondents either agree or disagree with the proposal.

Table 2

Response	Number of responses
Yes	2
No	1

One further response was received and although the survey was not completed, comments were made.

These comments along with others received have been responded to in section 6.5 of this report.

- 6.4 A Diversity Impact Assessment – Appendix C, has been completed in conjunction with the consultation to assist the Council in fulfilling the legal obligations under the Equality Act 2010.

The outcome of the DIA confirms that Services Users will be impacted by the proposals. To mitigate the impact the following actions will be implemented.

- All clients affected will be notified in writing of the charge before it is implemented.
- During completion of the financial assessment, if it is clearly demonstrated that this charge will cause financial hardship, (i.e. it does not leave the client with the required amount of money stated by the Department for Works and Pensions), then the case will be looked at on an individual basis.
- The Charging and Financial Assessment for Adult Social Care and Support Services policy will be updated to reflect this change to ensure transparency.

- 6.5 The feedback and comments from the consultation have been reviewed and the following feedback will be provided.

6.5.1 Concern was raised that the charge was too high.

The charge has been calculated using the Disability Rights Handbook: Chapter 25 – Housing Benefit and the Child Poverty Action Group: Part 2: Main means-tested benefits and tax credits: Chapter 4 – Housing Benefit. We have, therefore, used relevant information to calculate the cost. The cost is also in line with charges implemented by other Local Authorities.

6.5.2 We were asked to clarify if someone has regular days/night/weekends away from the placement whether the charge would be reduced.

This would need to be reviewed on a case by case basis, for example if a client were to spend a week away, then clearly the charge would need to be reviewed. However, should the client be away for one day, i.e. receiving day care, then the charge would remain as this would be the case for other clients who live in the community having to pay their normal living expenses.

6.5.3 A complaint was raised that Shared Lives carers have not had a fee increase for some years, yet Foster Carers have.

Whilst this is not directly related to the consultation, it is a valid complaint and, therefore, discussions with the Commissioning Team will take place.

6.5.4 Concern was raised that by implementing this charge, clients would not be able to carry out activities or plan for holidays, birthdays, Christmas etc.

The nature of the financial assessment and figures stipulated by both the DWP and DoH determines that clients must be left with a certain amount of money to live on.

The current charging policy means that after the financial assessment, Shared Lives clients have had more money available to them and in this respect may have been in a better position financially than other clients living in the community and whilst it is certainly not the council's intention to impede upon people's lifestyles, the introduction of this policy ensures, as an authority, we are treating all clients fairly in respect of charging for Adult Social Care and Support services.

6.5.5 A question was raised whether the charge should be implemented at a two tier rate so that those clients that receive less in benefits, such as low rate DLA care or standard rate Personal Independence Payment, are not penalised.

When a financial assessment is carried out, the type and rate of benefits are taken into account and contributions that clients make will differ due to these rates. The financial assessment will determine whether the charge is affordable for the client; if it is clearly demonstrated that it will cause financial hardship, then the case will be reviewed.

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, based on the number clients who currently received a Shared Lives service there is potential for the Council to reduce the overall cost of the Shared Lives service by around £74,000 per annum. For 2016/17, the impact will be pro-rata from the date of implementation, therefore from 1 July 2016 – 31 March 2017 the reduction to the overall cost of the Shared Lives service will be around £55,000.

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 The consultation as outlined in this report was carried out to provide a 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 the proposed charge being introduced, as set out in paragraph 2.8 of the report, from 1 July 2016.

10. Suggested reasons for decision(s)

- 10.1 Whilst the response to the consultation was minimal; five out of the nine responses were positive, with two having no opinion.
- 10.2 Medway Council must ensure that charging for Adult Social Care is fair and equitable. Currently, our Shared Lives clients are not being charged for normal living expenses and this is not in line with other clients living in the community who pay their own living expenses or those in residential care whose charges are much higher to take cover these costs. The introduction of this charge will ensure all clients charged for Adult Social Care and Support Services are treated equally.
- 10.3 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.

Lead officer contact

Jackie Brown, Head of Social Care Business Units, Gun Wharf, 01634 332363, jackie.brown@medway.gov.uk

Appendices

- Appendix A: Shared Lives – Charging Consultation Survey
Appendix B: Shared Lives – Charging Consultation Survey Easy Read
Appendix C: DIA 13.5.16 – Shared Lives

Background papers

8 March 2016 Cabinet Report – Review of Shared Lives Client Living Expenses
<http://democracy.medway.gov.uk/mgIssueHistoryHome.aspx?Ild=16413>

Disability Rights Handbook: Chapter 25 – Housing Benefit
<http://democracy.medway.gov.uk/mgIssueHistoryHome.aspx?Ild=16413>

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

Care, Support and You: A consultation on Changes in Adult Social Care 2015

From April 2015, care and support in England has started to change. In 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 consultation is to consider an amendment to those charging arrangements in Medway, and an addition to the agreed policy.

