

Consultation commentary

The following provides analysis of the comments and alternative options submitted throughout the various stages of the consultation, and analysis/response from officers in terms of these comments or suggestions.

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| Suggestion/comment from consultation | The Cap should remain at £205 for current clients and only be raised/removed for new clients |
| Analysis/response | The Care and Support Statutory Guidance suggests that a Council should apply the charging rules equally so those with similar needs or services are treated the same and minimise anomalies between different care settings. |
| Suggestion/comment from consultation | The Cap should be raised (e.g. to £400 or £500) but there should still be a cap |
| Analysis/response | There are two issues with this suggestion; (1) that further discussions and changes are then required every time the cap needs to be raised (and this incurs costs for the Council), and (2) this still limits the amount being paid by those who are assessed as being most able to afford to make a contribution (whilst perversely someone with more moderate income/capital may be required to make the same contribution as someone who has more financial resources available to them). |
| Suggestion/comment from consultation | That as part of the consultation, everyone who is impacted should be advised of what the proposed changes would mean for them, in order to enable them to give an informed response. |
| Analysis/response | <p>The aim of the consultation is to seek wide views on the proposals, as to whether the intended policy is fair; not to just ask the people specifically affected whether they agree with the changes for them. The consultees should include people who are directly impacted, but also the wider population (on the basis that if the policy is not implemented, resources would need to be identified from elsewhere). Added to this, the people who will be impacted by the policy change on a regular basis, as new people start to receive Adult Social Care and current clients move out of the charging regulations.</p> <p>The Council did provide detailed examples throughout the consultation period to assist people in understanding how the proposals would operate and how these would impact upon individuals. Additionally, officers have provided telephone lines, email addresses and two public meetings so that any queries could be answered.</p> |
| Suggestion/comment from consultation | That the policy is complex and unclear |

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| Analysis/response | <p>The policy is derived from the national legislation and statutory guidance relating to the Care Act 2014, and therefore is not something that the Council can directly influence. Officers have tried to make the examples as clear and illustrative as possible, but acknowledge that the charging regulations are complex.</p> <p>In order to try and assist consultees in understanding the proposed policy and implications, officers have provided telephone lines, email addresses and two public meetings (which were attended by 7 people in total).</p> |
| Suggestion/comment from consultation | People shouldn't have to pay towards their care |
| Analysis/response | <p>People are already assessed to make contributions towards their care, in line with national policy. Whilst the decision to require people to make contributions is discretionary, there is a central government expectation that Councils will generate income in this way, and as such this expectation is built into funding calculations. If discretionary income is not collected by the Council, then this would place an additional burden on the wider population and adversely impact the quality of services.</p> |
| Suggestion/comment from consultation | It is not fair to increase the cap as some people will have made financial plans, based upon an assumption that this was the maximum amount they would need to pay per week. |
| Analysis/response | <p>The cap was set some years ago, and clearly the financial situation for Local Authorities has changed significantly. There is no "guarantee" attached to the cap, and it is not unreasonable that the Council would need to raise the cap over time. The fact that there haven't been regular increases could be perceived as a benefit to those who would be assessed as being able to make a greater contribution.</p> |
| Suggestion/comment from consultation | The figures used within the examples were incorrect |
| Analysis/response | <p>Unfortunately when the second consultation was undertaken, the examples provided were based on the previous examples, and therefore used the 2016/17 rates. The difference that this made was relatively minor, however, as a result of the error, further correspondence was sent to all people where this may have had an impact. Additionally people were provided with telephone numbers and email addresses to seek further clarification, and two public meetings were held.</p> <p><i>**examples used within the letter are shown below</i></p> |
| Suggestion/comment from consultation | The averages presented to Cabinet in May 2016 did not fully illustrate the scale of the impact for those who would be most affected by the changes |
| Analysis/response | Appendix 5 sets out the further clarification and illustrations |

