

# North Tyneside Council

## Report to Cabinet

### Date: 2 August 2021

#### Title: Contributions Policy for Adult Social Care and Support Services

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<b>Portfolio(s):</b> Adult Social Care	<b>Cabinet Member(s):</b> Cllr Anthony McMullen
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#### Report from Service

**Area:** Health, Education, Care and Safeguarding. Adult Social Care

**Responsible Officer:** Jacqui Old, Director of Services for Children and Adults      **Tel:** (0191) 6435963

**Wards affected:** All wards

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### PART 1

#### 1.1 Executive Summary:

Financial assessments are carried out to establish how much money someone in receipt of Adult Social Care support can afford to contribute to the cost of their Social Care. The basis of financial assessments is set out in North Tyneside Council Contributions Policy for Adult Care and Support Services.

The Adult Social Care Service has been reviewing and updating the Contributions Policy for Adult Care and Support Services.

There are two main aspects of this which require consideration by Cabinet. These are:

- The pension age to be used in financial assessments; and
- The Minimum Income Guarantee to be used in financial assessments.

The Cabinet meeting in May 2021 agreed for a public consultation to take place. The findings of this process are set out in the report to allow Cabinet to make a final decision on the Contributions policy.

#### 1.2 Recommendation(s):

It is recommended that Cabinet to:

- (1) Approve the reviewed Adult Social Care Contributions Policy.
- (2) Agree to use an individual's actual pension age, as set out by government for financial assessments.
- (3) Agree to use the threshold for Financial Assessments as Minimum Income Guarantee plus a further 5%.

### **1.3 Forward Plan:**

Twenty-eight days' notice of this report has been given and it first appeared on the Forward Plan that was published on 26 February 2021.

### **1.4 Council Plan and Policy Framework**

This report relates to the following priority(ies) in the 2020-2024 Our North Tyneside Plan:

Our people will:

- Be healthy and well – with the information, skills and opportunities to maintain and improve their health, well-being and independence, especially if they are carers.
- Be cared for, protected and supported if they become vulnerable including if they become homeless

### **1.5 Information:**

#### **1.5.1 Background**

1.5.2 The current budget for Adult Social Care in North Tyneside in 2021/22 is £54,947,400 which is 36.59% of the Authority's net budget.

Section 14 of the Care Act 2014 (the Act) sets out the principles to be applied when local authorities are charging people in receipt of Adult Social Care services. Section 17 of the Act outlines the process for carrying out financial assessments to determine individuals' contributions.

1.5.3 The Care and Support statutory guidance published under the Act states that people should not be charged more than is reasonably practicable for them to pay and that charging rules must be applied equally (so those with similar needs or services are treated the same) and minimise anomalies between different care settings. North Tyneside has a Contributions Policy for Adult Social Care in place, which has been recently reviewed by Adult Social Care officers.

1.5.4 The principle of the charging process under the Act is that services are means tested and individuals should be charged according to their ability to pay. As a result of this review some aspects of the Contributions Policy have been identified as requiring further scrutiny to ensure that best processes are being followed, in line with the principles of equality and fairness.

### **1.6 Public Consultation**

1.6.1 This was carried out using an on-line questionnaire through our Have Your Say page of the North Tyneside Council website, with paper versions available on request. The consultation was advertised via social media, with links to the webpage and by direct contact with all members of North Tyneside Residents Panel and current customers of adult social care, who received an individual letter.

1.6.2 The questionnaire asked for respondents' views on:

- the provision of good quality adult social care support
- the pensionable age for the purpose of financial assessment
- the level at which the minimum income guarantee should be set as part of the assessment

1.6.3 There were 247 responses received.

1.6.4 The survey included an optional section on equality monitoring. Of those who responded 58% were members of the public, 29% were carers of someone accessing services, 6% were people who access services themselves and 7% put other. From this we can see that over half were members of the public.

1.6.5 67% who completed the survey were female, with 33% male. From the Equality Impact Assessment, we know that more females than males access adult social care. 117 people who responded were aged over 60 and we know from the Equality Impact Assessment that most people accessing services are over 60 in age. 27% of those who responded stated that they did have a long-term condition illness and 73% stated that they did not. We can see that most people who responded do not have current access to services, however they are in sex or age category more likely to access services.

