

Reviewing Gloucestershire County Council's Adult Social Care (ASC) Fairer Contribution Policy

1 Summary Introduction

- 1.1 This paper sets out a range of issues that point to the need to review the way Gloucestershire County Council's (the County Council's) ASC Fairer Contribution Policy is supporting people (full policy available here: <https://www.gloucestershire.gov.uk/media/6699/fairer-contributions-policy-january-2016-revision.pdf>).
- 1.2 Publicly funded social care is mostly financed through local government revenue. This revenue comes from central government funding from the local government finance settlement and locally raised revenue from business rates, council tax and income from fees and charges. Individual local authorities then determine how much is allocated to social care. Under the Care Act 2014, local authorities in England can ask people who use the services to make a financial contribution towards the cost of providing them if they can afford to do so.
- 1.3 There is a framework set out in the Care Act 2014 to help local authorities charge people appropriately. This ensures that individual circumstances like the level and type of care people need are considered. Local authorities have flexibility within this framework; for example, they may choose to disregard a person's additional sources of income, set maximum charges so everyone pays the same, or charge a person a percentage of their disposable income.
- 1.4 Local authorities must have a policy on how they will apply this discretion so that two people with similar needs, and receiving similar types of care and support, are not charged differently.

2 Gloucestershire County Council's Current ASC Fairer Contributions Policy

- 2.1 The County Council's ASC Fairer Contributions Policy (Non-Residential Care/Personal Budgets), last reviewed in 2016, only applies to non-residential social care services. It means that care provided by the council in a setting other than a care home (usually at home) is subject to an assessed financial

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contribution by those receiving care. This excludes some services that are free by law, including those that help people maintain their independence or delay/prevent the need for more intensive support or health services in the future (See below). The current policy sets out how the County Council will determine an individual's contribution (if any) towards the cost of non-residential services and how they can appeal the contribution amounts they are being asked to make.

- 2.2 The current policy also includes information that helps self-funders and therefore feedback from them will be an important part of this process.

There are some quite specific circumstances when people may not be required to contribute, these are included below:

3 Adult Social Care Services Charging Exceptions. We will not charge you for your care and support if you:

- 3.1 Have Creutzfeldt-Jacob Disease or
- 3.2 Are aged 18 or 19, still in full time education and your parents still receive child benefit for you.

4 Adult Social Care Services do not charge for:

- 4.1 Information and advice
- 4.2 Assessing or re-assessing your care and support needs, helping you to plan your care, reviewing your plan.
- 4.3 Your financial assessment, re-assessment or advice from the Financial Assessment and Benefits (FAB) Team.
- 4.4 After care provided under S117 of the Mental Health Act following discharge after detention. Some people who have S117 aftercare plans, also have social care support plans.
- 4.5 Meeting the eligible needs of carers. This includes carers of adults who are self-funding their own care.
- 4.6 Community equipment costing £1000 or less. This means aids or minor adaptations to your home to help you be safer and more independent.

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4.7 A time limited period of intermediate care. This is short term, intensive support to help you maintain or regain your independence as quickly as possible. It may be provided:

- To prevent you being unnecessarily admitted to hospital.
- As a “home first service” when you are discharged from hospital if you need care and support while you recover or while any longer-term needs are assessed.
- As “reablement support” to help you relearn or regain your ability to carry out daily living tasks to prevent, reduce or delay needs for care and support.

4.8 Most people only need intermediate care for about 1 or 2 weeks but, if necessary, it can continue free of charge for up to six weeks. Intermediate care will stop when assessment confirms that:

- You have achieved your goals or
- You are unable to make more progress of
- You need ongoing health and or social care support.

5 The charging rules state that:

5.1 After charging, a person must be left with the minimum income guarantee (MIG). This is because a person who receives care and support outside a care home still needs to pay their daily living costs such as rent, food and utilities and they need enough money to meet these costs. The MIG is a nationally set sum. Local Authorities should not assume that all a person's income above the MIG is available to pay for their Adult Social Care services, without considering how this could affect their independent living.

5.2 Where a person receives benefits to meet their disability needs that are not met by local authority care and support, the charging arrangements should ensure that they keep enough money to cover the cost of meeting these disability-related costs. This is known as Disability Related Expenditure (DRE) and is deducted from a person's income before their income is assessed for charging purposes. The council has an element of discretion as to which expenses will be disregarded.

- 5.3 In the case of non-residential assessments. The financial assessment of financial capital must exclude the value of the property which a person occupies as their main or only home.