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| | of the smallest and the largest impacts, as well as averages. |
| Suggestion/comment from consultation | That those people who have saved all their lives are being asked to contribute the most, and this is unfair and penalises people for being financially prudent. |
| Analysis/response | Within the current financial assessment policy those who have a greater income or savings already make greater contributions; this is in line with the current national legislation and statutory guidance (Care Act 2014) and the previous statutory framework. If the policy is not implemented, the income would need to be sourced elsewhere, but this could not be sought from those people who have been assessed as not being able to afford to make a contribution, or who have been assessed as having to make a limited contribution towards the cost of their care and support, as the national guidance is clear that people must be left with an income of at least the “minimum income guarantee” level. Therefore given the extent of the cuts to local government funding, and the budget savings the Council needs to make, the money would need to come from either closing/ceasing services or raising income elsewhere. |
| Suggestion/comment from consultation | That the new policy potentially will encourage people to try and avoid having to make a contribution. |
| Analysis/response | This is already a potential risk, given that people are assessed on their ability to pay, based on income and capital. The Care Act 2014, the Care and Support Statutory Guidance and the Care and Support (Charging and Assessment of Resources) Regulations 2014 make provision regarding people who are identified as having “deprived” themselves of capital or income for the purposes of avoiding contributions towards the cost of their care and support. |
| Suggestion/comment from consultation | There were some people who confused the Care Act 2014 lifetime cap on care costs with the maximum weekly cap referred to in the Council’s proposals. |
| Analysis/response | Unfortunately Gateshead Council already referred to the maximum weekly charge as a “cap”, and so when this terminology was used by Central Government to refer to a different financial cap, there was the potential for some confusion. Officers have explained to consultees that the second stage of Care Act implementation was expected to be enacted in April 2016, but that in 2015, the Government announced it would be delayed until 2020. Late last year the Government announced that these reforms won’t be enacted, and that in 2018 there will be a Green Paper which will consult on a new model of funding and charging for Adult Social Care. |
| Suggestion/comment from consultation | That the proposals are unfair as there is a limit to the amount of care a person would have to pay within a care |

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| | home, and that the policy goes against the Council's aim of encouraging people to stay in their own home. |
| Analysis/response | There is no cap on the amount someone who funds their own care home may have to pay, and national analysis evidences that people who are self-funding in care homes, pay significantly higher rates than those people who are funded on a Local Authority contract (. Therefore rather than create an unfair position, the policy seeks to make the position fairer. We do not feel the policy incentivises people not to remain in their own homes. |
| Suggestion/comment from consultation | Some people felt that the examples given were not sufficiently illustrative. It was also noted that the majority of examples referred to the person's capital, not their income. |
| Analysis/response | A variety of examples have been provided, although in order to ensure that consultation responses from the various stages of the consultation were relevant, there also had to be continuity of examples. In terms of the use of capital as opposed to income in the examples, this is because the significant majority of "self-funders" would be assessed as such as a result of their capital, not their income. However Members are advised that there may be some clients who are assessed as self-funding because of their income, not their capital. |
| Suggestion/comment from consultation | Some people felt that the reported amount of income generation was relatively small, and that given there were some individuals for whom there would be a significant financial impact, it wasn't worth impacting those people, for the amount of income this would generate. |
| Analysis/response | The amount of income generation/reduction in spend by the Council associated with the proposed policy fluctuates as the adult social care client base fluctuates (both in terms of the costs of individuals' care packages, and also the contributions different individuals may be assessed as being able to make). This is demonstrated by the fact that in 2016 the greatest anticipated increase was to circa £800 per week; when the same data was calculated in 2017, the greatest anticipated increase had risen to £2700 per week. As a result, the anticipated income generation/cost saving can go up or down significantly; for example the difference between the two figures shown above would generate an additional £100k per annum in cost savings. Additionally, if the income is not generated from the ASC charging policy, then as noted previously the money would need to come from either closing/ceasing services or raising income elsewhere. |
| Suggestion/comment from consultation | Some people suggested the Disability Related Expenditure allowance should be raised not lowered; alternatively it was suggested that the standard amount should be removed, and individual assessments applied. There was also a suggestion that the DRE should be "scrapped" and savings |

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| | made elsewhere. |
| Analysis/response | <p>The Council is not required to provide a standard DRE, but chooses to do so, in order to avoid the assessment costs associated with calculating individual allowances. However, if someone feels the standard allowance is not sufficient, then they can request an individual DRE calculation.</p> <p>The scrapping of the DRE allowance is not an option, as the Care and Support Statutory Guidance states that where disability-related benefits are taken into account, the local authority should make an assessment and allow the person to keep enough benefit to pay for necessary disability-related expenditure to meet any needs which are not being met by the local authority. However, it should be noted that to scrap the DRE (were this allowed) would create <i>greater</i> savings for the Council.</p> |
| Suggestion/comment from consultation | That people should not be required to pay for specialist clothing. |
| Analysis/response | The information regarding the DRE proposal made reference to specialty clothing being something that someone may require as a result of their disability. By continuing to allow a standard DRE the Council is recognising that disabled people are likely to have higher costs (for items such as speciality clothing), and making an allowance for this. |
| Suggestion/comment from consultation | Everyone should have to contribute something, and query as to why Attendance Allowance isn't taken into consideration. |
| Analysis/response | Attendance allowance is taken into consideration as income, and everyone is assessed to see whether they can make a contribution towards their care and support. The Care and Support Statutory Guidance stipulates that everyone must be left with a minimum level of disposable income (Minimum Income Guarantee). If someone does not have income above this minimum amount, a Council cannot charge them for their care and support. |
| Suggestion/comment from consultation | <p>A number of consultees said that they felt the proposals were fair. Within this group were people (or their representatives) who would be affected by the proposals, including people who would be assessed to pay the full cost of their care, if the policy is implemented. In particular people noted that</p> <ul style="list-style-type: none"> *bringing the policy in line with other LA areas was appropriate *rising current costs for everyone seemed fair *how much care is needed should determine cost |

