

## **CABINET**

**25 OCTOBER 2016**

### **ADULT SOCIAL CARE FAIR AND AFFORDABLE COST OF CARE POLICY**

Portfolio Holder: Councillor David Brake, Adult Services

Report from: Ian Sutherland, Interim Director of Children and Adults Services

Author: Jackie Brown, Head of Social Care Business Unit

#### **Summary**

This report provides Cabinet with an overview of the consultation response to the proposed Fair and Affordable Cost of Care Policy for Adult Social Care. The proposed policy would introduce a maximum expenditure limit for non-residential care and support.

It was considered that such a policy would make sure that Service Users receive the best value care and support package whilst ensuring that the funding available to the council is sufficient to meet the needs of the entire local population.

Following public consultation it is recommended that proceeding with the proposed policy would not be in the best interests of Medway Service Users or the Council.

#### **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 introduction of a Fair and Affordable Cost of Care policy in Adult Social Care; it is accompanied by a copy of the proposed policy (Appendix 1). This was agreed as part the savings proposals, under the heading “Maximum Expenditure Policy” in the revenue budget 2016/2017 agreed at Council on 25 February 2016

#### **2. Background**

- 2.1 Medway Council is committed to support people to live full and independent lives within their local communities. Where people are eligible for Adult Social Care support, the aim is to support them in a way that reflects their preferences and the outcomes they wish to achieve through high quality services.

- 2.2 The council must, however, take into reasonable consideration its finances and the budgetary position and must comply with its related public duties. This includes the importance of ensuring that the funding available to the council is sufficient to meet the needs of the entire local population.
- 2.3 It was proposed to Cabinet on the 8 March 2016, that a Fair and Affordable Cost of Care policy was introduced in Adult Social Care where the maximum amount of money Medway Council will pay for individuals to have their care and support needs met in the community is equal to the cost of care and support of needs for individuals being met in a residential care setting.
- 2.4 It was identified that the policy might ensure that individuals receive the best value care and support package.
- 2.5 It was identified that the policy might ensure that care and support plans that are not best value were delivered differently to seek best value.
- 2.6 It was stated that the policy would not be a blanket policy as individual needs and circumstances must be considered.
- 2.7 The proposed policy sought to achieve:-
- Fairness in how Medway Council funds care packages.
  - Improved safety and reduce risk to individuals and promote wellbeing. For example, if a person requires through the night care in their own home, this may not only be the most costly option but also the most risky if care is delayed or not available. In a residential setting or other accommodation with support, the risk of the required support not being available is significantly reduced if not removed.
- 2.8 It was proposed that maximum expenditure limits were introduced for all Service Users, but that there would be a different limit for specific client groups.

- Older People Service

The table below shows the prices Medway Council pay to meet an individuals assessed eligible needs in residential care.

<b>Care Description</b>	<b>Proposed Weekly Cost (subject to Cabinet approval)</b>
Standard Residential Care	£395.00
Residential Dementia Care	£485.00
Standard Nursing Care	£472.00
Nursing Dementia Care	£573.00

It was proposed that the Standard Residential Care weekly cost of £395.00 was implemented as the maximum expenditure limit for the Older People service.

Any community based care package exceeding that limit would be treated as an exception and alternative methods of care and support would be offered to provide the necessary care at best value.

○ Adults with a disability

Due to the often complex and challenging needs of adults with a learning/physical disability; there is no standard price for residential care. The table below provides a breakdown of the price range paid to residential care providers to meet individual needs:

	<u>Low</u>	<u>High</u>
<p><b><u>Band A</u></b> Complex needs, high level of dependency requiring support to accomplish daily activities and access community.</p>	£570	£975
<p><b><u>Band B</u></b> Complex health &amp; physical needs and/or learning disability which may include:</p> <ul style="list-style-type: none"> <li>○ Health needs fluctuating e.g. diabetes, MS, COPD, peg feeding</li> <li>○ Challenging behaviour Learning disability/acquired brain injury/spinal injuries</li> <li>○ Wheelchair dependent</li> <li>○ At risk without support</li> <li>○ Communication difficulties</li> <li>○ High level of physical dependency</li> <li>○ Fluctuating capacity</li> </ul>	£900	£1,600
<p><b><u>Band C</u></b> Highly complex health &amp; physical disability and/or learning disability which may include:</p> <ul style="list-style-type: none"> <li>○ Challenging behaviour - learning disability/Behaviour issues e.g. Huntington's, ABI, YOD</li> <li>○ Unstable/unpredictable elements to condition/behaviour</li> <li>○ High level of risk to self/ others without 24 hour support</li> <li>○ Capacity issues</li> <li>○ Communication difficulties</li> <li>○ High level of physical dependency</li> </ul>	£1,100	£2500

It was proposed that the Band A low limit was implemented at £570 per week as the maximum expenditure limit in the disability service.

Any community based care package exceeding that limit would be treated as an exception and alternative methods of care and support offered to provide the necessary care at best value.

- Mental Health service

It was proposed that the maximum expenditure limit for the Mental Health Service was the fixed price for Service Users with dementia of £485.00 per week.

Any community based care package exceeding that limit would be treated as an exception and alternative methods of care and support offered to provide the necessary care at best value.

### **3. Options**

- 3.1 Local Authorities are asked to consider the need to consult local people, if a proposed policy change will impact people living in the community.
- 3.2 When reported to Cabinet on 8 March 2016, there were three options available with regard to the proposed Fair and Affordable Cost of Care Policy:
  - Option1 – Do nothing and continue with current practice.
  - Option 2 – Implement the proposed change without consultation.
  - Option 3 – Ensure a robust consultation process is carried out to establish Medway's residents' view of implementing the proposed policy.
- 3.3 The Cabinet, on 8 March 2016, decided to consult (option 3), details of which are set out in paragraph 4 below.

### **4. Advice and analysis**

- 4.1 As the proposed policy directly affected Medway residents and had the potential to impact providers, the proposed consultation was vital.
- 4.2 The information below provided analysis for Cabinet on 8 March 2016 to make a decision whether or not we should consult:
  - Option 1 – By continuing with current practice, we are not taking into account the current available financial resources in all decision making, to ensure that resources are fairly distributed across all people who are eligible for adult social care support.
  - Option 2 – The LGA guidance advises that we should consult if proposed changes have an impact on Service Users. Without this consultation Medway residents will not be given the option to tell us their opinions about the proposed policy, which is vital, because the policy will impact not only our current, but future Service Users and their families/carers.
  - Option 3 – By following LGA guidance and carrying out a robust consultation, we will ensure that Medway residents are able to give their opinion about the proposed policy. This will enable feedback to be provided to Cabinet, which will allow Members to make an informed decision about whether the proposed Adult Social Care Fair and

Affordable Cost of Care Policy should be implemented in Medway or not.

- 4.3 As a consequence of the analysis, the Cabinet agreed for the Council to carry out a consultation. As such, the Council carried out the consultation between 21 March and 10 June 2016.

## 5. Risk management

- 5.1 The following risks have been identified following consultation.

