

Report of the Interim Strategic Director of Adult and Community Services to the meeting of the Health and Social Care Overview and Scrutiny Committee to be held on 8 September 2016.

Subject:**H**

Outcome of Consultation on the proposed Change to Bradford Council's Contributions Policy for non-residential services

Summary statement:

From 1st April 2015 statutory guidance on charging for care and support under the Care Act is provided in The Care and Support (Charging and Assessment of Resources) Regulations 2014. The new law for adult care and support sets out a clearer approach to charging and financial assessments with one of the drivers of the Care Act 2014 being the portability of care and financial assessments; this would be better achieved if Bradford was to adopt the standard alternative.

Prior to any changes being made to the Policy, the Council is required to carry out a formal consultation on the proposed change and this report details the outcome of that consultation.

The report also suggests that consideration should be given to including charges for the Shared Lives Scheme in the Contributions Policy. It also suggests introducing charges for other services not currently charged for under the Policy.

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Overview & Scrutiny Area:**Health and Wellbeing**

1. SUMMARY

From 1st April 2015 statutory guidance on charging for care and support under the Care Act is provided in The Care and Support (Charging and Assessment of Resources) Regulations 2014. The new law for adult care and support sets out a clearer approach to charging and financial assessments with one of the drivers of the Care Act 2014 being the portability of care and financial assessments; this would be better achieved if Bradford was to adopt the standard alternative.

Prior to any changes being made to the Policy, the Council is required to carry out a formal consultation on the proposed change and this report details the outcome of that consultation.

The report also suggests that consideration should be given to including charges for the Shared Lives Scheme in the Contributions Policy. It also suggests introducing charges for other services not currently charged for under the Policy.

2. BACKGROUND

2.1 Current Contributions Policy for non-residential services

Bradford Council's Contributions Policy was implemented originally in 1996 and was revised in August 2012. The current Policy covers charges for homecare, day care, sitting services and direct payments and creates a single charge for whatever combination of these services a service user may receive. The weekly value is calculated by cumulating notional costs for each service received and this is then compared to the amount the service user has been financially assessed as being able to afford, the actual weekly contribution applied being whichever figure is the lower.

Due to the design of Bradford's current Contributions Policy, it is generally more generous than the standard alternative. There are however, circumstances where the current Bradford Policy is less favourable, which impacts those with low incomes. For instance, a single pensioner without Severe Disability Premium but in receipt of Attendance Allowance is likely to pay more under the Bradford policy, if their other income is lower than £160 per week.

Service users with more income are more favourably treated under the Bradford Policy and, broadly, the more income that you have, the more you benefit from the Bradford's approach. In addition if the service user is in receipt of Severe Disability Premium, Bradford's Policy is almost invariably more favourable.

The Policy ensures that no individual service user, especially those with limited income, contributes more than they can reasonably afford to pay, which will not change even if the proposed changes are implemented.



2.2 Legislative changes

From 1st April 2015 statutory guidance on charging for care and support under the Care Act is provided in The Care and Support (Charging and Assessment of Resources) Regulations 2014. The new law for adult care and support sets out a clearer approach to charging and financial assessments with one of the drivers of the Care Act 2014 being the portability of care and financial assessments; this would be better achieved if Bradford was to adopt the standard alternative.

The benefit changes with the introduction of Personal Independent Payments and Universal Credit which started to be rolled out in Bradford in November 2015 will have an impact on the current Contributions policy as Severe Disability Premium has no direct equivalent in Universal Credit and this is likely to have a negative impact on the income collected.

2.3 Proposed changes to the current Contributions Policy

2.3.1 The Current Contributions Policy

Bradford Council's current Contributions Policy is composed of the following four components:

- a basic charge
- a charge of 33% of middle rate Disability Living Allowance Care Component/ Attendance Allowance and 33% of Severe Disability Premium.
- a charge on income
- a charge on capital and savings

The total is used to calculate the service user's maximum weekly contribution. Calculating the contribution this way adds an extra level of complexity that is difficult to explain to service users.

2.3.2 The Standard Alternative

The standard alternative would be simpler to administer, would generate more income and is based on a single component as follows:

- The total income of the service user is determined (including capital and savings)
- From this the minimum income guarantee is deducted (this is the amount that the government says that you need for living costs and is based on basic income support/pension credit plus 25%).
- If you have any housing related costs and disability related costs these are also deducted.
- The money remaining is the amount used to calculate the contribution.

2.3.3 Impact on Service Users of changes to the current Policy



There are currently over 3500 service users across the District and the impact of the charging proposals is likely to have a greater impact on the savings and net disposable income of older people and working age adults that have more income, and young people under the age of 25.