The purpose of this survey is to find out your views and opinions on what we are proposing.

About You

- Q1 Which of the following best describes you? (Please tick all that apply)**
- Receiving funded social care
 - Member of the public arranging and paying for their own social care without council support - (a self-funder)
 - Unpaid carer - family or friend of someone needing care
 - Paid carer
 - Council employee
 - Representative of an independent, voluntary or community sector organisation.....
 - Other (please specify)
- Q2 If you are completing this on behalf of someone else, which of the following best describes them? (Tick all that apply)**
- Receiving funded social care
 - Member of the public arranging and paying for their own social care without council support - (a self-funder)
 - Unpaid carer - family or friend of someone needing care
 - Paid carer
 - Council employee
 - Representative of an independent, voluntary or community sector organisation.....
 - Other (please specify)

PROPOSAL 1: People living within Medway Shared Lives to contribute to normal living expenses

Shared Lives is a form of community support where someone with a disability, meeting the Care Act 2014 eligibility criteria, lives with an approved carer family in the carer's home. They receive the support they need whilst being integrated into the the carer's family, the local community and developing greater independence.

At the moment individuals living within the scheme are financially assessed in accordance with The Care and Support (Charging and Assessment of Resources) Regulations 2014 policy, but these charges relate only to the care which they receive. People using Shared Lives do not make any contribution toward normal living expenses, such as food and household bills.

Appendix A

The current charging arrangements are not in line with other people living in the community who are expected to pay for these items and are charged for their care; or with people who are living in residential care who are financially assessed to pay a much larger contribution towards their care which includes these costs.

Information has been gathered from other Local Authorities in the region and the calculation which is proposed is based upon that used by Housing Benefit departments to identify ineligible charges (living costs) which are taken into account when the local authority calculates an individual's eligible rent.

Q1 Please say how much you agree or disagree with this proposal to charge people living within Medway's Shared Lives service a contribution to normal living expenses?

- Strongly Agree.....
- Agree
- Disagree
- Strongly Disagrees
- No opinion

Q2 If you believe, this should not be considered as an option, please provide an alternative proposal?

Q3 If this proposal is accepted, is there anything that we should be taking into account?



Medway



Changes in Adult Social Care 2015

Easy Read Consultation



Tell us what you think



Care and support in England is changing.



There are new rules called The Care and Support Regulations policy.



The policy is about how care and support is paid for.



What we want to change

We want to change who pays for some things for people in Medway Shared Lives.



Shared Lives is a kind of care.



If you are part of Shared Lives you move in with a carer. The carer must be checked by Medway Council.



If the carer lives with their family, you live with their family too. You get the support you need. You get to share family life and be in the community.



People in Shared Lives do not pay for things like food and household bills. These things are called normal living expenses.



People who get support in their own homes have to pay normal living expenses.



People who live in residential care pay some money for their normal living expenses.



We think that people living in Shared Lives should pay something for normal living expenses too. We have worked out how much money is fair for people to pay.






Question 1



Do you think that people living in Shared Lives should pay something for normal living expenses?



 Yes	 Not Sure	 No
--	---	---

Question 2



If you have said no, please tell us what you think we should do instead:



Question 3



If you said yes, is there anything we need to know to make sure what we do is fair? Please tell us here:





Please tell us about you:

Question 1

Please circle the sentence that is most like you:



I get care the council pays for.



I get care but pay for it myself.



I am a carer. I do not get paid for being a carer.



I get paid to be a carer.



I work for the Council.



I am part of a charity.



Other. Please tell us what describes **you** best:

Question 2



If you have filled in this form for someone else, please **circle** the sentence that is most like that person:



They get care the council pays for.



They get care but they pay for it.



They are a carer but do not get paid for being a carer.



They get paid to be a carer.



They work for the Council.



They are part of a charity.