Risk	Description	Action to avoid or mitigate risk	Risk rating
A proportion of respondents viewed the proposed policy as a budget saving scheme.	Feedback received from the consultation demonstrates that some residents think that this is purely a budget saving scheme and that we will not provide the care required to Service Users needs.	<p>If we were to introduce the proposed policy, we would need to make it clear that the authority is obliged to meet Service Users' eligible needs and that the introduction of the proposed policy would not stop the council meeting those needs.</p> <p>However, on reflection it has been recognised that the proposed policy may not result in the best possible outcomes for Service Users and in this respect, it is recommended that the proposed policy is not implemented in Medway.</p>	C2
Service Users and/or organisations have suggested that they may challenge the proposed policy.	The Local Authority is challenged on the proposed Fair and Affordable Cost of Care policy as there is concern that care will not be provided/will be reduced.	<p>The completion of the consultation does not avoid the risk of challenge.</p> <p>However, the ability to advise that a meaningful consultation was carried out and changes to policy approved would enable the Local Authority to respond appropriately.</p>	C2
A proportion of Service Users and Carers raised concern that community based care will cease and that they will be forced into Residential Care.	The proposed policy stated that the weekly maximum expenditure in the community would be no greater than the weekly cost of care in a residential setting; however feedback from the consultation shows that concern remains that people believe that because the cost of their community based care is too high they will be forced to move into residential care.	<p>If, after consultation, it was agreed that the policy should be introduced, we would need to assure that the policy is discussed with Service Users by the Social Worker as part of the assessment/review process.</p> <p>However, on reflection it has been recognised that the proposed policy may not result in the best possible outcomes for Service Users and in this respect, it is recommended that the proposed policy is not implemented in Medway.</p>	C2

## 6 Consultation

6.1 The consultation exercise ran for twelve weeks. As the proposed policy would affect a wide range of Medway residents; legal services advised that the consultation must be broad covering as much of the local population as possible. It was recommended that engagement with stakeholder groups etc. should be accompanied by as much media exposure as the authority could manage so that anyone who wanted to take part in the consultation would be aware of how they could do so. The consultation included contacting and notifying:-

- Adult Social Care Service Users
- Care Providers
- Local voluntary organisations supported and represented by Medway Voluntary Action.
- Carers First
- The Learning Disability and Physical Disability Partnership Boards
- The Mental Health Operational Group

6.1.1 Letters and a survey were sent to approximately 3000 Service users. The letter advised them that a public consultation was taking place in respect of the proposed policy, asking for views on the proposals and explaining that the responses received would help us to decide if the proposals should go ahead.

6.1.2 Five “drop-in” events were held at Libraries and Community Hubs across Medway during April and May to provide people with the opportunity to discuss the proposal with Council Officers.

6.1.3 Social Media was used to make people aware of the consultation with both Twitter and the Council’s webpage being used on a daily basis to publicise the proposal to a broad range of people.

6.1.4 Posters were designed and sent to GP surgeries across Medway.

6.1.5 An online survey was sent to 246 home and day care providers to find out what the potential impact would be on those providers.

6.2 There were 441 responses to the user survey, of those 201 completed a paper based survey and 240 completed the survey online.

6.2.1 Twenty nine out of 246 providers completed an online survey.

6.2.2 The consultation outcome provided a mixed response, with both positive and negative feedback regarding the proposed policy being received.

6.3 A Diversity Impact Assessment (Appendix 2) was carried out which highlighted that the proposed policy was likely to have an adverse impact on a range of Service Users.

6.4 After reflecting on the concerns and views received in the consultation and the adverse impact identified in the DIA, it has been recognised that the proposed policy may not result in the best possible outcomes for Service Users and in this respect; it is recommended that the proposed policy is not implemented in Medway.

## **7 Financial implications**

- 7.1 The revenue budget 2016/2017 agreed at Council on 25 February 2016 included an assumption that implementation of this policy could reduce annual Council expenditure by around £220,000, it was recognised that this figure may be subject to some change dependent on numbers of service users that the proposed policy applies to and also by the timing of any implementation of this policy. As these savings will no longer be delivered through the implementation of this policy and in light of the Council's financial position, the Adult Social Care Management team have developed further management actions to help deliver these expected savings.