6 Review of the Current Policy

- 6.1 In 2022, as the country came out of the pandemic, councils in England started to consider the proposed national changes around adult social care charging reform. Although many of the proposed changes have since been delayed, the County Council has spent some time carefully considering its current Fairer Contributions Policy (Non-Residential Care/Personal Budgets) and whether it remains fit for purpose.
- 6.2 There has also been a successful legal challenge against another council's charging policy as its charging policy could have resulted in higher charges for people with severe disabilities compared to those with less severe disabilities.
- 6.3 Having reviewed its policy, Gloucestershire County Council has recognised that there are some areas that would benefit from being updated.
- 6.4 Over the coming months, the County Council will spend time working with stakeholders to understand their thoughts towards the Fairer Contributions Policy (Non-Residential Care/Personal Budgets). The County Council is keen to understand how the policy currently supports individual choice and control over their care and how it could be better. The aim of this review is to create a new, fairer charging policy that considers the views of people affected by the policy.

7 Requirements of a New ASC Fairer Contributions Policy

Any new policy must be able to demonstrate:

- 7.1 Compliance with the 2014 Care Act (<https://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>), Care and support statutory guidance (<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>), Equality Act 2010 (<https://www.legislation.gov.uk/ukpga/2010/15/contents>) and Human Rights Act 1998 (<https://www.legislation.gov.uk/ukpga/1998/42/contents>);

- 7.2 Consideration of the level of the MIG, taking account of how independent living can be promoted if someone is left with only the lowest MIG.
- 7.3 Consideration to whether it is appropriate to set a maximum percentage of disposable income (over and above the MIG) which may be considered in charges.
- 7.4 Consideration of whether it is appropriate to set a maximum charge.
- 7.5 Consideration of the sustainability of a service being provided based on different levels of financial contribution.
- 7.6 Consideration of the discretion on disregarding such income a person receives as considered appropriate.
- 7.7 A position on discretion regarding DRE and MIG for individual cases.
- 7.8 The promotion of employment, training, and education to enable people in receipt of social care to achieve disregarded income by being supported into employment.
- 7.9 That people are not charged more than it is reasonably practicable for them to pay.
- 7.10 Clarity and transparency, so people know what they will be charged.
- 7.11 The promotion of wellbeing, social inclusion, and supporting the vision of personalisation, independence, choice, and control.
- 7.12 Support for carers to look after their own health and wellbeing and to care effectively and safely.
- 7.13 That the charging rules are being applied equally so those with similar needs or services are treated the same and minimise anomalies between different care settings.
- 7.14 It encourages and enables those who wish to stay in or start employment, education or training or plan costs of meeting their needs to do so.
- 7.15 Consideration of the rights of those who lack capacity or are losing capacity.

8 Some Initial Areas for Discussion

- 8.1 Whilst any changes to the ASC Fairer Contributions policy clearly must be able to demonstrate the points made in the section above, we wanted to share some recent research.
- 8.2 Gloucestershire County Council has undertaken a review of fifteen other local authorities' current charging policies. These local authorities were selected as they have similar demographics as listed by The Charter Institute of Public Finance and Accountancy. The Chartered Institute of Public Finance and Accountancy (CIPFA) is a UK-based international accountancy membership and standard-setting body. The purpose of the research was to help develop an understanding of how other councils apply discretion when charging individuals for adult social care services.
- 8.3 This exercise suggested there are some areas in our existing policy which could change:
- 8.4 Disability Related Expenditures (DRE) – Gloucestershire County Council officers collect information during the financial assessments for each individual expense a person would like considered as a DRE. The officer then reviews them against national data and evidence provided. Other local authorities with similar demographics use an approach where a fixed amount of money is automatically not included in the assessment, without additional consideration, due to the level of a certain benefit entitled. This is known as a banded system. The banded approach provides a description of additional allowances automatically disregarded in consideration of DRE.
- 8.5 Minimum Income Guarantee (MIG) – Gloucestershire County Council, in line with many other local authorities use the MIG rate set by the Department of Health and Social Care, which is the minimum amount they should be left with for daily living after paying for their social care. If a person's daily living expenses exceeds this, the council can consider increasing the MIG on individual circumstances.
- 8.6 Respite Care – CIPFA provided the following details: across other local authorities in England some assess respite with the same charging rule as non-residential care, some use a separate respite charging rule, some use a

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basic respite fee, some assess respite with the same charging rule as residential care.

- 8.7 The council has three ways of charging for care:
- Residential – when a person lives in a care home permanently.
 - Non-Residential – when a person receives care in the community (e.g., their own home or a day centre)
 - Respite – when a person has a short stay in a care home to help leaving hospital, or when their carers take a break.

Gloucestershire County Council currently assess respite care using a higher tariff income than that of non-residential care.

- 8.8 Gloucestershire County Council currently applies a flat charge for meeting non-social care needs. Based on details from CIPFA, this is like many other local authorities in England.

- 8.9 Charging for carer support - Gloucestershire County Council currently does not charge for meeting the eligible care and support needs of carers. This is in recognition of their support and contribution. Based on details from CIPFA, this is like many other local authorities, although one local authority does charge for meeting carer support.