Approximately 400 service users (40%) of working age will see an increase of between 25p and £116 per week and approximately 700 service users (34%) of pension age will see an increase of between 2p and £110 per week.

Young people under the age of 25 in receipt of high rate DLA/PIP would see an increase of up to £40 per week once they are in receipt of benefits as an adult; there are currently approx 226 service users under 25, 127 of which are in receipt of high rate DLA/PIP.

By definition virtually all those people receiving a social care service have a disability. However the proposed changes to the contributions policy have the greatest impact on young people under the age of 25 and those people who have acquired savings or have higher levels of income, and certainly above income support levels. In general people with severe and life limiting disabilities are less likely to be earning or acquiring savings.

Approximately 400 service users (40%) of working age will see a decrease of between 13p and £43.70 per week and approximately 450 service users (23%) of pension age will see a decrease of between 8p and £52.49 per week.

2.3.4 Implications of changing the existing Policy

If the proposal is agreed, in order to avoid increased charges, some service users may choose to reduce their care packages or purchase their care on the private market, which will benefit the purchased care budget, rather than the income budget.

The extra income available would depend on choices made in setting a new Contributions Policy - for example, if a higher standard rate Disability Related Expenditure was used or if less than 100% of disposable income were included in the assessment, then less extra income would be obtained.

Changing the existing Contributions Policy to the standard alternative suggested would see potential extra income achieved of approximately £500,000 per year. This figure has been based on a standard policy that would use 100% of net disposable income after any deductions for Disability Related Expenditure and Housing Related Costs.

Whilst every effort has been made to produce accurate figures they should be treated as estimates as the complexities of the policy and the factors taken into account may change



2.4 Further additional recommended changes and additions to the Contributions Policy

In addition to the proposal to amend Bradford Contribution Policy to the Standard alternative used by many other Local Authorities, further additional changes are recommended to the existing Policy to ensure that a comprehensive Contributions Policy is in place across the District which captures all services for which a charge could possibly be made.

2.4.1 Shared Lives

Short Breaks - Currently the charge for Shared Lives short breaks is £8.97 per night which is less than the current charge for short breaks in Learning Disability Services of £11.49. The proposal is to bring Shared Lives in line with Learning Disability Services. There would be a potential increase in income of £6,400 and the change would ensure that all service users would be paying the same charge.

Appendix 3 contains a letter sent out to service users.

Full Time Placements - Consideration needs to be given to bring the Shared Lives Full Time Placements under the non-residential Contributions Policy. The current payment system is based on the residential charging model which is not applicable.

The Shared Lives Scheme provides up to 37 full time placements for vulnerable adults. Placements are funded by a combination of housing benefit, client contribution and Local Authority top up with the current average cost of placement to the Department being £124.31 per week (excluding HB).

The service users are not currently put through the financial assessment arrangements but are left with a personal allowance of £72.50 per week. Under the non-residential Contributions Policy the service users would be left with a personal allowance of between £91.38 and £176.38 depending on their income.

This would increase the Local Authorities costs by £50,000 per year. However national research shows that a full time Shared Lives match can save the funding authority £26,000 p.a. for someone with a Learning Disability and £8,000 p.a. for someone with a Mental Health problem.

Research locally (October 2013) showed that there was a saving of over £28,000 per placement for each person with a Learning Disability using Shared Lives on a fulltime basis (compared to alternative housing).

2.4.2 Charging for cost of service - Double Up's

Under Bradford's current Policy, the cost for care visits which require two workers to be present at the same time is calculated on the time taken for the visit rather than the actual cost of the service.

The Care Act 2014 determines that the actual cost of the service has to be used for



calculating the Care Account and therefore the actual cost of the service should be used for calculating the contribution.

If implemented, this change will only affect those service users who have been financially assessed as contributing the full cost of their care i.e. self funders.

Currently there are 417 service users that have two workers present. Of those, 70 pay the full cost of service and 67 have chosen not to disclose their financial circumstances and therefore also pay the full cost of their care and in those cases contributions would double with the increase in costs being between £13.75 and £409.06 per week. This could potentially increase income by £10,343.00 per week or alternatively reduce the purchased care budget as the service users would organise their care privately or request a financial assessment.

2.4.3 Charging for care provided in Supported Living

Supported Living is not currently an assessed charge under the existing Contributions Policy. There are currently 221 service users in Supported Living care settings who receive 24/7 support in their Supported Living accommodation. 151 of those service users currently receive other services that do come under the Contributions Policy for which they are assessed as being able to make a contribution towards and are charged. The remaining 70 do not receive any other services and therefore do not make a contribution towards the cost of their care.

