

REPORT TITLE: Gloucestershire County Council’s (the County Council) Adult Social Care (ASC) Fairer Contributions Policy review

Cabinet Date	31 January 2024
Cabinet Member	Cllr Stephan Fifield, Cabinet Member for Adult Social Care Delivery
Key Decision	Yes
Purpose of Report	To seek approval to carry out a consultation process with residents which will inform Gloucestershire County Council’s (the County Council’s) plans to amend the Adult Social Care (ASC) Fairer Contributions Policy (attached as appendix 1), including charging illustrations for consultation.
Recommendations	That the Cabinet: <ol style="list-style-type: none"> 1. approves the plan for a 12-week consultation with residents which will inform the proposed options to amend the ASC Fairer Contributions Policy.
Reasons for Recommendations	<ol style="list-style-type: none"> 1. The issues paper (appendix 2) sets out the reasons for the current policy review. 2. Initial pre-engagement further substantiated the need for change by emphasising key areas for the County Council to prioritise within their wider review of its Fairer Contributions Policy. These include, the Minimum Income Guarantee (MIG), Disability Related Expenditures (DRE’s) and the financial assessment and appeals processes. The issues paper (appendix 2) includes full definitions for MIG and DRE’s. Appendix 3 includes the full pre-engagement feedback report. 3. The decision to consult is in line with the Care and Support Statutory Guidance (the CSS Guidance). This requires that local

	<p>authorities should consult when deciding how to exercise their discretion to charge for adult social care.</p>
<p>Resource Implications</p>	<p>The consultation will be funded through existing budget. It has an anticipated budget of £10,000, to be used to raise awareness of the subject and consultation via various internal and external communication channels, both digital and hard copy.</p> <p>The County Council is in discussion regarding commissioning further support from The Consultation Institute (TCI), who were commissioned to quality assure the County Council 's readiness for consultation. This would be an additional resource implication but would be funded through existing budget.</p> <p>The net draft 2024/25 budget for adult social care is £204.564m. The gross expenditure for adults externally purchased care for 2023/24, is circa £180m. It is assessed that circa £78m of income is chargeable for the care provided.</p> <p>Once the Income Buffer (MIG) is applied (circa £37m), and the Disability Related Expenditure (DRE) are disregarded (circa £7m), then we invoice and collect circa £33m of chargeable income. This income is used to fund care and supports the overall Adult Social Care (ASC) budget.</p> <p>Any change in the amount of chargeable income will impact on the overall budget (appendix 7).</p> <p>As there are a number of potential illustrations to amend the ASC Fairer Contributions Policy it is hard to estimate the overall potential impact of any change to the County Council.</p> <p>Potential financial impact has not been built into the 2024 – 2025 medium term financial strategy (MTFS), however this will need to be included in future years MTFS processes, in particular for 2025 - 2026.</p>
<p>Background Documents</p>	<ul style="list-style-type: none"> • Appendix 1 - The Fairer contributions policy (non-residential care/personal budgets) Gloucestershire County Council. • Appendix 2 - The issues paper • Appendix 3 - Evolving communities' engagement report

	<ul style="list-style-type: none"> • Appendix 4 – The County Council paying for your care booklet • Appendix 5 – The Charter Institute of Public Finance and Accountancy research • Appendix 6 - ASC Fairer Contributions Policy consultation illustrations • Appendix 7 – ASC Fairer Contributions Policy consultation illustrations financial modelling <p>Additional supplementary documents: The Equality Impact Assessment (EQIA)</p>
Statutory Authority	The Care Act 2014 (Sections 14, 17 and 69-70) and the Care and Support Statutory Guidance (the CSS Guidance)
Divisional Councillor(s)	N/A
Officer	Name: Yasmin Purchase Tel. no: 07824837282 Email: Yasmin.purchase@gloucestershire.gov.uk
Timeline	<ul style="list-style-type: none"> • October 2023 – Options appraisal and modelling • January 2024 – Cabinet decision • February 5, 2024 – April 2024 – Consultation • Summer 2024 – Analysis and review • Autumn 2024 – Cabinet decision on revisions to the ASC Fairer Contributions Policy • April 2025 – Proposed implementation of revised ASC Fairer Contributions Policy

