



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

CABINET

7 December 2023

Report of the Executive Director - Adult Social Care and Health

Charging Policy for Local Residents in Receipt of Adult Social Care Support in the Community

(Adult Social Care and Health)

1. Divisions Affected

Countywide.

2. Key Decision

2.1 This is a key decision because, if the proposed changes are made, it is likely to:

- a) result in the Council incurring expenditure which is, or savings which are significant having regard to the budget for the service or function concerned.
- b) be significant in terms of its effect on communities living or working in an area comprising two or more electoral areas in the County.

3. Purpose

3.1 To inform Cabinet of the response to the consultation on the current Charging Policy for people receiving Adult Social Care support in the community and the current Disability Related Expenditure process.

- 3.2 To inform Cabinet of the outcome of the updated Equality Impact Analysis.
- 3.3 To seek approval for the implementation of the proposed revised Charging Policy for people receiving Adult Social Care support in the community and recommendations about the preferred course of action.

4. **Information and Analysis**

4.1 Background and Context

- 4.1.1 The Council is committed to achieving good outcomes for local residents who require Adult Social Care support; recognising that local residents want to remain living in their own homes, wherever possible, for longer. The Council is keen to offer support which promotes independence and offers local residents choice and control over this support.
- 4.1.2 Due to the increasing demand for Adult Social Care, to meet needs for care and support alongside the need to continue to deliver high quality services, the Council must now consider how to sustainably fund Adult Social Care support. The Council needs to consider how it can ensure Adult Social Care support will meet the needs of local residents, not only now but also in the future.
- 4.1.3 The Council must be able to meet its statutory duties whilst being able to provide support to those who need it most. The offer of Adult Social Care support must be sustainable and equitable. Under the current charging policy, the projected income for this financial year is £10.552m with the projected spend on Adult Social Care long term community support being £127.2m.
- 4.1.4 Local Authorities are required to provide certain functions under the Care Act 2014 relating to Adult Social Care support. These include ensuring local residents:
- Receive support that prevents their care needs from becoming more serious or delays the impact of their needs.
 - Can get the information and advice they need to make good decisions about care and support.
 - Have a range of provision of high quality, appropriate support to choose from.

- 4.1.5 Under the Care Act 2014, Local Authorities have discretion to choose whether to charge for Adult Social Care community support provided to meet eligible needs, except where it is required to arrange care and support free of charge (such as certain types of community equipment or if the care is to be provided free under other legislation for example section 117 of the Mental Health Act which entitles people to receive free aftercare following compulsory detention in hospital).
- 4.1.6 The regulations issued under the Care Act 2014 and LAC (DHSC) (2023)¹ set the current levels of capital (savings and assets) a person can have whilst qualifying for financial support from their local authority. The current upper capital limit is £23,250. People with capital between £14,250 and £23,250 are charged a tariff income of £1 for every £250.
- 4.1.7 The capital limits described above are mandatory for care home residents but for adults receiving Adult Social Care support in the community, local authorities have discretion to set a higher upper capital limit, a higher tariff income and a lower financial contribution rate.
- 4.1.8 People receiving local authority-arranged support other than in a care home need to retain a certain level of income to cover their living costs. Under the Care Act 2014, charges must not reduce people's income below a certain amount, but local authorities can allow people to keep more of their income if they wish. This is a weekly amount and is known as the Minimum Income Guarantee. The rates of the Minimum Income Guarantee are set annually and the current rates may be found [here](#).
- 4.1.9 There is a national statutory framework taking into account extra expenditure that people incur in relation to disability or long term health condition, known as Disability Related Expenditure. A Local Authority must take this expenditure into account in financial assessments to make sure that people who pay towards their care and support have enough money to live on. Where a person feels the additional cost of Disability Related Expenditure is over and above that already allowed in the contribution determination, they are entitled to an individual assessment of their Disability Related Expenditure. The purpose of this assessment is to establish whether a full or partial reduction in the contribution would be appropriate.
- 4.1.10 In contrast to the NHS where services are *generally* free, charging for Adult Social Care is not a new concept and a significant number of

people across the Country pay towards the cost of their care and support, as all Local Authorities charge a contribution.

4.1.11 Under the Care Act 2014 and its associated guidance and regulations, the Council has discretion as to what charges should be applied for non-residential care and support packages incorporating the treatment of both income and capital, as long as the Minimum Income Guarantee is protected. The Council has, to date, decided to charge less to those people receiving adult social care support in the community than allowed by the national guidance.