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| | Some people felt that whilst it was reasonable for people to pay more, it should be limited (e.g by raising, but still maintaining a cap); this is addressed previously. |
| Suggestion/comment from consultation | Some people suggested that the impact of the charges should be mitigated, especially in respect of those people who would have to make the greatest contributions. |
| Analysis/response | Officers feel this is a reasonable suggestion, and therefore Cabinet have been asked to consider this proposal in line with the recommendation to agree the policy. Details of the proposed “tapering” arrangements are set out in Appendix 6. |
| Suggestion/comment from consultation | Some people felt that more notice was required to notify people of the changes. |
| Analysis/response | Unfortunately the timescales are largely dictated by the timescales of the political process and the financial year. However, the intention is that should Cabinet agree the policy in January, then people who are likely to be significantly impacted will receive a letter advising them of the fact that the policy has been agreed. They will then receive notification of the actual changes to their contributions, in April. |

**Examples used within the letter sent to all people who may be affected by the changes:

An example of how calculating the adult's contribution towards the cost of care based on the number of carers required will affect the adult (Proposal 1):

Mrs Grey is 45 years old and receives home care delivered by two carers. The actual cost of this care is £81.36 however the maximum cost Mrs Grey currently could be charged is £40.68 which is based on the cost for one carer.

Mrs Grey has been assessed as being able to contribute a maximum of £68.68 towards the cost of her care. However, she currently pays a contribution of £40.68 towards the cost of her care which is the cost of her care from one carer

If the proposal under consultation is implemented so her contribution is based on both of her carers, the maximum cost she could be charged is £81.36 (the cost of 2 carers). However, she will be required to pay a maximum of £68.68 towards the cost of her care which is the maximum amount she has been assessed as being able to contribute towards the cost of her care.

Mr Blue is 69 years old and receives home care delivered by two carers. The actual cost of his care is £162.72.

Mr Blue is assessed as having no disposable income to contribute towards the cost of his care.

If the proposal under consultation is implemented, Mr Blue will still pay no contribution towards the cost of his care due to having no disposable income to contribute.

An example of how removing the cap on the maximum weekly amount an adult is required to pay towards their care will affect the adult (Proposal 2):

Mrs Bates is 96 years old and receives home care each week costing £94.92.

Mrs Bates has capital in excess of £50,000 (over the upper threshold for local authority assistance) and is required to pay the full cost of her care subject to the current maximum weekly amount cap of £205.00 per week. She therefore pays £94.92 per week.

If the proposal under consultation is implemented, Mrs Bates will not be affected by the removal of the maximum charge because her care costs do not exceed this so she will continue to pay £94.92 per week.

Mrs Wright is 75 years old and receives care costing £406.80 per week.

Mrs Wright has capital in excess of £80,000 (over the upper threshold for local authority assistance) and is currently required to pay for the cost of her care up to the current maximum cap of £205.00 per week.

If the proposal under consultation is implemented, she will be required to pay £406.80 which is the full cost of her care with no cap in place.

An example of how calculating the adult's contribution towards the cost of care based on the number of carers and removing the cap on the maximum weekly amount will affect the adult (Proposal 1 & 2 combined):

Mrs Green is 77 years old and receives home care delivered by two carers. The cost of this care is £325.44 although would be capped to £162.72, the cost of 1 carer.

Mrs Green's capital is over the upper threshold for local authority assistance. She currently pays a contribution of £162.72 towards her care (capped at the cost of 1 carer).

If the proposal under consultation is implemented, Mrs Green would be required to pay £325.44, the full cost of her care for both her carers and without the maximum weekly cap applying.

Mr Smith is 53 years old and receives home care delivered by two carers. The cost of this care is £433.92.

Mr Smith has been assessed as being able to contribute a maximum of £31.25 towards the cost of his care.

Mr Smith is not affected by the changes and will continue to pay £31.25 per week.

If the proposal under consultation is implemented, Mr Smith will continue to contribute £31.25 towards the cost of his care.

An example of how the reduction in the standard Disability Related Expenditure allowance will affect the adult (Proposal 3):

Mrs Green is 91 years old and receives Home care each week costing £110.50.

Mrs Green has been assessed as having no disposable income to contribute towards the cost of her care.

If the proposal under consultation is implemented, even with the reduction in the DRE, Mrs Green continues to have no disposable income and therefore will have no contribution to make.

Mr Brown is 89 years old and receives home care each week costing £122.13.

Taking into account the standard DRE allowance of £20.60, Mr Brown currently has been assessed as able to contribute a maximum of £18.63 towards the cost of his care.

If the proposal under consultation is implemented, a standard DRE allowance of £15 would apply meaning that he will have to pay £24.23 towards the cost of his care (unless he can demonstrate additional DRE above this level)