- 8.10 Gloucestershire County Council does not currently charge for meeting any social care needs while an individual is eligible for S117 aftercare plan. Some people who have S117 aftercare plans, also have social care support plans. When the social care needs are a separate support plan, local authorities can charge.

- 8.11 As previously stated, the purpose of this research was to develop an understanding of how other councils apply discretion when charging individuals for adult social care services.

9 Next Steps

9.1 Gloucestershire County Council is committed to creating a new policy, shaped by those most affected by the current policy. As part of the pre-engagement activities, during July and August there will be the opportunity for conversations with the public, stakeholders, and social care staff to help explore the areas highlighted above and understand others that participate raise.

9.2 We are keen to capture the thoughts and views of those who use the policy now and who may use the policy in the future.

9.3 There will also be opportunity to engage with this process via an online survey Have your say - Gloucestershire Charging Policy Engagement (<https://haveyoursaygloucestershire.uk.engagementhq.com/charging-policy-engagement>).

9.4 On conclusion of the engagement activity, we will combine all the feedback. We aim to have the pre-engagement report completed by September 2023. This will be shared with the public, the stakeholder group, social care staff and Gloucestershire County Council Councillors. The feedback report will support the conversation around the new policy.

9.5 Summary Timeline

July 2023 – Aug 2023	Launch of engagement website
July 2023 – Aug 2023	Focus Groups & 121's
End Aug 2023	Close of engagement activities
September 2023	Collation and analysis of feedback
31.10.23	Publication of survey feedback

References and Key Definitions

[Charging for non-residential care - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

[Personal budgets and direct payments - Social care and support guide - NHS \(www.nhs.uk\)](http://www.nhs.uk)

[Government announce Minimum Income Guarantee rise | Disability Rights UK](#)

[Disability-related expenses | Carers UK](#)

Key Definitions	
Non-Residential Care	‘Non-residential care is care, other than in a care home, usually in peoples,’ own homes.’ (Gov.uk)
Residential Care	<p>Residential care means long-term care provided in a care home. It is for people who need substantial help with their personal care. There are two main types of care home:</p> <ul style="list-style-type: none"> • Residential - they offer personal care, such as help with washing, dressing, going to the toilet and taking medication. • Nursing - they provide personal care and always have qualified nurses on duty. They can be suitable for people who require frequent medical attention.
Respite Care	Respite care is the term used for services that enable you to take a break from caring. A respite care service is provided to the person you care for, to temporarily replace the care you would otherwise give them.
Means Tested	Means tested social benefits are benefits where entitlement is explicitly or implicitly conditional on the beneficiary's income/wealth
Tariff Income	Tariff Income is the notional income used by benefits authorities – the DWP, Pension Service and the Local Authorities – to consider capital for the means-tested benefits they administer. ‘Capital’ is the combination of assets and savings that a person/couple has

Personal Budgets	'The amount of money your local council will pay towards any social care and support you need.' (nhs.uk)
Minimum Income Guarantee (MIG)	People receiving local authority-arranged care and 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 MIG.
Disability Related Expenditures (DRE)	<p>Where a person receives benefits to meet their disability needs that do not meet the eligibility criteria for local authority care and support, the charging arrangements should ensure that they keep enough money to cover the cost of meeting these disability-related expenditures. (DRE's)</p> <p><u>Care and support statutory guidance - GOV.UK (www.gov.uk)</u></p>
Disregarded income	<p>The types of income that will not be included when assessing a person's resources to determine their contribution include:</p> <ul style="list-style-type: none"> - All earnings (as defined in Annex C of the Care and Support Statutory Guidance) - Any partner's earnings - Pension Credit (Savings Credit) - Any payment of Working Tax Credit - Disability Allowance Mobility Component - Personal Independence Payment (Mobility
S117 aftercare plan	You are entitled to section 117 aftercare if you have been in hospital under section 3, 37,45A, 47 or 48 of the Mental Health Act 1983 and if you are placed on a Community Treatment Order (section 17A) after discharge from hospital. You will not

be entitled to free aftercare if you have only been in hospital under section 2, 4, 5 or 38 of the Mental Health Act 1983.

Aftercare services should help reduce the risk that you may need to be admitted to hospital again for treatment of your mental disorder.

Key points about section 117 aftercare services

- 'Aftercare' means the help you get when you leave hospital.
- Section 117 means that you will get free aftercare when you leave hospital for support or services linked to your mental disorder.
- Section 117 aftercare services are to help reduce the risk of you becoming unwell again and possibly needing re-admission to hospital.
- Your illness might affect you in different ways. Your aftercare will help you with your particular 'needs.' The Integrated Care Board and social services will provide your section 117 aftercare services.
- You may get specialist housing, help to meet other people, help with work or education and free prescriptions for mental health medication.