The current charging policy for local residents in Derbyshire who receive social care support in the community is as follows:

- People self-fund their care if they have savings above £50,000.
- For those who have savings of less than £50,000 and are in receipt of a benefit or allowance specifically made available for an assessed care/support need, such as Attendance Allowance (AA), Disability Living Allowance (DLA) or Personal Independence Payment (PIP), the maximum amount they contribute towards their care is £51.07 (75% of the benefit) per week or less.
- Tariff income is calculated at £1 for every £500 but people are not charged tariff income. It is applied solely to calculate if their income is of a high enough level to make a contribution towards their care costs.

The Council also operates a Disability Related Expenditure process.

4.1.12 On 15 June 2023, Cabinet approved the following:

- a. Commencement of a 12-week public consultation
- b. To receive a further report following the conclusion of the consultation process including an updated Equality Impact Analysis.

4.1.13 The report to Cabinet on 15 June 2023 set out three options available to the Council to revise the current charging policy. During the consultation alternative suggested options could also be made.

Option One

To change the charging policy for local residents in receipt of support in the community to:

- The national position concerning the capital limit of £23,250
- The national position concerning charging tariff income of £1.00 in every £250 for those with capital between £14,250 - £23,250
- To charge on 100% of disposable income with a £20 per week Disability Related Disregard (*subject to the below).

Option Two

To change the charging policy for local residents in receipt of support in the community to:

- The national position concerning the capital limit of £23,250
- The national position concerning charging tariff income of £1.00 in every £250 for those with capital between £14,250 - £23,250
- To charge on 90% of disposable income with a £20 per week Disability Related Disregard (*subject to the below).

Option Three

To change the charging policy for local residents in receipt of support in the community to:

- The national position concerning the capital limit of £23,250
- The national position concerning charging tariff income of £1.00 in every £250 for those with capital between £14,250 - £23,250
- To charge on 80% of disposable income with a £20 per week Disability Related Disregard (*subject to the below)

(*Under national guidance where a person feels the additional cost related to their disability, Disability Related Expenditure, is over and above that already allowed in the contribution determination, they are entitled to an individual assessment of their disability related expenditure. The purpose of this review is to establish whether a full or partial reduction in the contribution would be appropriate.)

- 4.1.14 Alongside the above proposals, to ensure a transparent and accessible approach to Disability Related Expenditure, the Council also as part of the consultation, consulted on revising the current Disability Related Expenditure process.
- 4.1.15 To ensure a standardised approach to charging for people who live in the community, it was also proposed to include the charging for short term residential respite within the proposed revised charging policy.

4.2 The Consultation

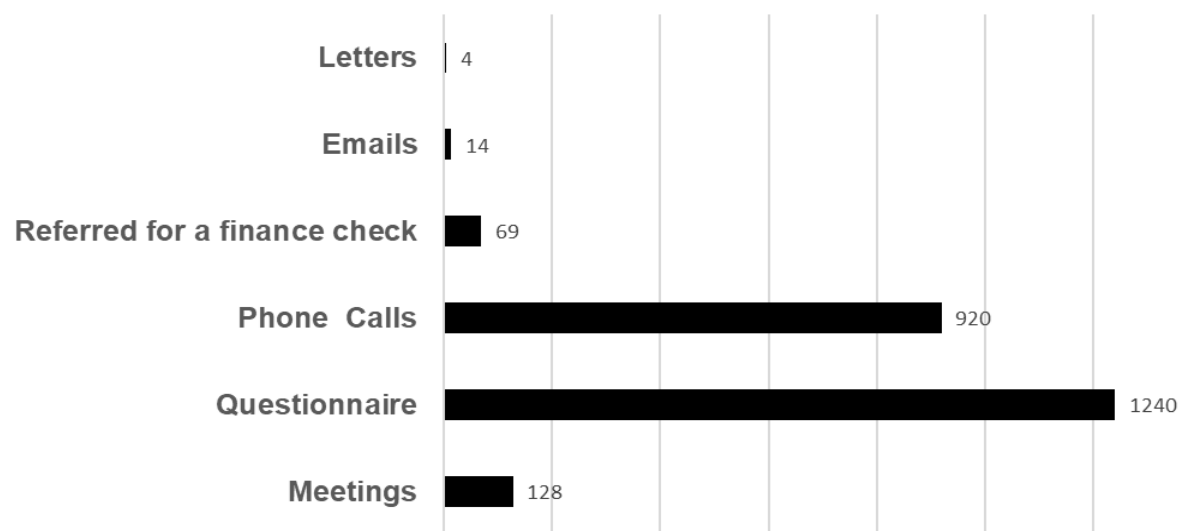
- 4.2.1 The formal consultation on the future of the charging policy ran from the 3 July 2023 to 4 October 2023. The consultation aimed to reach all potentially impacted people or their financial representative and/or other interested parties to inform them of the proposed changes to the policy, as well as wider members of the public.
- 4.2.2 Officers enabled as many people as possible to take part, by offering a range of ways in which people could share their views:
- Media releases were issued during the consultation and news releases were published on the Derbyshire County Council website. Articles were included in the council's e-newsletters and information was posted regularly on the council's corporate facebook and twitter pages. Posters encouraging people to take part were sent to be displayed at all the county council's libraries as well as GP practices, district and borough council offices.
 - All current residents receiving Adult Social Care support in the community and their financial representatives (formal and informal) received an initial letter detailing the proposed changes to the charging for the service.
 - Within this initial letter there was a printed version of the questionnaire, with a stamped address envelope and explanatory information to help the recipient understand the proposals and how they may impact on them.
 - There was also an invite to the planned meetings 5 online (held at different times of the day) and 6 face to face held across Derbyshire.
 - Questionnaire in different formats, such as other languages or larger print were offered if this was more appropriate.