If the Supported Living service was to be considered under the Contributions Policy the 151 already being charged will not see an increase in their charge because they are already paying the maximum they can afford to pay. However if the remaining 70 are assessed as being able to afford the minimum contribution of £22.73, this would generate extra income of £82,737 per year.

3. REPORT ISSUES – CONSULTATION FEEDBACK

3.1 Consultation process

The initial consultation ran from 29th February to 20th May 2016. A letter and questionnaire (Appendix 1) was sent out to approximately 3,500 service users. The questionnaire was available on line where a printable version could be down loaded for return in the post and a telephone helpline was available to support service users complete the form and for questions to be answered. A consultation meeting was also held on 12th May 2016 for interested parties to attend.

During the initial consultation period concerns were raised regarding the questionnaire and the level of detail given in the documentation regarding the changes. As a result of those representations, the consultation period was extended to the 10th August 2016 and the Council worked with Keighley Peoples First and Health Watch to further improve the documentation. An amended letter and questionnaire was developed, together with additional examples (Appendix 2) and was sent out to approximately 3,500 service users.



A further consultation meeting was held on 19th July 2016 for interested parties to attend.

In relation to the Shared Lives proposals, a letter was sent out to 140 service users regarding the short breaks (Appendix 3) and a meeting was held on 6th May 2016. A 1:1 meeting was held with all 40 service users and carers to discuss the full time placement charges and a meeting was also arranged for 10th May 2016.

3.2 Summary of the results of the consultation questionnaires

723 service users responded to the first questionnaire, a response rate of 21% and 639 responded to the revised questionnaire, a response rate of 18%. A detailed analysis of the responses to each of the questions in the two questionnaires is attached at Appendix 4 and 5 respectively.

In summary, the specific questions asked on the questionnaire and the responses received over the two questionnaires are highlighted below;

Question 1 - The Councils policy is different to the rest of the country do you think it should be changed and made the same?

Response - 39 % of respondents agreed that the Councils policy should be brought in line with the rest of the country and only 28% disagree.

Question 2 - Do you think the standard policy is fair?

Response - This question was only asked in 2nd questionnaire. 45% of respondents agreed that the standard policy was fair. Only 15% strongly disagreed that the proposed standard policy is fair.

Question 3 - Is the standard alternative as described easier for you to understand than the current policy?

Response - The response to this question was evenly split between those agreeing and those disagreeing.

Question 4 - The cost of two workers should be charged for those who can afford to meet the cost?

Response - This issue resulted in a response of 36% agreeing and 38% disagreeing.

Question 5 - The support that service users receive in supported living should be charged for?

Response - This issue resulted in a response of 36% agreeing and 37% disagreeing.

3.3 Feedback from consultation events



In addition to the two questionnaires, two consultation events were also held. Approximately 100 people attended the two events made up of service users, representatives of service users, carers and voluntary organisations. A brief introduction on the proposed changes was given and then facilitated discussion groups were asked to respond to a set of questions. At the events, all parties were offered the opportunity to make comments or written representations on the proposed changes.

The notes of the two meetings and comments received in written representations are attached at Appendix 6 and 7 respectively.

Some of the main issues raised include:

- ✘ General comments - During the consultation meetings a range of comments and concerns were raised in relation to the fact that changes to Social Care contributions were even being considered as part of the Councils budget setting process. There were also questions raised as to why alternative options in relation to local decisions were not being considered instead of raising charges e.g. increases to Council Tax or taking the cuts from other Departments.
- ✘ Changing to the standard alternative policy - The general feeling was that Bradford should stay with its existing policy and that the standard alternative was not fair and would leave service users with less money and a poorer quality of life. It seemed that the service users in the 25 years to pension age group would be adversely affected. There were also concerns about Disability Related Expenditure (DRE) and what type of expenditure would be allowed, particularly if the service user had a Learning Disability. The amount of the increase in contributions was also a concern as some service users may see their contributions double under the new policy. The majority did not think that the standard alternative was any easier to understand than current policy.
- ✘ Concerns about the time it will take to do a financial assessment and also that a care assessment should be done at the same time and would there be enough resources available to do this.
- ✘ Charging for cost of service - Double ups - The general feeling was that it was not the fault of the service user if they required two carers so why should they be penalised by being charged for both.
- ✘ Charging for care in the Supported Living Service - The general feeling was that it seemed fair that service users should contribute if they are receiving care but that if charged for this under the standard policy, then they would have less money and a poorer quality of life.



