

Division(s):

CABINET – 17 SEPTEMBER 2013

CONTRIBUTIONS POLICY FOR ADULT SOCIAL CARE

Report by Director for Social & Community Services

Introduction

1. Oxfordshire County Council aims to support and promote strong communities so that people live their lives as successfully, independently and safely as possible. The Council aims to encourage independence and choice, promote prevention and early intervention, be fair and equitable and give service users more power and control over their lives.
2. Social care is not a free service and the way funding is allocated from central government makes it clear that councils need to collect income locally to contribute to the cost of services.
3. The purpose of the Adult Social Care Contributions Policy is to outline a fair approach to the financial contributions made by individuals towards the social care services they receive. The Council is committed to making its approach to these contributions as simple and straightforward as possible.
4. Changes in national policy, lessons learnt from implementing personal budgets and direct payments, as well as inconsistencies that have been identified in our current practice, mean that it is timely to review our contributions policy. This is also an opportunity to address inconsistencies that have been identified in current policy and implementation, and through the recent audit of adult social care, such as people paying providers directly for day opportunities and double-handed care being charged different rates from people paying through personal budgets.
5. The new policy essentially restates the principles in the current policy as the basis on which we seek contributions from individuals towards the cost of their care. This is primarily through contributions to their personal budget, but also includes services that incur a charge either from the provider or from the Council.
6. The majority of people either won't be affected or will be better off as a result of the proposed changes. However, there are a number of areas where changes are proposed, which will have implications for service users and the Council.
7. These areas are discussed in more detail in points 22 to 53. In summary, these changes relate to:

- (a) clarifying for service users which services will incur a charge, and whether the council or the provider is responsible for setting and collecting these charges. This includes setting a single, flat rate for home care rather than the current variable charges.
- (b) removing the 4-week period of free care clients receive prior to undertaking a financial assessment and contributions starting, with the exception of intermediate care services such as reablement which legislation dictates must have a 6-week period before charging commences.
- (c) removing the nominal charge to the client where the financial assessment is not completed within 4 weeks and they start receiving services, as this is not in line with Fairer Charging guidance from Government.
- (d) offering service users living with a partner both an individual and a joint assessment, and charging whichever is most beneficial for the client.
- (e) providing the Alert service free of charge for service users that are most vulnerable and/or least able to pay for it
- (f) assessing client contributions to the cost of respite care under Fairer Charging guidance, potentially reducing their contribution.
- (g) taking personal injury awards into account in financial assessments, or recovering the cost of care from trust funds, where reasonable to do so and having regard for the terms of the trust or settlement.

Consultation and Engagement

- 8. A period of consultation with public and key stakeholders took place from 26th June - 21st August 2013 on a draft of the Contributions Policy for Adult Social Care and Service and Community Impact Assessment.
- 9. The focus of the consultation and engagement period was on the key areas of the policy in which changes were proposed (as set out in point 4 above), including whether we had correctly identified the potential implications for service users, carers, providers and the Council. Comments were also invited on the policy in general.
- 10. The consultation and engagement period included three public meetings, online consultation and targeted consultation and engagement with the 27 people identified as being most likely to see their contributions increase as a result of the proposed change to introduce a single, flat rate for home care.
- 11. A number of key organisations were also proactively engaged in conversations about the draft policy. This included meetings with Carers Voice Oxfordshire (16 attendees including service users and carers) and Unlimited (Physical Disability user led organisation – 13 attendees including service users and carers).
- 12. In total 23 people and organisations responded to the online questionnaire, and formal responses were also received from Age UK Oxfordshire and a parent of a service user likely to see their contributions increase as a result of

the new policy. In total, 8 people attended the public meetings held in Banbury, Oxford and Didcot.

13. A summary of the consultation responses is available in the Members Resource Room.
14. The consultation responses were broadly supportive of the proposals in the policy, although there were a number of comments about trying to make the policy easier to understand. Efforts have been made to ensure the final policy is as clear and free of jargon as possible, whilst remaining in line with government guidance. The policy will be supported by guidance documents for staff, service users and carers that will also help to explain the principles of the policy as clearly as possible.
15. There were also a number of questions raised as part of the consultation seeking clarification of the impact of proposals on individual circumstances, and in general about the process of care and financial assessments. These will all be responded to directly, although they did not propose or necessitate any changes to the proposed policy. It is also proposed to implement the policy with effect from 5th January 2014, to allow time to reassess individuals under the new policy to fully understand any changes in contributions and make suitable adjustments where necessary / appropriate.
16. As part of the consultation, it was proposed to make the Alert service free to charge to anyone. However, responses to the consultation questioned how the most vulnerable people or those least able to pay the costs of the service would be prioritised, and the potential cost to the Council as a result of significantly increased number of service users.
17. The proposal has therefore been amended, as set out in points 34-39.
18. We believe that this change will reduce the numbers of referrals to the Fairer Charging team, thus reducing waiting times for a financial assessment for people with more complex care needs, whilst maintaining the preventative intention of the service and targeting it at those least able to pay for the service from their own resources.