1.6.6 The public consultation asked people's general views on the provision of good quality adult social care support. 95% of respondents agreed that this is important, with 4% neither agreeing nor disagreeing while 1 % of respondents disagreed with this view. It is clear from this that people value the support provided to adults in need of care and support as set out by The Care Act 2014.

1.6.7 The survey asked for people's comments on their answers, not all people added comments, but of those who did their reasons for supporting social care can be put into specific themes.

- The moral obligation on society to support others (99 responses)
- A human rights issue (24 responses)
- Own experience or having members of family needing support (24 responses)
- The circle of life; we may all need support one day (29 responses)
- The impact good care can have on someone's wider health and wellbeing (11 responses)
- Not providing care can impact on other services and the general economy (11 responses)
- Other reasons (7 responses)

1.6.8 Some comments included

"Nobody knows when or if they may need this service and a fair contribution by all makes it affordable to everyone"

"Everyone deserves quality care"

"Adults who need any type of care can be vulnerable"

"It's the right thing to do"

"Our family needs it at the moment"

"We are living longer and more and more of us will need extra care in the future"

"We are vulnerable adults who deserve good quality care"

"Key services that enable people to regain and maintain their dignity"

1.6.9 Those who neither agreed or disagreed in most cases didn't give a reason, however the few that did, stated they felt that money should be invested in other things like the economy or stated that adult social care should only focus on the most vulnerable. It can be concluded that most people who responded to the consultation were in favour of providing good quality adult social care. This is view shared by North Tyneside Council.

## 1.7 Pension Age

1.7.1 The Authority currently financially assesses people to be over pension age at the age of 60. However, the pension age has increased to 65, 66, 67 and 68 depending upon people's date of birth. This is in line with national policy and is the basis on which other departments in the Authority calculate pension age, for example, Revenues and Benefits.

1.7.2 People between the ages of 60-65 are therefore currently not being assessed correctly based on the state benefits they may be entitled to. The proposal is to increase the pension age for the purposes of financial assessment to the correct pension age depending upon an individual's date of birth. This means that the correct state benefits would be applied, and the correct Minimum Income Guarantee would be used to calculate an individual's financial contribution.

1.7.3 As of January 2021, the change to the pensionable age would impact on 147 clients, however 38 clients would stay as a nil charge as they have lower income and Disability Related Expenditure's apply. 109 clients would see an increase to their charge, the average increase per client is £44.13 per week.

The overall summary increase in income to the Authority is set out below:

Number of People	Increase (weekly)	Increase (4 weekly)	Increase (annually)
147	£4,809.88	£19,239.52	£250,113.76

1.7.4 In relation to setting the pension age:

1.7.5 47% of respondents agreed with the change to government set pension age. The reasons for this were that it would be in line with government guidance, was based on change in financial circumstances and was fairer and simpler (58 responses). Some stated that many people still worked into their 60's and so should be assessed accordingly (10 responses).

1.7.6 24% of respondents neither agreed nor disagreed as they felt they didn't know enough about it to give a view (15 responses) or that the assessment should be based on care needs and not age (14 responses).

1.7.7 29% of people disagreed, with most feeling that support should be based on need not age (45 responses).

1.7.8 The consultation shows that nearly half of people who gave a view agreed with the proposal. Over half either did not have a view or did not agree, with most of these being concerned that the decision should be based on care needs and not age.

It should be noted that the provision of adult social care support is based on assessed need however this consultation relates to the way an individual's financial contribution is calculated.

### 1.7.9 Proposal

1.7.10 It is proposed that the Authority use the actual pension age as set out by government for financial assessments in the reviewed Contribution Policy.

### 1.8 Minimum Income Guarantee

1.8.1 In order to calculate an individual's financial contribution to the cost of their social care a financial assessment is undertaken. This considers an individual's income and expenditure, based on set criteria.

1.8.2 As part of this assessment, the Government sets a Minimum Income Guarantee (MIG). This is an amount of money which is deemed to be the minimum an individual should have per week to enable them to manage financially and is disregarded as part of the financial assessment.

1.8.3 The Care Act 2014 set the MIG based on '*benefit rates plus 25%*'. This has since been superseded by annual Department of Health and Social Care (DHSC) circulars which now sets the MIG at defined rates.