- A specific Derbyshire Consultation webpage was established, detailing the proposals and to enable completion of the online questionnaire.
- People were given opportunity to write into the Council via a letter or dedicated email address.
- Additional colleague resources were deployed in the Stakeholder Engagement team to ensure telephone interviews could be offered for those people requiring support to complete the questionnaire.
- An online calculator was developed so that respondents had the opportunity to input their personal financial circumstances to enable them to understand how each proposal might impact on them.
- This online financial calculator offer was enhanced allowing people to have a phone call from a finance specialist to assist with completing.
- A further letter was sent during the consultation to remind people of the closing date and inviting them to a further 7 meetings (both online and face to face)
- A British Sign Language (BSL) video was uploaded onto the Derbyshire County Council website describing to the deaf community how to get involved with the consultation.

4.3 Response to the Consultation

- 4.3.1 In total 2375 people responded to the consultation. The graph below shows a breakdown of the methods used by the respondents to engage in the consultation.

Analysis of method of response to Consultation on changing the charging policy for local residents in receipt of adult social care support in the community



4.4 Analysis

4.4.1 The main themes are highlighted below:

- **Negative Impact on Personal Finances:** respondents commented on the negative impact the proposals would have on their personal finances not only in terms of their weekly incomes and the current cost of living but also being a disincentive for people to save. Many respondents considered the percentages too high.
- **Disagree with the proposals:** most respondents disagreed with the proposals. A number of respondents stated the £50,000 capital limit should remain in place and considered the percentages to charge on weekly income too high. Respondents considered the current charging policy should remain and people in receipt of Attendance Allowance or Personal Independence Payments should not pay more towards their social care support.
- **Alternative Suggestions:** respondents, although recognising the budget pressures, suggested alternative options including a phasing in of approach and a reduction of the percentages. Some respondents suggested the Derbyshire Minimum Income Guarantee should remain in place rather than the introduction of the National Minimum Guarantee.

- **Complexity of Consultation:** respondents commented on the complexity of the consultation. This is acknowledged as charging for Adult Social Care is complex and terms used within the national guidelines are not easy to interpret. Respondents attending the online or face to face meetings feedback was that these were useful and due to this a further 7 sessions were planned. Additional colleague resources were made available to the Stakeholder Engagement Team and the route of a phone call proved popular.
- **Agree with proposals:** some respondents agreed with the proposals. Whilst many responses to the consultation were not in favour of any changes to the charging policy, 21% respondents agreed with the proposal to charge on 80% of disposable income (Option 3), with 5.9% favouring 100% (Option 1) and 3.3% favouring 90% (Option 2).
- **Impact on People and Carers:** some respondents raised the negative impact that these proposals would have for people with a disability or those living with a long-term health condition. They stated that this group may be influenced to cancel their care if these proposals went ahead.