Contributions Policy for Adult Social Care

19. An updated and amended draft of the Contributions Policy for Adult Social Care is attached as Appendix A.
20. Much of the Council's current policy and practice for seeking contributions from individuals towards the cost of their care remains the same in the new policy. This is primarily through contributions to their personal budget, but also includes services that incur a charge either from the provider or from the Council.

21. However, there are a number of areas where changes are proposed to ensure that the policy is straightforward, consistent and clear and provides people with timely, concise information about the costs of their care, as set out below.

Charges for Services

22. The policy includes details of the services for which charges will apply, based on distinguishing between preventative services (that will be offered free of charge) and those that are either subsidised universal services or available exclusively to people with personal budgets (both of which will generally be charged by the provider and paid by the service user from their own funds or from a personal budget).
23. This is important in clarifying for service users which services will incur a charge, and whether the council or the provider is responsible for setting and collecting these charges. It will also avoid situations where service users are charged different amounts depending on whether they are using a personal budget or paying directly.
24. The policy also includes a presumption that any new services will be chargeable unless:
- a. The cost of recovering charges will exceed the income raised;
 - b. There are statutory or legislative reasons for not charging at all or not charging the full amount to some users of the service
 - c. Charging full costs would result in no uptake of a service
 - d. Charging for a service would act as a deterrent to taking up an essential service.

Free Care Period

25. The Council currently offers a four-week period of free care, prior to undertaking a financial assessment and contributions starting.
26. It is proposed to remove this and to undertake financial assessments as soon as possible. Clients will not be charged until a financial assessment has taken place, with the exception of intermediate care services such as reablement which legislation dictates must be offered for a period of up to 6-week before charging commences.
27. The Council previously set a nominal charge to the client where financial assessments were not completed within four weeks and they started receiving services – they were then charged their assessed contribution from the time the financial assessment was completed. However, a recent Local Government Ombudsman ruling has shown this to be challengeable as being outside Fairer Charging legislation, so this nominal charge was suspended in June 2013. This will reduce the Council's income, however this will be offset against doing assessments sooner and therefore individuals' contributions starting earlier than four weeks.
28. These changes will be supported by business process re-engineering as part of the Adult Social Care Improvement Programme, to ensure financial assessments are completed as soon as possible.

29. These changes will only impact on new clients and are anticipated to generate approximately £50k additional income for the Council per annum.

Couples

30. Our current policy is to charge clients individually unless they are dependent on their spouse, whereby we will automatically assess as a couple. There are currently 576 clients who are part of a couple.
31. It is proposed that in future financial assessments will normally be undertaken as a single person, however clients living with a partner will also be offered a joint assessment. This will require details of all savings, income and expenses held individually or jointly. We will then financially assess at whichever rate is better for the service user.
32. For couples that are receiving joint benefits and/or who are both receiving care services from Oxfordshire County Council, only joint assessments will be offered. This assessment will be based on both partner's income, capital and living costs.
33. It is anticipated that this will reduce the contributions of approximately 60 clients, and reduce the Council's income by approximately £220k per annum.

Alert Service

34. The Alert Service provides alarm systems to people who may need to summon an emergency response or support. These are currently charged for, but are considered to be an important preventative service supporting the independence of people living in their own homes.
35. There are approximately 4,350 users of the Alert Service, of which around 3,600 are in receipt of Housing Benefit and 726 (17%) have received a financial assessment (the rest being screened out by the provider as not being eligible for support from Adult Social Care). Of those assessed, 72% are assessed as not having to make a contribution to the cost. This means that only 5% of the total users of the Alert Service are contributing towards the cost of the service.
36. It is proposed that service users who are in receipt of Housing Benefit and either Income Support or (Guaranteed) Pension Credit (and this may be extended in future to those receiving Universal Credit, as this is rolled out) will receive the service free automatically, without the need for a Fairer Charging Assessment.
37. Anyone not in receipt of those benefits will be able to access the service in the same way as they do now, either by making an agreed contribution following a Fairer Charging assessment (which may still result in a free service) or by paying full costs (between £5 and £22 depending on the level of service). Alternatively people who would have to pay the Council's full charges can choose to receive the service privately, through an organisation of their choosing.

38. Approximately 36 current users are in receipt of Housing Benefit and either Income Support or (Guaranteed) Pension Credit. Providing the service free of charge to these individuals will reduce their contributions by between £5 and £22 per week.
39. It is anticipated this will reduce the Council's income by approximately £16.5k per annum.