3.4 Results from the shared lives consultation

The Shared Lives Fairer Charging Consultation took place between May and June 2016.

A summary of the feedback is below.

Short Breaks

140 letters were sent out to people using shared lives short breaks about the proposed flat rate increase from £8.97 to £11.49 per overnight. 17 replies were received a 12% response rate.

The questions were:

	Strongly Agree	Tend to agree	Neither agree nor disagree	Tend to disagree	Strongly disagree
1) The charge for Shared Lives should be the same as for residential short breaks (respite)	1	8	3	1	1
2) Increasing the charge will make no difference to how much I use the Shared Lives service	1	1	6	8	2

The theme of comments was that people felt that they were being expected to pay for more and more aspects of care and support and transport and were unsure how an increase would affect them. Others felt it was a big increase but a fair rate.

A meeting was arranged to discuss the short breaks increase on Friday 6th May 2016 at City Hall but no one attended.

Full Time Shared Lives Services

There are 40 service users who use Shared Lives on a fulltime basis living with 27 Shared Lives carers. Individual 1:1 discussions were held with all the fulltime carers and service users about the potential impact of the Non residential Contributions Policy principles regarding their contribution to the Shared Lives fulltime matches.

Overall service users felt that the proposed changes will make the payment system more straightforward and easy to understand and all were in favour as it does not leave anyone worse off.

A meeting to discuss the short breaks increase was held on 10th May 2016 at City Hall to discuss the issue and only 1 person attended who was in favour of the new system



4. FINANCIAL & RESOURCE APPRAISAL

In finalising the budget for 2016/17 onwards at Council on 25 February 2016, the Director of Finance report Document R 'The Council's Revenue Estimates for 2016-17 and 2017-18' was agreed.

The report included proposal 3A1 and identified additional income of £466,000 in 2016/17 and a further £611,000 in 2017/18 as a result of 'Changes to the Contributions Policy for Adult Social Care'.

Any shortfall in the achievement of that identified income will need to be found from elsewhere within the Adult Social Care budget.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

There are no risk management or Governance issues in relation to this report.

6. LEGAL APPRAISAL

The Care Act 2014 now provides a single legal framework for charging for care and support under sections 14 and 17 supplemented by The Care and Support (Charging and Assessment of Resources) Regulations 2014.

The framework is based on the following principles that local authorities should take into account when making decisions on charging:

- Ensure that people are not charged more than is reasonably practicable for them to pay;
- Be comprehensive, to reduce variation in the way people are assessed and charged;
- Be clear and transparent, so people know what they will be charged;
- Promote wellbeing, social inclusion and support the vision of personalisation, independence, choice and control;
- Support carers to look after their own health and wellbeing and to care effectively and safely;
- Be person-focused, reflecting the variety of care and caring journeys and the variety of options available to meet their needs;
- Apply the charging rules equally so those with similar needs or services are treated the same and minimise anomalies between different care settings;
- Encourage and enable those who wish to stay in or take up employment, education or training or plan for the future costs of meeting their needs to do so; and
- Be sustainable for local authorities in the long-term.

The new framework is intended to make charging fairer and more clearly understood by



everyone. There is however no single prescribed national charging policy for care services provided in a setting other than a care home (e.g. own home, extra care housing, supported living or shared lives accommodation). Local Authorities have the discretion to decide whether or not to charge and should enter into consultation when deciding how to exercise this discretion. If a Local Authority chooses to charge, a means test based charging policy is required. Any charging policy must be Care Act 2014 and Regulation compliant.

The Regulations determine the maximum amount that can be charged and the minimum amount of income a service user must be left with but charging policies can be more generous. The overarching principle of the new framework is that people should only be required to pay what they can afford and no more than the actual cost of the services.

The Regulations require charging policies ensure that after charging service users are left with enough money to meet their daily living and any disability related costs that are not met by the local authority. This is referred to as the minimum income guarantee (MIG) . The Regulations prescribe the MIG and service users' income cannot be reduced below the MIG. The government has indicated it considers it is inconsistent with promoting independent living to assume, without further consideration, that all of a person's income above the MIG is available to be taken in charges. Local authorities should consider whether it is appropriate therefore to set a maximum percentage of disposable income over and above the MIG to be taken into account in charging. Local authorities should also consider whether it is appropriate to set a maximum charge to help ensure that people are encouraged to remain in their own homes and promote independence and wellbeing

Consideration should be given to how any charging policy will impact on carer services. Local Authorities are not required to charge a carer for support provided to them. Local Authorities should ensure any charges do not negatively impact on a carer's ability to continue to care.