1.8.4 North Tyneside are currently using differing thresholds following a consultation in 2018. The 2018 consultation suggested that the threshold would change over a three-year period, which has not ended. The rates are set out below:

	06.04.20	06.04.20
	Benefit rates + 25%	MIG plus 18.6%
<b>Working age with disability premium</b>	136.63	156.26
<b>Working age with enhanced disability premium</b>	158.00	179.62
<b>Over pension age</b>	217.19	224.15

1.8.5 However, these rates are not sustainable for the Authority and are not in line with our neighbouring authorities, who use DHSC MIG rate or the original Care Act benefits plus 25% calculation. Therefore, North Tyneside is now reviewing its position. The proposal is to adhere to the Minimum Income Guarantee as set out by government or to add a further 5% on top of this rate, both of which reduce the current threshold of income disregarded for the purposes of financial assessment. These are set out below:

	06.04.20	06.04.20
	MIG rate	MIG plus 5%
<b>Working age with disability premium</b>	131.75	138.43
<b>Working age with enhanced disability premium</b>	151.45	159.02
<b>Over pension age</b>	189.00	198.45

1.8.6 Applying MIG would result in additional client contributions of £0.829m per year and applying the MIG plus 5% would increase contributions by £0.160m per year.

1.8.7 Our 2021 consultation asked respondents to consider two options in relation to the Minimum Income Guarantee, namely:

- Option 1

To adhere to the Minimum Income Guarantee rates as set out by Department of Health and Social Care, or

- Option 2

To set a disregard rate based on Department of Health and Social Care Minimum Income Guarantee rates and add an extra 5%.

1.8.8 20% of the people who responded felt it should be set at the same as Government MIG. They gave a variety of reasons for this. These included that it was correct to follow Government guidance, that it would mean it was equitable across the country (14 responses), for example:

“It should be in line with the whole country and not dependent on where you live.”

1.8.9 Some people stated they felt the money should be spent on other things in the borough (8 responses).

1.8.10 60% of the people who responded stated it should be set at MIG plus 5%. They felt it would make a difference to people’s lives, that it would support a better standard of living for people who needed it (74 responses). Some people felt the MIG was too low in the first instance and that the rate should be set above it (24 responses), for example:

“Has to leave people with some income to live on.”

“The MIG is too low.

1.8.11 20% of the people who responded stated that neither were suitable as for example adult social care should be free at the point of delivery like the NHS, people shouldn’t pay for adult social care at all or there should be a higher threshold than either of these options set as a disregard. for example:

“Some people have contributed and worked hard all their lives to own their own homes and make sure their families are cared for – you should not be penalised for saving sensibly for your future.”

“It should be more than both of them because those amounts are not enough for people to live on if they have to pay for bills etc out of that.”

1.8.12 The consultation shows that the majority of respondents felt that the rate should be set at MIG plus a further 5%.

Proposal

1.8.13 Based on the finding it is proposed that the Authority set the threshold at the Government based MIG plus a further 5%.

## **1.9 Other Changes to note**

1.9.1 The Contributions Policy is an appendix to this report.

1.9.2 Since the Cabinet meeting in May 2021 the wording in the policy has been strengthened in Section 9.5 regarding Third Party tops ups. These are payments a third party can make to a residential placement for an individual to have a placement in a home that charges above Local Authority rates, or for a bigger room etc. The Authority will be offering the option to pay these charges directly to care homes and invoice third parties separately. The policy now reflects this position.

1.9.3 In Section 11 respite care will now be charged based on residential placements, however additional disregards will be allowed for an individuals' community bills for example rent and bills.

1.9.4 In Section 12.14 there is clarity regarding people living in Extra Sheltered accommodation with core charges to confirm that the charges will be invoiced separately but will be disregarded from an individual's financial assessment.

## **1.10 Decision options:**

The following decision options are available for consideration by Cabinet:

### Option 1

To agree to the recommendations as set out in paragraph 1.2 above

### Option 2

Not to agree to the recommendations set out in paragraph 1.2 above

### Option 3

To continue with the current arrangements.

Option 1 is the recommended option.

## **1.11 Reasons for recommended option:**

The Contributions Policy needs to be fair and equitable for all people. The rates applied for disregards need to be financially viable for the Authority and this would bring the Authority in line both regionally and nationally.