## **8 Legal implications**

- 8.1 Section 10.27 of the Care and Statutory Support Guidance issued under the Care states:

“In determining how to meet needs, the local authority may also take into reasonable consideration its own finances and budgetary position, and must comply with its related public law duties. This includes the importance of ensuring that the funding available to the local authority is sufficient to meet the needs of the entire local population. The local authority may reasonably consider how to balance that requirement with the duty to meet the eligible needs of an individual in determining how an individual's needs should be met (but not whether those needs are met). However, the local authority should not set arbitrary upper limits on the costs it is willing to pay to meet needs through certain routes – doing so would not deliver an approach that is person-centred or compatible with public law principles. The authority may take decisions on a case-by-case basis which weigh up the total costs of different potential options for meeting needs, and include the cost as a relevant factor in deciding between suitable alternative options for meeting needs. This does not mean choosing the cheapest option; but the one which delivers the outcomes desired for the best value.”

- 8.2 The guidance refers to the LAs not setting arbitrary upper limits on the costs it is will to pay to meet the needs of the service user. This essentially means that the LA should not set random, illogical, uninformed limits. The guidance does state that it recognises the needs for LAs to ensure that funding available is sufficient to meet the needs of the entire local population

## **9. Recommendation**

- 9.1 It is recommended that Cabinet do not agree to the introduction of the Fair and Affordable Cost of Care Policy for Adult Social Care.

## **10. Suggested reasons for decision(s)**

- 10.1 While the response received from the user survey findings are mixed, on reflection, it has been recognised that the proposed policy may not result in the best possible outcomes for Service Users.

10.2 Other Local Authorities that have already introduced the policy have fed-back that they are not seeing the calculated savings due to the statutory requirement to meet eligible care needs.

### **Lead officer contact**

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### **Appendices**

- Appendix 1 – Proposed Fair and Affordable Cost of Care Policy
- Appendix 2 – Diversity Impact Assessment

### **Background papers**

- Budget report to Council – Appendix 2a  
<https://democracy.medway.gov.uk/mgIssueHistoryHome.aspx?IId=16937&PlanId=258>
- Care and Support Statutory Guidance issued under the Care Act 2014  
<https://democracy.medway.gov.uk/mgIssueHistoryHome.aspx?IId=16937&PlanId=258>



# **FAIR AND AFFORDABLE COST OF CARE POLICY FOR NON-RESIDENTIAL CARE PACKAGES**

Version 1 – Jackie Brown  
Version 2 – Jackie  
Brown/Michael Hood  
Version 2.2 – Jackie Brown  
Version 3 – Jackie Brown

## Introduction

Medway Council is committed to supporting people to live full and independent lives within their local communities. Where people are eligible for Adult Social Care support, the aim is to support them in a way that reflects their preferences and the outcomes they wish to achieve through high quality services.

### Audience

The policy for determining Fair and Affordable Cost of Care for Non-Residential Care Packages applies to all adults in Medway who meet the Care Act eligibility criteria and receive adult social care services funded by Medway Council.

All Medway Council Adult Social Care staff, Medway Community Healthcare Staff and partner agencies that are responsible for Assessments and Care and Support Planning under the Care Act 2014 are required to comply with this policy.

### Document Purpose

Medway Council must take into reasonable consideration its finances and budgetary position, and must comply with its related public duties. This includes the importance of ensuring that the funding available to the council is sufficient to meet the needs of the entire local population.

This document describes the principles for decision making which lead to the allocation of resources to an individual and a framework for identifying the maximum expenditure of a care package to support an individual in their home.

As a general rule, the point at which the Fair and Affordable Cost of Care Policy will be considered for application will be on any package of care with an initial costing of:-

Older People Service:	£395 per week
Mental Health Service:	£485 per week
Disability Service:	£570 per week

This is not a limit or a cap it is merely guidance as when the policy is likely to be applied and the actual value will be determined on an individual basis according to individual circumstances as has always been the stated aim of this policy.

## **Policy Statement**

Medway Council is committed to supporting people to live full and independent lives within their local communities by promoting independence, social inclusion and positive risk taking. Where people are eligible for adult social care and support, the aim is to support them in a way that reflects their preferences and the outcomes they wish to achieve.