Respite

40. The Council has discretion about how to charge for respite care, including temporary stays under 8 weeks. The council can charge under residential or non-residential Government guidance, or set what it considers to be a 'reasonable amount'. Currently many assessments are undertaken using residential guidance (Charging for Residential Accommodation Guidance - CRAG) unless clients have Personal Budgets that include provision for respite care.
41. It is proposed to include charges for respite care under non-residential Government guidance (Fairer Charging guidance) as this supports our aims of helping people to live independently at home, personalisation and offering individuals greater choice and control through a personal budget. It also means that on average people will be better off, as charges for respite care under residential legislation are typically £60-£80 per week for clients on low incomes whereas the minimum charge under Fairer Charging guidance is £0 per week.
42. It will also mean that charges cannot be backdated to before a financial assessment has taken place (permitted under Charging for Residential Accommodation Guidance but not under Fairer charging Guidance), meaning service users will always be aware of their level of contribution before being charged.
43. It is anticipated that this change will reduce the Council's income by approximately £150k per annum.

Personal Injury Awards and Trust Funds

44. The Council does not currently have a policy about taking personal injury awards into account in financial assessments, or recovering the cost of care from trust funds.
45. It is proposed to take settlements (both interim and final) into account when assessing the financial circumstances of a service user where it is considered reasonable to do so. It is also proposed that the Council will consider whether to recover the cost of care from a trust fund, where reasonable to do so, having regard for the terms of the trust. Guaranteed Income Payments made under the Armed Forces Compensation Scheme to disabled ex-service personnel will not be taken into account

46. These changes are likely to increase income to the Council, and in some cases this could be significant sums, but it is difficult to quantify how much this will be per annum. However, any sums recovered will help to offset the loss of income as a result of other policy changes.

12-week Property Disregard

47. In line with Government guidance, the Council currently offers a 12 week period of grace for people moving into a care home, whereby the Council continues to fund the cost of care at the previously assessed level for a period of up to 12 weeks before undertaking a new financial assessment. This helps to alleviate the risk that a client is reassessed as needing to contribute significantly more than previously as a result of the value of their property being taken into account, prior to having released the value of their property through completion of the sale.
48. If the sale is not complete after the 12 week period, the Council will provide interim or deferred payments secured by a legal charge over the property under Charging for Residential Accommodation Guidance (CRAG). The amount secured by the legal charge will be repayable to the Council immediately on sale of the property and may be subject to an additional interest charge as set out in the Deferred Payment Agreement or the provisions of HASSASSA 1983.
49. It is proposed to extend the same 12 week property disregard and deferred payments to clients moving elsewhere (for example into Extra Care Housing or to move in with relatives). However, clients moving into accommodation other than a care home that do not agree to the Council securing a charge over their property if the sale is not completed within 12 weeks will not be offered an initial 12 week property disregard option, and will be reassessed with the value of their property taken into account.
50. This is a positive change for service users, as it helps reduce the risk that they need to contribute significantly more towards the cost of their care before they have the income from the sale of their property. It also means clients will be treated in the same way wherever they are moving, and may mean they can move home sooner as they no longer need to wait for the sale to be completed.
51. It is difficult to assess the precise number of people this will affect, as the likely numbers this will apply to is unclear. The gross costs are difficult to assess, since these can vary far more than the cost of residential / nursing care, and the net costs are also difficult to estimate as by selling a property clients are likely to be assessed as contributing some or all of the cost of their care when they may previously not have been.
52. However, for comparison, in 2012/13 the Council spent £880k offering a 12 week property disregard to 124 people moving into residential care. Although their properties were disregarded, they were already assessed to contribute something to the cost of their care so the net cost was only £346k. For interim funding the Council “spent” almost £6 million in 2012/13, (on 490 people) but

the eventual net cost will be zero as the money is reclaimed following the sale of the properties.

53. The proposal is also positive for the Council, as it may encourage people to move into alternative accommodation rather than a care home, including Extra Care Housing. This proposal may also help people move into Extra Care Housing sooner as they don't need to wait for their property to be sold, reducing the risk of empty properties for which the Council is responsible for paying the provider a core charge.

