

Title of Report:	Fairer Contributions Policy
Report to be considered by:	Overview and Scrutiny Management Commission
Date of Meeting:	20 May 2014

Purpose of Report: To introduce for scrutiny the Fairer Contributions Policy

Recommended Action: To note the contents of the report and carry out scrutiny as appropriate

Overview and Scrutiny Management Commission Chairman	
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Executive Report

1. Introduction

- 1.1 At its meeting of 25 February 2014 the Overview and Scrutiny Management Commission agreed to scrutinise the operation of the Council's Fairer Contributions Policy (the Policy).
- 1.2 This report sets out the concerns covered by the request for the topic to be scrutinised and provides background on the rationale for the Policy, the legal context within which it sits, the consultation carried out during its development, the operation of the Policy during assessments, its effect and likely future review.

2. Request for scrutiny

- 2.1 The Policy was proposed as a topic for scrutiny by Councillor Gwen Mason after hearing of concerns that had been raised by the Disability External Scrutiny (DES) Board.
- 2.2 Councillor Mason requested that a scrutiny review be undertaken to understand the intent of the policy and specifically
 - Its scope
 - The eligibility and qualification criteria
 - The arrangements for conflict resolution
 - Its process for review, including consultation
- 2.3 There was also an express concern about the policy's clarity.

3. Purpose

- 3.1 In place since 30 April 2012, the Policy's purpose is to provide a mechanism to establish how much an individual receiving an adult social care service will be required to contribute towards the cost of their care.
- 3.2 The Policy is shown at Appendix A.

4. Legislative Context

- 4.1 Where residential care is provided, contributions are made within the framework of the National Assistance (Assessment of Resources) Regulations 1992 and the current Charging for Residential Accommodation Guide (CRAG) issued by the Department of Health (DH). The Council has to apply these rules for individuals in permanent residential care.
- 4.2 Councils are also entitled to ask for a contribution towards the cost of non-residential adult social care services provided under Section 17 of the Health and Social Services and Social Security Adjudication Act (1983). Under Section 17 (3) of this Act, users of these services can request a review of their assessed contribution at any stage.

- 4.3 In November 2001, the Department of Health issued statutory guidance to Councils on charges for non-residential social care entitled Fairer Charging Policy for Home Care and other non-residential Social Services - Guidance for Councils with Social Services Responsibilities. This guidance required that Councils implement a 'Fairer Charging' Policy.
- 4.4 In January 2008, the Department of Health issued a circular on the transformation of Adult Social Care. This required a personalised approach to Adult Social Care which will eventually allow all eligible individuals to have a personal budget to enable them to make their own choices around how their support should be provided.
- 4.5 In July 2009 The Department of Health issued a best practice 'Fairer Contributions Guidance' for use when calculating an individual's contribution to their personal budget. This supplements their current Fairer Charging Guidance.

5. Implementation and adoption within West Berkshire Council

- 5.1 On 21 July 2003 West Berkshire Council introduced its Fairer Charging Policy which was broadly in line with the Department of Health's 2001 guidance.
- 5.2 As the previous policy had only charged individuals 50% of any Attendance Allowance or care component of Disability Living Allowance in payment, the new policy dramatically increased the amount that individuals would pay.
- 5.3 To alleviate the financial impact additional elements of expenditure were also included in the 2003 policy that were over and above the DH guidance. These included the inclusion of water rates, an element for building maintenance for owner occupiers and not charging for a second carer. A decision to only charge an individual 90% of their chargeable income was also made to alleviate the financial impact.
- 5.4 The Policy was reviewed on an annual basis to take account on new DH capital thresholds and benefit rates. The next major change in the Policy was on 7 April 2008 when the Policy was amended to charge individuals 100% of their chargeable income in line with the DH guidance.
- 5.5 In 2011 in response to budget reduction proposals for 2012/13 the Policy was reviewed and following wide consultation a decision was made to remove the concessions included in the 2003 Policy. This included charging for second carers and to removing expenditure items from the policy that should be covered by general living expenses ie water rates and building maintenance.
- 5.6 At this time disability related expenditure that is allowable as part of the financial assessment was also reviewed to bring it in line with the DH guidance and neighbouring authorities.