However this needs to be balanced against Medway Council's statutory responsibilities to make best use of available resources and to deliver services that are fair and equitable.

Medway Council has developed this policy to apply to all adult social care users, including those receiving direct payments, so that decision making in individual cases is fair, equitable and transparent and so that resources are fairly distributed across all people who are eligible for care and support.

## Underpinning Principles

Medway Council has a duty under the Care Act 2014 to carry out an assessment where an individual appears to have a requirement for community based care services.

The purpose of an assessment is to identify the person's needs and how these impact on their wellbeing, and the outcomes that the person wishes to achieve in their day-to-day life. The assessment will support the determination of whether needs are eligible for care and support from the local authority, and understanding how the provision of care and support may assist the adult in achieving their desired outcomes. An assessment must be person-centred, involving the individual and any carer that the adult has, or any other person they might want involved. An adult with care needs could for example ask for their GP or a district nurse to be contacted to provide information relevant to their needs.

An assessment must seek to establish the total extent of needs before the local authority considers the person's eligibility for care and support and what types of care and support can help to meet those needs. This must include looking at the impact of the adult's needs on their wellbeing and whether meeting these needs will help the adult achieve their desired outcomes. The assessment process also provides the opportunity for local authorities to take a holistic view of the person's needs in the context of their wider support network. Local authorities must consider how the adult, their support network and the wider community can contribute towards meeting the outcomes the person wants to achieve.

Medway Council's policies and practices in assessment and reviewing give emphasis to people's rights, choices and inclusion. Individuals are now encouraged throughout the assessment process to be an active partner in the assessment of their needs and, through an understanding of their situation, identify the outcomes they wish to achieve.

Advocacy and interpreters will be arranged as necessary to enable people to contribute to the assessment process. Information from other agencies is also considered and, with the agreement of the individual, carers are involved in the assessment process.

The national eligibility criteria set a minimum threshold for adult care and support needs which local authorities must meet. All local authorities must comply with this national threshold. The eligibility threshold for adults with care and support needs is set out in the Care and Support (Eligibility Criteria) Regulations 2014 (the 'Eligibility Regulations'). The threshold is based on identifying how a person's needs affect their ability to achieve relevant outcomes, and how this impacts on their wellbeing.

In addition to considering the needs of the individual and their preferred care and support plan, Medway Council has a responsibility to ensure the effective and efficient use of resources which takes account of the needs of all individuals in Medway who are eligible for social care and support.

Medway Council has adopted the Resource Allocation System (RAS) as the mechanism to identify the level of resources required to meet assessed need and to do so in an equitable way. This level of resource is the individual's Personal Budget.

There is also an established process for the consideration of agreement to Care and Support Plans which exceed the individual's initial Personal Budget where very high level of needs have been identified.

The Council has to operate within a defined financial limit which is subject to Government spending decisions, which may vary from time to time. It is important that account is taken of the current available financial resources in all decision making to ensure that resources are fairly distributed across all people who are eligible for adult social care support.

Section 10.27 of the Care Act states:

“In determining how to meet needs, the local authority must also take into reasonable consideration its own finances and and budgetary position, and must comply with its related public law duties. This includes the importance of ensuring that the funding available to the local authority is sufficient to meet the needs of the entire local population. The local authority may reasonably consider how to balance that requirement with the duty to meet the eligible needs of an individual in determining how an individual's needs should be met (but not whether those needs are met). However, the local authority should not set arbitrary upper limits on the costs it is willing to pay to meet needs through certain routes – doing so would not deliver an approach that is person-centred or compatible with public law principles. The authority may take decisions on a case-by-case basis which weigh up the total costs of different potential options for meeting needs, and include the cost as a relevant factor in deciding between suitable alternative options for meeting needs. This does not mean choosing the cheapest option; but the one which delivers the outcomes desired for the best value”.

