

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

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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.

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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 transgendered 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	