Detailed information about the consultation and feedback received is outlined in Appendix 4 and must be read alongside this report.

4.5 Recommendations

- 4.5.1 Over the last nine years, since the introduction of the Care Act, the Council has not made any fundamental changes to its community charging policy. Consequently, social care charges in Derbyshire are significantly lower than the limits allowed by the national charging guidelines and those applied by many other local authorities across the country. This has been the Council's position for many years, with the most recent amendments to non-residential charging being in 2014.
- 4.5.2 The Council currently charges for services at a lower rate than the real cost of delivery. It delivers care and support by provision of a subsidy for some who may have the financial means to pay the full cost or could afford to pay more. The Care Act 2014 and the wider legislation provides a national framework for local authorities to charge, providing charges are reasonable and appropriate ensuring people retain a certain level of income to cover their living costs.

- 4.5.3 It is important the Council finds solutions to manage its limited resources in ways that are equitable to all current users of Adult Social Care support, as well as those who may require this type of support in the future. All the proposed options align the Council's community charging policy closer to the national guidance and those applied by other Local Authorities. The national framework is the driver for the impact on disabled people.
- 4.5.4 Demand and costs are rising, and the Council can no longer afford to fund the current Charging Policy within the existing or future budget available. This concern for the sustainability of funding arrangements was emphasised within the consultation. The Council's current financial position announced on the 13 September 2023 brought affordability for Adult Social Care into even sharper focus.
- 4.5.5 To ensure the Council can continue to fulfil its statutory responsibilities, a decision is required to protect Adult Social Care provision for people who most need support from the Council.
- 4.5.6 By moving to option 1, the council would align with the national guidelines and many other Local Authorities. This would also support the Council's overall budget challenges recognising the Council has a statutory and fiduciary duty to balance the budget and has to consider all duties within this. However, it is acknowledged that applying the national guidelines in this way would have the most significant financial impact for disabled people and people with long term health conditions. Since the consultation, officers have come to consider that option 1 is not viable.
- 4.5.7 By moving to option 3, the Council would still ensure Derbyshire County Council operates a more generous policy than other surrounding Local Authorities and would continue to assist people, with lower capital and income levels to financially pay for social care support whilst generating additional income. However, given the current Council budget position this would not ensure sustainability for Adult Social Care going forward.
- 4.5.8 Therefore, the preferred option is option 2. This still ensures that Derbyshire County Council continues to operate a more generous policy than the national minimum and other surrounding Local Authorities. This option balances the need to continue to assist people, with lower capital and income levels to financially pay for social care support whilst generating additional income and ensuring sustainability for the future.

- 4.5.9 In addition to the above it is recommended that the Council adopts a new Disability Related Expenditure Process. This would include a standard £20 disregard but would permit people to apply more of their expenditure defined as Disability related. The Council would also disregard the difference between the lower and higher rate of Attendance Allowance and Person Independence Payments (Daily Living Component) and the difference between the mid and high rate of Disability Living Allowance. This would ensure that additional daily living cost incurred by disabled people or people with a long term health condition are recognised and protected.
- 4.5.10 It is considered that offering standard rate of disregard would make the process less onerous for disabled people. If no standard disregard is offered, this would require a large number of people to go through the Disability Related Expenditure Process. This would be more onerous for people receiving Adult Social Care support in the community and would place an additional administrative burden on them. Therefore, if an individual's Disability Related Expenditure is generally £20 or less, they would not need to go through this administrative process. The Council believes that this level would cover the majority of additional daily living costs faced by disabled people and people with a long term health condition.
- 4.5.11 Careful consideration has been given to the right level for any standard disregard rate. To this end, research was completed across other local authorities who currently charge in line with the national guidance. This showed that a number of local authorities do not offer a standard disregarded amount. For those Local Authorities who do offer a standard rate, the average disregard sum varies. In the end, the Council has identified the rate of £20 per week, which is offered by Nottinghamshire County Council. This rate was arrived at by Nottinghamshire County Council in cooperation with people with relevant lived experience. This standard rate would be reviewed on a yearly basis.
- 4.5.12 People whose Disability Related Expenditure exceeds this level would be able to make an application for a higher amount to be disregarded. A specialist team would be established to support disabled people and people with a long term health condition who consider their daily living costs linked to their disability or long term health condition to be higher. This would ensure any additional claims can be dealt with by colleagues who have specialist knowledge, applying a transparent, accessible and straightforward process.