In order to balance potentially conflicting responsibilities, through the introduction of the Fair and Affordable Cost of Care policy, the Council has decided to implement a usual maximum expenditure limit which will represent the expected maximum weekly cost on a package of care that would meet assessed eligible need in the following service areas;

- Community based services in the community/someone's home.
- Respite via Direct Payment

In circumstances where a care and support plan to meet need and manage risk in the person's home exceeds the usual maximum expenditure, alternative care arrangements would be considered.

This might include offering different ways of meeting need from the client's first choice. Services provided to a carer supporting the individual where the service is for the carer and not the cared for are not included in the costings of the support plan and are therefore not taken into account if the usual maximum expenditure is met.

## **General Principles/Guidance**

Medway Council's policy is to apply, subject to exceptional circumstances, a figure that represents the usual maximum expenditure for care packages in the community. This maximum amount is equal to the cost of having their eligible care and support needs met in a residential setting or other accommodation with support. The policy will only be applied to those elements of a person's support funded by Medway Council and will not be applied to funding a person receives from the NHS.

This could mean that insufficient Council funds are available for the package of support preferred by the individual and an alternative will be proposed by the Council. The individual may wish to achieve their preferred method of support by supplementing the Council's allocated resources through their own private resources, e.g. benefits received and personal assets but the Council must be satisfied that the final care and support plan meets need and manages risk appropriately.

Direct Payments will be offered to all Clients as the default option. Direct payments are a central part of personalisation and give Clients choice and control over their care. The advantage of this is in giving people choice, flexibility and control.

Where the need for respite has been identified and will be provided as a direct payment the maximum cost to Medway Council will be no more than the net cost of a prepaid/block purchase respite provider or equivalent service provision.

Should the individual choose to supplement the cost of their support through their own private resources, the council must be assured that this does not affect their ability to comply with the assessed client contribution determined through the Financial Assessment process.

In applying this policy the Council will give due consideration to Article 8 of the European Convention on Human Rights which gives a right to respect for private and family life, home and correspondence. In considering this right, the Council will apply an approach, which balances the needs of the individual with the needs of all those for whom it has a duty to arrange services. The Council will ensure that maximum independence and privacy is achieved for each individual within the financial limits of the resources available.

The Mental Capacity Act 2005 has particular relevance where the use of Independent Mental Capacity Advocates (IMCAs) might be appropriate to ensure that, as far as possible, people who lack capacity to make specific decisions about their accommodation, care and support are supported to be involved in the decision-making process.

The provisions of the Equality Act have to be considered where cultural requirements dictate a particular, and specialist, style of service which may be more expensive than other options.

Ultimately, however, the Council has to consider how the needs identified in the Assessment could be met in a way which represents the most cost-effective use of resources and to ensure that all eligible care needs of the clients can be met in a fair and equitable manner.

This case in point is illustrated through Regina v Lancashire County Council ex parte Ingham (1995) and Regina v Kensington and Chelsea Royal London Borough Council (2011).

## **Procedure**

This policy will be applied when the assessment/review process is complete and when full costings of the care and support plan preferred by the client and of the alternative care and support plan proposed by the Council are available. The potential for the promotion of independence through reablement/enablement and the use of assistive technology will have been taken in to consideration throughout the assessment process. However, Practitioners are expected to explain the policy during the assessment process.

The assessment will be person centred and focussed on an individual's strengths and capacity to meet their own needs with the support of their informal support network such as family and friends.

Where a proposed care and support plan exceeds the usual maximum expenditure limit the first step would be to re-examine the detail of the plan to see if any of the needs can be met in less expensive ways e.g. with the help of informal support.

Where the usual maximum expenditure limit is exceeded an individual has the right to make up the difference between the Council's allocated funding and the amount needed to fund their preferred support plan. A third party could also offer to make up the difference in funding needed to deliver the preferred support plan. However, Medway Council must be satisfied that the revised care and support plan is able to meet agreed needs and appropriately manage risks and such cases will be agreed at a Quality Assurance and Review Panel.