Summary of proposed changes

Change proposed	Impact on service users	Impact on the Council
<p>Charges for services Clarifying which services will incur a charge and whether the council or the provider is responsible for setting and collecting these charges, and introducing a single, flat rate per hour for home support</p>	<ul style="list-style-type: none"> • Most clients will pay less for the vast majority visits, but more for double-handed visits lasting over 36 minutes on weekdays and single-handed visits lasting over 50 minutes on weekdays if they choose to use their personal budget in this way. • Based on the charges made in 2012/13 there approximately 25 clients whose total contribution would have increased by more than £5, with the maximum increase being £13 per week. 	<ul style="list-style-type: none"> • Need to make clear to existing and future providers the presumption that service will be charged for, with the charge being set and collected by the provider
<p>Free Care Removing the 4 week Free Care Period for all services other than intermediate care services (which will continue to be provided free of charge for up to 6 weeks)</p>	<ul style="list-style-type: none"> • These changes will only impact on new clients, who will begin contributing to the cost of care up to 4 weeks earlier than previously 	<ul style="list-style-type: none"> • Generate approximately £50k additional income for the Council per annum by starting contributions sooner
<p>Couples Offering couples a joint assessment as well as an assessment as an individual, and charging whichever is most beneficial to the client (with the exception of couples in receipt of joint benefits, who will only be assessed as a couple)</p>	<ul style="list-style-type: none"> • It is anticipated that this will reduce the contributions of approximately 60 clients by up to £350 per week 	<ul style="list-style-type: none"> • Reduce the Council's income by approximately £220k per annum.
<p>Alert Providing the service free of</p>	<ul style="list-style-type: none"> • Reduce the contributions of approximately 36 users by 	<ul style="list-style-type: none"> • Reduce income for the council by

charge to people in receipt of Housing Benefit and either Income Support or (Guaranteed) Pension Credit	between £5 and £22 per week.	approximately £16.5k per annum
Respite Charging for respite care, including temporary stays under 8 weeks, under non-residential guidance	<ul style="list-style-type: none"> • Support people to live independently at home, personalisation and offering individuals greater choice and control through a personal budget. • Reduce the minimum charge from £130 under residential guidance to £0 under non-residential guidance. 	<ul style="list-style-type: none"> • Reduce the Council's income by approximately £150k per annum.
Personal injury awards and Trust Funds	<ul style="list-style-type: none"> • Likely to increase the contributions of clients, but these are awarded to individuals in recognition of their ongoing care needs, and so will not negatively impact on clients by increasing their contributions beyond their ability to pay 	<ul style="list-style-type: none"> • Likely to increase income to the Council, and in some cases this could be significant sums, but it is difficult to quantify how much this will be per annum.
12 week property disregard Extending the disregard and deferred payments currently offered to clients moving into care homes to clients moving elsewhere (Extra Care Housing, in with family, sheltered housing)	<ul style="list-style-type: none"> • Helps to alleviate the risk that a client is reassessed as needing to contribute significantly more towards the cost of their care than previously as a result of the value of their property being taken into account, prior to having released the value of their property through completion of the sale. 	<ul style="list-style-type: none"> • Enable those home owners with eligible care needs to move into Extra Care Housing more quickly, thereby reducing the cost to the Council of paying the core charge to the on-site care provider due to empty properties.
Net cost of proposed changes to the council		£340k per annum

Financial and Staff Implications

54. The proposed changes would reduce the income the Council receives each year by a maximum of £340k. This will in part be offset by the by the changes to free personal care and our proposed approach to personal injury awards and trust funds. Although this is a cost to the Council we believe that the changes are crucial to ensure that the policy is as fair, consistent and straightforward as possible whilst also ensuring the Council is fully compliant with Government guidance.

55. The small loss of income in 2013/14 has been factored into the current savings plans for the year; the implications for future years have been built in as part of the service and resource planning process and will be covered by forecast additional income arising from increased demand for Care packages.
56. There will be additional work for the Financial Assessments Team in reassessing existing clients under the new policy, whilst continuing to meet demand for new assessments. It is proposed to implement the new policy with effect from 5th January 2014 to allow time for these reassessments to take place, and to ensure guidance for the public and procedures for staff are updated and staff appropriately briefed before the changes come into effect.

Equalities Implications

57. In line with the Council's Equality Policy 2012-2016, a Service and Community Impact Assessment has been completed to consider the implications of the Contributions Policy for Adult Social Care. This is attached at Appendix B.
58. This assessment has identified that the majority of people either won't be affected or will be better off as a result of the proposed changes. Many people will see their contributions reduce as a result of the changes to the Alert Service, and anomalies in charging different amounts for people purchasing services directly from providers compared to those using personal budgets will be addressed.
59. A relatively small number of current service users (less than 30 of a total of 15,000) may see their contributions increase as a result of introducing a single, flat rate for homecare. In many cases this increase is likely to be £12 a week or less, although in a limited number of cases may be more. All users likely to be affected in this way will be offered a review of the financial assessment before the policy is implemented, to ensure they are fully aware of how much their contributions will increase, and to consider alternative ways of meeting their care needs at less cost if appropriate.

RECOMMENDATION

60. **The Cabinet is RECOMMENDED to agree the Contributions Policy for Adult Social Care, for implementation with effect from 5th January 2014.**

JOHN JACKSON
Director for Social & Community Services

Background papers:
Contact Officer: Ben Threadgold, Strategy and Performance Manager Tel:
(01865) 32 8219

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