Background

1. Gloucestershire County Council (the County Council) recognises that sometimes adults need support to live independently. Support can come in many different forms, and people can access this themselves or with the help of the County Council. The County Council promotes adults' independence, choice, and ability to make decisions about the care and support they receive. This is demonstrated within the strategic ambition for Adult Social Care.
2. The Care Act (2014) and its Statutory Guidance sets out the duties of local authorities to offer an assessment to anyone who appears to have needs for care and support. This is normally called a Care Act Assessment. Councils are required to ensure that any eligible needs that are identified in the assessment are met.
3. The Care Act (2014) provides a single legal framework for charging for care and support under sections 14 and 17. Where a local authority arranges care and support to meet a person's needs, it may charge the adult, except where the local authority is required to arrange care and support free of charge. People will be charged for care and support based on a means-test and some will be entitled to free care. The Care Act Statutory guidance sets out that when deciding how to meet people's eligible needs, the local authority may take into reasonable consideration its own finances and budgetary position and must ensure that the funding available to the Council is sufficient to meet the needs of the entire local population. The County Council is therefore permitted to consider how to balance that requirement with the duty to meet the eligible needs of an individual when determining how an individual's needs should be met. This does not mean choosing the cheapest option; but the one which delivers the outcomes desired for the best value.
4. Like many organisations, the County Council is facing increasing costs, due to rising costs of goods, energy and services, reduced government funding, and increasing demand for the services it provides. Despite this, the County Council remains under the duty to ensure it has sufficient resources to meet the needs of all persons who require care and support in its area. Accordingly, it proposes to take pre-emptive

measures to ensure that it is able to fulfil this duty and that it allocates its finite resources as equitably and efficiently as possible.

5. For adult social care services, the invoiced and collected chargeable income to the Council is £33 million. Whilst any reduction in the amount of chargeable income will impact on the overall budget, the County Council recognises the impact of its current ASC Fairer Contributions Policy on the people of Gloucestershire, particularly using evidence from its pre-engagement feedback (appendix 3). The County Council are committed to finding a sustainable and affordable 'best value' model for all. The need for such a model is further supported by the current social care debt position, which was reported at £14.824m (November 2023).

The Councils policy:

6. Gloucestershire County Council (the County Council) agreed to review its ASC Fairer Contributions Policy (currently called the Fairer Contributions Policy non-residential care/personal budgets) in October 2022.
7. The policy assists people to know what they will be charged for adult social care non-residential services.
8. The 'Paying for your care booklet' (appendix 4) is a supplement to the policy and includes more accessible advice on how and what people will be charge for adult social care services.
9. The Adult Social Care Fairer Contributions Policy has not been fully reviewed and updated since 2016.
10. In 2021 a review of the policy was planned ahead of the Government's proposed changes to adult social care charging regulations. Even though the implementation of these changes has been paused indefinitely, the issues paper (appendix 2) sets out a range of drivers for continuing to review the County Council 's policy. This includes counsel's advice following a legal judgement found against Norfolk County Council. This advised local authorities in England to review their charging policies for Care Act compliance.

11. Of particular concern for this review, is the need to explore the Minimum Income Guarantee, Disability Related Expenses, and unintended potential discrimination against people in receipt of higher rates of benefits.

Local context

12. The following data outlines the current number of people (November 2023) who are receiving residential and non-residential care in Gloucestershire and who are known to the authority:

Number of individuals receiving Residential and Non-Residential Care		
Category	Age Bracket	Number of Individuals
Non-residential	Over 65	1709
	25 to 65	1496
	Under 25	201
Non-residential total		3406
Residential	Over 65	1355
	25 to 65	362
	Under 25	10
Residential total		1727
Overall Total		5133

13. The following table demonstrates the number of individuals who pay a full charge and who pay no (NIL) charge towards their services.