- 4.5.13 Implementation of the recommendations would include transfer of charging contributions for short breaks within a residential setting to the proposed revised community charging policy. Currently people who access short breaks within a residential setting are charged under the residential policy and pay standard rate contributions on top of any charge for their community support. This change would ensure people requiring this type of support are not penalised, and charging would take account of the whole of the person's support and their individual financial circumstances.
- 4.5.14 If the proposed changes are to be implemented, it is recommended that the Council should provide a notice period to give people time to prepare and organise their finances appropriately. It is therefore proposed that any changes to the Charging Policy would come into effect for everyone on the 15 July 2024.
- 4.5.15 Subject to approval being given by Cabinet to adopt the amended Charging Policy, permission has been obtained from the Director of Legal Services, Corporate Procurement and Director of Finance in accordance with Protocol 2(a) of the Council's Financial Regulations to use the G-Cloud to directly award a contract to a specialist external provider to complete the consequential financial assessments required at a cost of approximately £200k.
- 4.5.16 At the beginning of each financial year, people's financial assessments are reviewed and upwardly adjusted to reflect inflationary rises on welfare benefits and other sources of income. If Cabinet agrees to the proposals, it is recommended that the annual uplift that would apply to the current scheme in April 2024 be deferred until July 2024 when the new charging policy would commence. This would avoid people having two increases to their co-funding contribution in the same financial year, allowing people to prepare and avoid any confusion. The financial loss to the council resulting from the delay in applying the inflationary uplift would be £142,000.

4.6 Next Steps

- 4.6.1 There are approximately 6535 people who are in receipt of Adult Social Care support in the community who are financially contributing to their support.
- 4.6.2 It is recognised that many people already in receipt of community support are likely to be financially affected. The projections, based on a sample of 300 cases, identified if the recommendation is approved by Council, people would be affected as follows:

Effect	No of People	% of People
Remain at Nil Cost	48	16.0%
From Nil to paying a contribution	17	5.7%
Increase in Charge	188	62.7%
Decrease in Charge	4	1.3%
Become Full Cost Payers	43	14.3%
Total	300	100.0%

- 4.6.3 Every person already in receipt of adult social care support in the community would be offered a review of their care and support plan, unless a review has been undertaken in the last 6 months to ensure they are in receipt of the most appropriate support for their needs.
- 4.6.4 Under the proposals each person receiving chargeable care would have an individual means-tested full financial assessment based on their specific situation. This moves away from historical light touch financial assessments. It is proposed the assessment process would begin in January 2024 to ensure people have prior notice to prepare for the new charges.
- 4.6.5 During the transition period, the Council would ensure sufficient support, information and guidance was available to assist people. This may include referrals to Welfare Rights or people signposted, where appropriate, to the online *Welfare Rights Better Off*, to maximise their income.
- 4.6.6 If, after a financial assessment, people felt they were not able to support themselves with their remaining income then they would be able to seek an individual assessment of their Disability Related Expenditure to establish whether a full or partial reduction in their contribution would be appropriate. This process would ensure no-one would suffer undue financial hardship. Charges would only be levied

against those whom the law says can afford to pay them, following individual financial assessment.

- 4.6.7 If the outcome of the financial assessment concludes the person must pay for the full cost of their care, the provision of their care and support needs remains the priority and the Council would if required continue to commission the appropriate levels of support on their behalf.

5. **Consultation**

- 5.1 The Council conducted a public consultation exercise, including consultation with members of the public, people currently receiving Adult Social Care support in the community and / or their financial representative and / or any other interested parties. The consultation has enabled the Council to:

- Provide information on the options and seek views and concerns.
- Understand whether there are any other viable options the Council has not considered.

- 5.2 The Improvement and Scrutiny Committee – People also wished to consider the consultation and provide its views to Cabinet. On 1 November 2023, the Committee considered the public consultation undertaken and the key themes raised. The Committee was supportive of the way in which the public consultation was conducted.

6. **Alternative Options Considered**

- 6.1 Whilst a high number of respondents supported the option of doing nothing, this is not viable for the Council. This would affect the sustainability of Adult Social Care support for the Council.

- 6.2 The main other alternative suggestions being made through the consultation were:

- Retain existing or set a more generous capital limit than the national framework.
- Retain Derbyshire County Council Minimum Income Guarantees and do not introduce the national Minimum Income Guarantees.
- Retain or increase the current capped cost by inflation or another amount and do not move to the national position or the 90% or the 80% concerning weekly income.