## **1.12 Appendices:**

Appendix 1: Proposed Revised North Tyneside Council Contributions Policy for Adult Care and Support Services

Appendix 2: Equality Impact Assessment

## **1.13 Contact officers:**

Alison Tombs - Assistant Director Wellbeing and Assessment, (Tel 0191 6435963)  
David Dunford, Acting Senior Business Partner, (Tel: 0191 643 7027)

## 1.14 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- (1) The Care Act 2014 Section 14  
<https://www.legislation.gov.uk/ukpga/2014/23/section/14>
- (2) The Care Act 2014 Section 17  
<https://www.legislation.gov.uk/ukpga/2014/23/section/17>
- (3) The Department of Health and Social Care guidance regarding the Minimum Income Guarantee  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/772969/Social\\_care\\_charging\\_for\\_care\\_and\\_support\\_-\\_LAC\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772969/Social_care_charging_for_care_and_support_-_LAC_2019.pdf)

## PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

### 2.1 Finance and other resources

The impact of the proposal of MIG plus 5% has been modelled on the cohort of 1,472 clients receiving community-based services in April 2021. The proposals consulted on are estimated to result in a full year impact of an increase of client contributions of £0.829m for the application of MIG and an increase of £0.160m for the application of MIG plus 5%. These impacts are in comparison to the level of contributions resulting from the rates applied in March 2021. If the change was implemented from 1 October 2021 following agreement with Cabinet, there would be a part year impact in 2021/22 of £0.415m for the application of MIG and £0.080m for the application of MIG plus 5%.

The impact of applying the actual pension age according to a client's date of birth is modelled to increase client contributions by £0.250m with a part year impact of £0.125m in 2021/22 if this change was implemented from 1 October 2021.

The total value of client contributions in relation to community-based services in 2020/21 was £4.399m. The budget for client contributions for community-based services in 2021/22 is £3.567m. Any additional client contributions accruing from Cabinet's decision to change the policy will be clearly reported during 2021/22 allowing consideration in relation to building these changes into the 2022-2026 Medium-Term Financial Plan.

### 2.2 Legal

Under section 1 of the Care Act 2014 the Authority has a duty to promote an individual's wellbeing and when exercising its functions, the Authority has to have regard to the matters set out in that section.

Under sections 9 and 18 of the 2014 Act the Authority has a duty to provide care and support services to those who need it. As stated in the report, the Authority can charge for the provision of its services having regard to the requirements of the Act and the Care and Support (Charging and Assessment of Resources) Regulations 2014.

The Authority must also act in accordance with the statutory guidance published under the Act.

In calculating the level of charges to be levied against individuals, as with any function that it discharges, the Authority has to do so in a way that does not discriminate against a particular individuals or group of individuals. To do so leaves the Authority open to challenge as demonstrated by the Judicial Review brought against Norfolk County Council and the way it levied charges under the Care Act 2014.

## **2.3 Consultation/community engagement**

### **2.3.1 Internal Consultation**

This report has been discussed with Adult Social Care Senior Management Team

### **2.3.2 External Consultation/Engagement**

A public consultation has been undertaken, the findings of which are shown in 1.6.to 1.8 of this report.

## **2.4 Human rights**

There are no specific human rights implications arising from this report.

The proposals to be consulted on have been formulated having regard to current government guidelines or have precedent elsewhere. Any human rights implications that there may be when financially assessing an individual will be considered at that time as well as any equalities and diversity implications.

## **2.5 Equalities and diversity**

An Equality Impact Assessment has been undertaken. It shows that individuals who receive social care support and have the following protected characteristics are more likely to be impacted by the proposed change. Older people are more likely to be in receipt of adult social care services. Women are also more likely to be in receipt of services. People with disabilities and long-term conditions are more likely to be in receipt of adult social care services. Under the Act, individuals must be financially assessed and charged for the social care that they receive. This is a complex area regarding finances and benefits; therefore, we ensure we use appropriate interpretation services for people who do not have English as first language.

The aim of the Authority's approach is to be equitable based on people's ability to pay, and to ensure that the financial assessment process is fair and consistently applied.

## **2.6 Risk management**

There are no specific risk management implications arising from this report.

## **2.7 Crime and disorder**

There are no specific crime and disorder implications arising from this report.

## **2.8 Environment and sustainability**

There are no specific environment and sustainability implications arising from this report.

### **PART 3 - SIGN OFF**

- Chief Executive  X
- Director of Service  X
- Mayor/Cabinet Member(s)  X
- Chief Finance Officer  X
- Monitoring Officer  X
- Assistant Chief Executive  X