Number of individuals with Full Charge and Nil Charge			
Category	Age Bracket	Full Charge	NIL Charge

Non-residential	Over 65	202	375
	25 to 65	48	302
	Under 25	4	116
Non-residential total		254	793
Residential	Over 65	217	119
	25 to 65	7	16
Residential total		224	135
Grand Total		478	928

14. Population projections and prevalence of adult social care need in Gloucestershire is captured in more detail on the Inform Gloucestershire website:
<https://www.gloucestershire.gov.uk/inform/population/population-projections/>.
15. Notably, over the full 25-year period of the Office for National Statistics projections, the Gloucestershire population is projected to increase by 16.6% to 738,482 people, with an annual average growth rate of 0.6%. These projections are substantially higher than those for England. Added to this, the proportion of people in Gloucestershire who are aged 65 or over is predicted to rise from 21.3% of the population to 27.9%. This is a key statistic when correlated against the older persons prevalence of need report, which includes that about 22,800 household residents aged 65+ in the County experienced a long-term illness/disability that limited their day-to-day activities a lot, equating to 21.1% of the age group, compared to 1.9% of the 16-34s and 5.3% of the 35-64s.
16. The data captured for this report continues to demonstrate an increasing need for adult social care services and corresponding financial commitment, further emphasising the need for a sustainable and 'best value' Fairer Contributions Policy.

Additional context

17. The 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 (CIPFA). 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.
18. The Chartered Institute of Public Finance and Accountancy (CIPFA) research is available in appendix 5.

Review progress

19. To complete the initial stage of the County Council 's review (pre-consultation engagement), Gloucestershire County Council commissioned advice and assurance from The Consultation Institute (TCI). Training was delivered by TCI for all staff involved in the cabinet paper preparation and pre-engagement work.
20. The first stage of the review (pre-consultation engagement) took place between 06 July 2023 until 15 September 2023. This included online surveys (hosted on the engagement website) and community interest focus groups (chaired by Evolving Communities).
21. Various communication strategies were discussed in order to identify ways of maximising pre-consultation engagement exposure. This included sharing information with Councillors, paying for social media advertisement, word-of-mouth contact, stakeholder emails, and the use of press releases and the County Council 's social media accounts. A total of 18 focus groups took place including members of the public, sole traders, voluntary organisations, partners, and internal stakeholders across the County at various locations, with over 40 attendees collectively. For the online survey, 74 responses were submitted by individuals (public), 5 responses were submitted by Sole-Traders, Charities, and External Organisations and 32 responses were submitted by internal employees. TCI are currently quality assuring the pre-consultation engagement activities.

22. Following completion of the pre-consultation engagement, Evolving Communities completed an analysis of the responses, which is attached as appendix 3. This report found the following key considerations for review:
- The Minimum Income Guarantee (MIG) (see the issues paper (appendix 2) for further definition)
 - Disability Related Expenditures (DRE) (see the issues paper (appendix 2) for further definition)
 - The financial assessment processes
 - The appeals process
23. Whilst not identified within the pre-consultation engagement, as the County Council look to refresh its ASC Fairer Contributions Policy, there are other areas of consideration, for example short break care.
24. On 30 October 2023, a summary of the findings of the pre-engagement activity was shared with the public (via the Engagement HQ website and accessible via <https://haveyoursaygloucestershire.uk.engagementhq.com/charging-policy-engagement>).
25. Whilst the pre-engagement activities told the County Council important views around people's experiences and provided a lot of valuable feedback, there were opportunities to improve engagement. This includes the reflection that the activity did not generate the level of detailed comment around the policy that the County Council had hoped for.
26. The illustrations for change referenced in this paper have been formed by views provided via the pre-consultation engagement (see appendix 3), legal advice, local context, stakeholder reference groups (which included representatives from partnership boards and wider services), and research (see appendix 5).
27. The illustrations for change (appendix 6) act as a guide and are not predetermined outcomes. As such, the consultation will provide an opportunity for wider consideration of these illustrations.

28. The consultation institute (TCI), commissioned to quality assure the County Council's readiness to consult, have stated in an interim summary report that 'where we have received evidence in the form of documentation there is good progress towards consultation readiness'. The next stage of certification is subject to cabinet decision and includes the submission of broader consultation documentation, i.e., collaboratively agreed survey questions and a revised engagement plan. TCI feedback to date has been both constructive and positive in consideration of the County Council's approach to pre-engagement and preparation.

Officer recommendations

29. That the Cabinet approves the plan for a 12-week consultation with residents which will inform on the proposed options to amend the ASC Fairer Contributions Policy. The ASC Fairer Contributions Policy consultation illustrations (appendix 6) detail considerations for the consultation.