Other. Please tell us what describes **them** best:

Diversity impact assessment

Appendix C

TITLE <i>Name/description of the issue being assessed</i>	Shared Lives - Daily Living Costs
DATE <i>Date the DIA is completed</i>	16 May 2016
LEAD OFFICER <i>Name and title of person responsible for carrying out the DIA.</i>	Jackie Brown – Head of Adult Social Care Business Units

1 Summary description of the proposed change

- *What is the change to policy/service/new project that is being proposed?*
- *How does it compare with the current situation?*

The changes to be made to the Shared Lives funding are

- **People who live in a long term shared lives environment are financially assessed as a community client. They currently do not pay for their daily living costs, including food and utility bills.**

Previously these service users were charged under the residential charging policy and their contribution covered care food and utilities. They are now charged as community clients but this only covers their care charges. All other service group clients who have a community based care package have to pay for their own food and utilities, including supported living clients.

2 Summary of evidence used to support this assessment

- *Eg: Feedback from consultation, performance information, service user records etc.*
- *Eg: Comparison of service user profile with Medway Community Profile*

A public consultation was carried out for eight weeks and includes contacting and notifying:-

- Shared Lives clients who manage their own finances.
- Shared Lives carers.
- Families who manage the finances of Shared Lives clients.
- Medway Council's Corporate Appointee and Deputy.

Diversity impact assessment

Letters were sent out to those directly affected by the consultation. Included with the letter was a survey. An easy read version of the survey was also produced.

3 What is the likely impact of the proposed change?

Is it likely to :

- Adversely impact on one or more of the protected characteristic groups?
- Advance equality of opportunity for one or more of the protected characteristic groups?
- Foster good relations between people who share a protected characteristic and those who don't?

(insert ✓ in one or more boxes)

Protected characteristic groups	Adverse impact	Advance equality	Foster good relations
Age			
Disability	✓	✓	✓
Gender reassignment			
Marriage/civil partnership			
Pregnancy/maternity			
Race			
Religion/belief			
Sex			
Sexual orientation			
Other (eg low income groups)	✓	✓	✓

Diversity impact assessment

4 Summary of the likely impacts

- *Who will be affected?*
- *How will they be affected?*

Clients in receipt of Shared Lives long term placements will be affected. They will be affected for the following reasons:-

- Service users will be affected as they will all need to pay towards their food and utilities. There will be one figure for all clients which has been based on the figures given by the Disability Rights Handbook 2015
- Many of these service users have accumulated savings that have placed them outside the level of being able to claim benefits.

5 What actions can be taken to mitigate likely adverse impacts, improve equality of opportunity or foster good relations?

- *Are there alternative providers?*
- *What alternative ways can the Council provide the service?*
- *Can demand for services be managed differently?*

To mitigate adverse impacts it is important that:-

- Service Users are notified of the changes and the costs in advance of implementation so that they are aware.
- During completion of the financial assessment, if it is clearly demonstrated that this charge will cause financial hardship (i.e. it does not leave the client with the required amount of money stated by the Department for Works and Pensions), then the case will be looked at on an individual basis.
- The Charging and Financial Assessment for Adult Social Care and Support Services policy will be updated to reflect this change to ensure transparency.

Diversity impact assessment

6 Action plan

- *Actions to mitigate adverse impact, improve equality of opportunity or foster good relations and/or obtain new evidence*

Action	Lead	Deadline or review date
Carry out consultation with Medway residents	MW/CG/ JB	13.5.16
Clients will be invoiced promptly for their normal living expenses.	CG/JB/M G	7.6.16

7 Recommendation

The recommendation by the lead officer should be stated below. This may be:

- *to proceed with the change, implementing action plan if appropriate*
- *consider alternatives*
- *gather further evidence*

If the recommendation is to proceed with the change and there are no actions that can be taken to mitigate likely adverse impact, it is important to state why.

Having reviewed comments received in the consultation, proceed with proposals, thereby ensuring that the charging policy is fair and equitable.

Ensure the actions to mitigate adverse impact identified in sections 5 and 6 are implemented.

8 Authorisation

The authorising officer is consenting that:

- *the recommendation can be implemented*
- *sufficient evidence has been obtained and appropriate mitigation is planned*
- *the Action Plan will be incorporated into service plan and monitored*

Deputy Director

Ian Sutherland

Date

16.5.16

Contact your Performance and Intelligence hub for advice on completing this assessment

RCC: phone 2443 email: annamarie.lawrence@medway.gov.uk

C&A: (Children's Social Care) contact your normal P&I contact

C&A (all other areas): phone 1481 email: paddy.cahill@medway.gov.uk

BSD: phone 2472/1490 email: corppi@medway.gov.uk

PH: phone 2636 email: david.whiting@medway.gov.uk

Send completed assessment to the Corporate Performance & Intelligence Hub (CPI) for web publication (corppi@medway.gov.uk)