Any charging policy must be Care Act 2014 compliant and implemented in accordance with the overriding statutory principles so as not to create inequity between existing and new service users.

Consultation must be full and meaningful. A consultation should ensure that all relevant parties receive sufficient information to enable them to provide informed feedback which should be taken into account prior to any final decision being made. The consultation process and timing should be sufficient to enable consultees to be informed of the proposals, raise queries, consider alternatives and respond to the issues and complexities of the proposals whilst remaining coherent, focussed and proportionate. A public body is not bound to act upon the preferred option of consultees but must take full account of any preferred view, expressed opinion and overall feedback. The requirement is for consultation to be meaningful. Clear reasons must be given for not taking a preferred course of action expressed by consultees.



7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

There are currently 3355 service users across the District and the impact of the charging proposals is likely to have a greater impact on the savings and net disposable income of older people and working age adults that have more income, and young people under the age of 25. Young people under the age of 25 will all see an increase of up to £40 per week once they are in receipt of benefits as an adult, there are currently approximately 270 service users in this category. Approximately 400 service users (40%) of working age will see an increase of between 25p and £116 per week and approximately 700 service users (34%) of pension age will see an increase of between 2p and £110 per week.

By definition virtually all those people receiving a social care service have a disability. However the proposed changes to the contributions policy have the greatest impact on those people who have acquired savings or have higher levels of income, and certainly above income support levels. In general people with severe and life limiting disabilities are less likely to be earning or acquiring savings. Approximately 400 service users (40%) of working age will see a decrease of between 13p and £43.70 per week and approximately 450 service users (23%) of pension age will see a decrease of between 8p and £52.49 per week.

The majority of current service users are female and therefore the majority of those affected by the proposed changes are elderly women.

Any proposed changes will pay particular attention to the minimum income buffer required under current Legislative guidance of Income Support/Guarantee Credit plus 25% when considering the impact of any change to existing policy and the amount of funding available to them to continue to pay their other day to day living expenses.

In mitigation before any individual changes are made as a result of the new proposals clients will still be offered the opportunity to be financially assessed as being able to afford to pay any new charges and those assessed as being unable to pay will not be charged.

An Equality Impact Assessment has been prepared and is attached as Appendix 6

7.2 SUSTAINABILITY IMPLICATIONS

There are no specific sustainability implications in this report.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

N/A

7.4 COMMUNITY SAFETY IMPLICATIONS

There are no specific community safety implications in this report.



7.5 HUMAN RIGHTS ACT

Under the Human Rights Act 1998 it is unlawful for any public body to act in a way that is incompatible with an individual's human rights. Where an individual's human rights are endangered Local Authorities have a duty to balance those rights with the wider public interest and act lawfully and proportionately. The most relevant rights for the purposes of this report are:

- the right to respect for private and family life
- the right to freedom from inhumane and degrading treatment
- the right not to be discriminated against in respect of these rights and freedoms

The obligations on public bodies under the Human Rights Act 1998 require vulnerable individuals their families, carers and relevant members of the public be involved in any consultation process and planning of changes and that planning of change is fair and proportionate.

7.6 TRADE UNION

There are no current Trade Union matters for consideration. However as the work progresses, should any Trade Union implications be identified which need to be considered, will be addressed through the usual consultation mechanisms.

7.7 WARD IMPLICATIONS

There are no specific Ward or area implications in this report.

7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS (for reports to Area Committees only)

N/A

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

There are no options to consider. The report is being made available to the Overview and Scrutiny Committee to ensure that any comments or considerations can be included in the report to the Executive on the outcome of the consultation on 20 September 2016, prior to any decisions being taken.



10. RECOMMENDATIONS

That the Committee considers the feedback received to date as part of the consultation on changes to the Contributions Policy and that this Committee requests that the views and comments raised by Members be included in the final report to Executive on 20 September 2016.

11. APPENDICES

Appendix 1 - Original letter and questionnaire
Appendix 2 - Revised letter, examples and questionnaire
Appendix 3 - Shared Lives Letter
Appendix 4a - Results from the original questionnaire
Appendix 4b - Comments from the original questionnaire
Appendix 5a - Results from the revised questionnaire
Appendix 5b - Comments from the revised questionnaire
Appendix 6 - Notes of first consultation meeting held on 12 May 2016
Appendix 7 - Notes of second consultation meeting held on 19 July 2016
Appendix 8 - Equality Impact Assessment

12. BACKGROUND DOCUMENTS

None