This policy will be applied through the decision making process of the Quality Assurance and Review Panel and the outcome communicated in writing to the individual. Where the community based care and support plan is not agreed, the Practitioner will discuss with the individual and or/their representative other appropriate and alternative options to meet eligible care needs, this may include alternative accommodation including available care home placements.

Exceptions to this policy will be agreed through the Quality Assurance and Review Panel. These decisions will be made on an individual basis. Factors that would be taken into account in the exercise of discretion include the potential for further reablement and the eventual reduction of support needed, cultural issues requiring a specialist agency or exceptional family circumstances such as the separation of family members.

This is particularly important when considering young people transitioning to adult services that may still have the opportunity to learn daily living/social skills or education opportunities and may then have the opportunity for paid employment and be less dependent on social care funding in the future.

### **Right of Appeal Stage 1 – Request a review**

The individual has the right to submit further information and to request the Quality Assurance and Review Panel to review its decision.

Should the individual or their representative remain dissatisfied with the outcome of the Quality Assurance and Review Panel they can invoke the Appeal process.

The Appeal Panel consists of a Head of Service in Adult Social Care, the Self Directed Support Team Manager and a third senior manager who has had no involvement in the Quality Assurance and Review Panel decisions.

### **Reviews and re-assessments**

This policy applies to new users of social care services; to clients where a change of need is identified, and to existing clients at the point of review.

DRAFT



## Glossary

**Quality Assurance and Review Panel** – an internal process for scrutinising budget allocations which are above the usual maximum expenditure limit. This is done to ensure equity applies across all service groups.

**Client contributions** - a client contribution is the amount the individual pays towards the cost of their care. This is calculated after a financial assessment which takes in to account their personal finances.

**Direct Payments (DP)** – payments of a personal budget paid directly so that the Client can purchase and manage their own care and meet the outcomes which have been agreed in their assessment. Direct Payment enables people to have more choice, control and flexibility over the services they receive.

**Legal duty** – this is the Council's statutory responsibility

**Net weekly cost** – the cost to the Council for a service after client contributions have been paid.

**Assessment** – the process to identify an individual's social care and support needs and their eligibility for public funded care and support

**Maximum Expenditure Limit** – the maximum amount of money the Council will make available for the purchase of non-residential care services for an individual.



# Diversity impact assessment

## Appendix 2

<b>TITLE</b> <i>Name/description of the issue being assessed</i>	Adult Social Care – Fair & Affordable Cost of Care Policy
<b>DATE</b> <i>Date the DIA is completed</i>	3 October 2016
<b>LEAD OFFICER</b> <i>Name of person responsible for carrying out the DIA.</i>	Jackie Brown, Head of Social Care Business Unit

### 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?*

Medway Council is committed to supporting people to live full and independent lives within their local communities, by promoting independence, social inclusion and positive risk taking. Where people meet the eligibility for social care and support the aim is to support them in a way that reflects their preferences and the outcomes they wish to achieve. However this needs to be balanced against Medway Council's responsibilities to make best use of available resources.

Medway Council proposed to introduce a Fair and Affordable Cost of Care which would represent the expected maximum weekly expenditure on a package of care that would meet assessed eligible need in the following service areas;

- Community based services in someone's home.
- Respite via Direct Payment

In circumstances where a care and support plan to meet need and manage risk in the person's home exceeds the usual maximum expenditure, alternative care arrangements would be considered. This might include offering different ways of meeting need from the service user's first choice.

Whilst, this is a change to the current position, where we have automatically offered preferred care and support packages which, on occasions, can be at a very high cost; the objective of the proposed policy was to support people in a way that reflects their preferences and the outcomes they wished to achieve against the Council's responsibilities to make best use of available resources.

# Diversity impact assessment

## 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 between 21 March and 10 June 2016 and included contacting and notifying.