- Change the charging policy for new users of the Adult Social Care Support only.

6.3 Whilst raising the Adult Social Care precept is still an option for the Council for 2024/2025, each 1% increase would only generate approximately £3.7M per annum and there are further significant pay, price and demand pressures for the whole of the Authority to be addressed for 2024-25

6.4 Demand and costs are rising, and the Council can no longer afford to fund the current Charging Policy within the existing or future budget. This was emphasised within the consultation. The Council's current financial position announced on the 13 September 2023 has brought affordability for Adult Social Care into even sharper focus. To ensure the Council can continue to fulfil its statutory responsibilities, a decision is required to protect Adult Social Care provision for people who most need support from the Council.

6.5 The Council cannot treat existing people receiving Adult Social Care support differently from new people approaching Adult Social Care for support as this would result in indirect discrimination based on age and /or disability.

7. **Implications**

7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report, including how the Council would fulfil its obligations under the Care Act 2014.

8. **Background Papers**

8.1 Current Co-Funding Policy for Non-Residential Care Services

8.2 Cabinet Paper 17 June 2014- Report of the Executive Director For Adult Social Care Changes to Adult Social Care Policies on Transport, Client Contributions and The Eligibility Threshold

8.3 Cabinet Paper 15 June 2023 Report of the Executive Director for Adult Social Care and Health: Proposal to Consult on Changing the Charging Policy for Local Residents in Receipt of Adult Social Support in the Community

9. **Appendix**

- 9.1 Appendix 1 – Implications
- 9.2 Appendix 2 – Explanation of Terms
- 9.3 Appendix 3 – Benefits Available
- 9.4 Appendix 4 – Consultation Report on Changing the Charging Policy for Local Residents in receipt of Adult Social Care Support in the Community
- 9.5 Appendix 5 – Equalities Impact Analysis
- 9.6 Appendix 6 – Revised Adult Social Care Charging Policy: Adult Social Care Charging Policy for People receiving Adult Social Care Support in the Community
- 9.7 Appendix 7 – Case Studies

10. **Recommendation(s)**

It is recommended that Cabinet:

- a) Following consideration of the full report on the consultation responses received at Appendix 4 to the report and the content of the Equality Impact Analysis received at Appendix 5 approves the changes to the Charging Policy for people receiving Adult Social Care support in the community, as detailed in the recommended Option 2 outlined in this report.
- b) Approves the revised Adult Social Care Charging Contribution Policy for people receiving Adult Social Care support in the community to apply from 15 July 2024.
- c) Approves the procurement through G-Cloud for an external specialist provider to undertake the financial assessments at an approximate cost of £200k
- d) Approves the decision not to apply the 2024/2025 uplifts In April 2024 at an initial loss of income to the Council of approximately £142,000.

11. **Reasons for Recommendation(s)**

The reasons for the recommendation

- a) Adult Social Care has made, and continues to make, significant improvements and efficiencies to the way it delivers Adult Social Care in Derbyshire. This has already achieved efficiencies whilst trying to minimise the impact on our residents and focusing on delivering more independent outcomes to its residents. However,

it is important the Council finds solutions to manage its limited resources in ways that are equitable to all current and future users.

- b) The Council would continue to exercise discretion. People would retain 10% of their disposable income to assist with current inflation impacting the cost of living. This option balances the need to continue to assist people, with lower capital and income levels to financially pay for Adult Social Care support whilst generating additional income and ensuring sustainability for the future. A standard £20 disability related expenditure disregard would be applied to all, with the process of applying for further incurred expenses linked to disability or long term health condition being clear and transparent.
- c) This option would ensure people with the lowest amount of income would continue to pay proportionately and only pay what they would be assessed as able to afford. There would be circumstances based on disposable income where some people would, following a financial assessment, continue not to contribute towards their care and support costs.