6. Consultation on the 2011 proposed changes

- 6.1 In October 2011 a programme of consultation was embarked on that involved the following
- Letters were sent to 2500 to services users

- Individual letters were sent to the approximately 1200 service users who would be impacted by the changes to advise them of how the changes would impact on them as individuals. A sample letter is shown at Appendix B.
- Support from West Berkshire Independent Living Network (WBILN) to facilitate parts of the consultation process
- An open meeting led by WBLIN
- Views were sort from the “It’s my life” group a Learning Disability forum run by service users for service users
- A meeting was held with the Disability Equality Scrutiny (DES) Board

6.2 Through November 2011 to January 2012 specific meetings were also set up with the following stakeholder groups

- West Berkshire LINK (Local Involvement Network)
- Parent Carers for adults with Learning Disabilities
- Learning Disability Partnership Board
- West Berkshire Neurological Alliance

6.3 During the consultation process the following responses were received

- 127 telephone calls to the Welfare Benefit Team
- 34 completed consultation feedback forms
- 26 written responses
- Group responses from West Berkshire Disability Alliance, West Berkshire Neurological Alliance and West Berkshire Local Involvement Network

6.4 Following the consultation there were some amendments to the new policy that involved a more robust review and appeals process and consideration to financial hardship

7. Financial Assessment Process

7.1 In accordance with the DH guidance a full financial assessment is undertaken for each individual who receives services for which a contribution can be made, including those who are in receipt of a personal budget. The majority of financial assessments are done in person with the individual and/or their financial representative, in order to establish an individual’s ability to contribute towards the total cost of their chargeable services. In some circumstances the assessment is not done in person this is mainly where there individual’s financial representative lives out of the area.

7.2 The financial assessment ensures that individuals:

- Have sufficient money to meet their basic housing costs and disability related expenditure
- Retain their basic ‘Protected Income’ as defined by the DH guidance

7.3 The assessment calculation is summarised as:

Assessable Income	-	Protected Income	-	Housing Costs	-	Disability Related Expenditure	-	Other Allowable Expenses	=	Maximum Assessed Contribution
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8. Impact of the Policy change

- 8.1 Following the implementation of the new policy on 30 April 2012 there was an increase in requests for reviews and appeals.
- 8.2 Following a financial assessment the Individual can request a review of their assessed contribution. Reviews are undertaken by the Welfare Benefit Team Manager to ensure that the assessment is correct. Following the review if an individual is still unhappy with the financial assessment they can request an appeal panel hearing.
- 8.3 The appeal panel is made up of a Service Manger from Adult Social Care, the relevant long term Team Manager in Adult Social Care and the Service Manager for Client Financial Services. Representation can be in writing or in person.
- 8.4 In the few years preceding the new policy we had a maximum of one appeal per year but in 2012/13 we had 15 appeals and in 2013/14 we had 3 appeals.

Year	Revised assessment	No change
2012/13	7	8
2013/14	1	2

- 8.5 There have also been three Local Government Ombudsman (LGO) investigations and one legal challenge. The three LGO investigations found in our favour and the Legal challenge resulted in some amendment to the wording of the policy.

9. Going forward

- 9.1 Individuals' financial assessments continue to be reviewed on an annual basis.
- 9.2 The policy is reviewed annually in line with annual guidance from the DH and changes in benefit rates.
- 9.3 April 2016 will see the introduction of a new charging regime as the Care & Support Bill is implemented.

10. Recommendation

- 10.1 It is recommended that the Overview and Scrutiny Management Commission scrutinises the Fairer Contributions Policy and makes recommendations for its improvement as necessary.

Appendices

Appendix A Current Fairer Contribution Policy.

Appendix B Sample letter sent regarding individual impact