- Adult Social Care Service Users
- Care Providers
- Local voluntary organisations supported and represented by Medway Voluntary Action.
- Carers First
- The Learning Disability and Physical Disability Partnership Boards
- The Mental Health Operational Group

Letters and a survey were sent to approximately 3000 Service users. The letter advised them that a public consultation was taking place in respect of the proposed policy, asking for views on the proposals and explaining that the responses received would help us to decide if the proposals should go ahead.

Five “drop-in” events were held at Libraries and Community Hubs across Medway during April and May to provide people with the opportunity to discuss the proposal with Council Officers.

Social Media was used to make people aware of the consultation with both Twitter and the Council’s webpage being used on a daily basis to publicise the proposal to a broad range of people.

Posters were designed and sent to GP surgeries across Medway.

An online survey was sent to 246 home and day care providers to find out what the potential impact would be on those providers.

## 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	Yes	No	No
Disability	Yes	No	No

# Diversity impact assessment

Gender reassignment	No	No	No
Marriage/civil partnership	Yes	No	No
Pregnancy/maternity	No	no	No
Race	No	No	No
Religion/belief	No	No	No
Sex	Yes	No	No
Sexual orientation	No	No	No
Other (eg low income groups)	Yes	No	No

#### 4 Summary of the likely impacts

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

Service Users eligible to receive care and support from Adult Social Care may be affected if the cost of their eligible care and support is greater than the maximum expenditure limit.

#### **Age & Disability**

Eligibility and the allocation of resources is based on an individual's need not age or disability. The circumstances of older people and those with a disability could change, but not exclusively so. Young people moving from children to adult social care may have different outcomes and a new resource allocation dependant on their needs.

#### **Gender/Sex**

Where the most cost effective support for an eligible need would prevent or significantly impact on the person's ability to carry out their parenting responsibilities.

Women are more likely to have the main caring or parenting responsibility in a family and therefore a placement in residential or other accommodation may impact on the person's ability to fulfil their responsibilities.

#### **Marriage/Civil Partnership**

Where the most cost effective support for an eligible need would prevent or significantly impact on the person's marriage or civil partnership. This could

# Diversity impact assessment

manifest itself through longer periods apart resulting in an emotional distancing of the people within the relationship.

### **Race/Religion/Belief**

Where the most cost effective support for eligible need would significantly impact on the person's social needs; home or family life; or cultural and religious practices particularly if their needs such as diet or social interaction with people sharing their culture isolation cannot be catered for.

### **Gender reassignment and Sexual Orientation**

Where the most cost effective support for eligible need would significantly impact on the person's wellbeing as they may feel that a setting away from their own home does not allow them to live in a way that reflects who they are and they may experience negativity and discrimination

The proposed policy aimed to provide a fair and equitable funding solution for people who wish to live independently in their own homes taking into consideration the Council's responsibility to make the best use of resources.

## **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?*

The consultation outcome provided a mixed response, with both positive and negative feedback regarding the proposed policy being received.

After reflecting on the concerns and views received in the consultation, it has been recognised that the proposed policy may not result in the best possible outcomes for Service Users and in this respect; it is recommended that the proposed policy is not implemented in Medway.

Other Local Authorities that have already introduced the policy have fed-back that they are not seeing the calculated savings due to the statutory requirement to meet eligible care needs.

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## 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
Work with the Communications Team to ensure Medway Residents are made aware that the proposed policy will not be introduced.	JB	30.10.16

## 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.*

After reflecting on the concerns and views received in the consultation it is recognised that the proposed policy may not result in the best possible outcomes for Service Users.

It is, therefore, recommended that Cabinet do not agree to the introduction of the Fair and Affordable Cost of Care Policy for Adult Social Care.

## 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*

**Assistant Director**

Linda Jackson

**Date**

03/10/16

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

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Send completed assessment to the Corporate Performance & Intelligence Hub (CPI) for web publication