12. Is it necessary to waive the call in period?

No

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Implications

Financial

- 1.1 The projected income for the financial year is £10.552 with the projected spend on Adult Social Care support being £127.2m.
- 1.2 The estimated annual income generated for the three options is as follows:

	Additional FYE Annual Income
Option 1	£14.299m
Option 2	£11.780m
Option 3	£9.201m

- 1.3 The proposals also contribute to a significant budget pressure reduction of approximately £9m
- 1.4 The above predictions are based on 2023/2024 rates

Legal

- 2.1 Section 1 Care Act 2014 imposes a general duty on the Council to promote an individual's well-being whenever exercising any function under Part 1 Care Act 2014. 'Well-being' is not defined within the Care Act 2014 and is a broad concept. Section 1(2) lists nine individual aspects of well-being as follows:
- (a) personal dignity (including treatment of the individual with respect);
 - (b) physical and mental health and emotional well-being;
 - (c) protection from abuse and neglect;
 - (d) control by the individual over day-to-day life (including over care and support, or support, provided to the individual and the way in which it is provided);
 - (e) participation in work, education, training or recreation;
 - (f) social and economic well-being;
 - (g) domestic, family and personal relationships;
 - (h) suitability of living accommodation;
 - (i) the individual's contribution to society.

- 2.2 Although the well-being principle applies specifically when the local authority makes a decision in relation to an individual, the Care and Support Statutory Guidance is clear that the principle should also be considered by the Council when it undertakes broader, strategic functions.
- 2.3 The Care Act 2014 and the Care and Support Statutory Guidance set out the circumstances in which a social services authority can and cannot charge for adult social care. There are circumstances in which a local authority must meet need (a duty) and circumstances in which it can charge (a power). Accordingly, local authorities are permitted to set local policies that offer more than the *minimum* thresholds in the legislation.
- 2.4 The report includes information that decision makers will need to consider regarding the Minimum Income Guarantee (the MIG) and the Disability Related Expenditure (DRE).
- 2.5 The statutory guidance makes clear that a local authority's policy must be sustainable in the long term
- 2.6. Any proposal to make policy changes as significant as those in the proposed alternatives would require the council to have carried out consultation with the public and those directly affected, including service users, their family/carers, staff and relevant stakeholders.
- 2.7 Case law has established minimum requirements of consultation, which are:
- a) Consultation must be at a time when proposals are at a formative stage.
 - b) Sufficient information must be given to permit a person to "give an intelligent consideration and response";
 - c) Adequate time must be given for consideration and response; and
 - d) The results of the consultation must be conscientiously taken into account in finalising any proposal and provided to the decision maker to inform their decision
- 2.8 In assessing these proposals, the Council should also have regard to the Public Sector Equality Duty (PSED) under the Equality Act 2010.

2.9 The PSED requires public authorities to have "due regard" to:

- The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010 (*section 149(1) (a)*).
- The need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (*section 149(1) (b)*). This involves having due regard to the needs to:
 - remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it (*section 149(4)*); and
 - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- The need to foster good relations between persons who share a relevant protected characteristic and those who do not share it (*section 149(1)(C)*).

2.10 The methods and content of the consultation were designed so as to fully reflect the needs of the relevant protected groups, in particular older people and disabled people, and thereby enable decision makers to understand such needs and pay the regard due under the PSED as described above. Decision makers should carefully consider the contents of the consultation report.

2.11 The Equality Impact Analysis (EIA) at Appendix 5 has been prepared to enable decision makers to understand issues that were raised during the consultation process and ensure that adverse impacts along with any potential mitigation can be fully assessed, as part of the need to perform the PSED described above. Although impacts, for example on disabled people, may rightly be seen as originating in the national framework ultimately created in legislation, Cabinet members nevertheless must have careful regard to the entirety of the EIA.

Human Resources

3.1 None directly arising.

Information Technology

4.1 None directly arising.

Equalities Impact

5.1 The Council has a duty to recognise and mitigate the impact of any changes it proposes upon people in protected groups. The proposals in this report affect people who are currently in receipt of social care support in the community.

5.2 The delivery of the proposals would have implications for people with regards equalities, but the mitigations proposed have been designed to address these. The national regulations are the driver for the impact on disabled people not the Council in choosing to align closer to the national guidelines. A full Equality Impact Analysis has been undertaken and is at Appendix 5.

Corporate objectives and priorities for change

6.1 In the Council Plan 2021 – 2025 the Council states that listening to, engaging, and involving local people to ensure services are responsive and take account of what matter most to people, as being a core value.

6.2 The Council commits to work together with its partners and communities to be an enterprising council, delivering value for money and enabling local people and places to thrive, and to spend money wisely making the best use of the resources that it has.

Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

7.1 As set out in the report.