Risks

30. Having reviewed its policy, the County Council has recognised that there are some areas that would benefit from being updated.

31. Not consulting on the ASC Charging policy illustrations may result in legal challenge and therefore reputational and financial risks to the County Council.

32. There are future potential budget implications should consultation determine changes to the County Council's Adult Social Care Fairer Contributions Policy. Any change in the amount of chargeable income will impact on the overall budget.

Legal implications

33. Local authorities have a duty to arrange care and support for those with eligible needs, and a power to meet both eligible and non-eligible needs. In all cases, section 14 of the Care Act gives local authorities the discretion to choose whether or not to charge for care and support. Where it decides to charge, it must follow the Care and Support

(Charging and Assessment of Resources) Regulations and have regard to the Care and Support Statutory Guidance.

34. Local authorities have flexibility within the statutory framework and should develop and maintain a policy on how they wish to apply their discretion locally. Local authorities should consult people with care and support needs when deciding how to exercise this discretion. The principles to be applied when designing the policy are set out in the issues paper (appendix 2).
35. Consultation must be undertaken when proposals are at a formative stage, and consultees must be given sufficient time to allow for an informed response.

Financial implications

36. The gross expenditure for adults externally purchased care for 2023/24, is circa £180m. Of this, the County Council assess that circa £78m of income is chargeable for the care provided.
37. Once the Maximum Income Guarantee (MIG) is applied (circa £37m), and the Disability Related Expenditure (DRE) are disregarded (circa £7m), then we invoice and collect circa £33m of chargeable income. This income is used to fund care and supports the overall Adult Social Care (ASC) budget.
38. The net draft 2024/25 budget for adult social care is £204.564m.
39. Appendix 7 includes financial modelling for the ASC Fairer Contributions Policy consultation illustrations provided in appendix 6.
40. The cost of the delivery of a consultation will be covered by existing budgets within Adult Services and Business Development. The anticipated spend is up to £10,000, plus any additional costs through recommissioning TCI assurance.

Climate change implications

41. There are no climate change implications to note.

Ecological implications

42. An Ecological Impact Assessment (EclA) has been completed and there are no ecological implications to note

Social Value implications

43. The revised Social Value Policy sets out the key principles and actions whereby the Council embeds practical and effective commissioning for social value in every aspect of its procurement and grants and other relevant activities, commencing (as the Public Services (Social Value) Act 2012 requires) at the pre-procurement or equivalent stage.

44. It is hoped that any revisions to the ASC Fairer Contributions Policy will look to promote growth and development opportunities for all within the community, ensuring access to opportunities to develop new skills and gain meaningful employment.

45. The approach to consultation and engagement looks to build stronger and deeper relationships with the voluntary and social enterprise sectors whilst continuing to engage and empower the people of Gloucestershire.

Equality implications

46. An Equalities Impact Assessment (EqIA) been completed and accompanies this report.

47. The Public Sector Equality duty requires Cabinet Members as the decision maker to consider the need to promote equality for persons with protected characteristics and to have due regard to the need to i) eliminate discrimination, harassment, and victimisation; ii) advance equality of opportunity; and iii) foster good relations between persons who share a relevant protected characteristic and those who do not share it.

48. Cabinet Members should read and consider the Equalities Impact Assessment to satisfy themselves as decision makers that the public sector equality duty has been complied with.
49. TCI have provided advice in line with statutory requirements and best practice standards.
50. Notably, the County Council continues to have gaps in our data around protected characteristics. This impacts on understanding of whether specific groups are or are not accessing services, problems people may have in doing so and outcomes for people of different protected characteristics. This means people can be reluctant to provide information which in many instances, leads to poor disclosure rates. Often, we are not collecting this information despite its relevance to people with protected characteristics and to our assessment and planning work. This is not the case across all service areas, and we can learn from those areas where disclosures are higher for certain protected groups. Further work can be undertaken to equip staff with a strong understanding of how this information directly relates to good practice and the delivery of this work. Having recognised this, the EqIA has evolved during the research and pre-engagement, to reflect the findings from the information and data gathering and subsequent analysis. The proposed consultation will add to our understanding of the potential impact of this policy change on those with protected characteristics.
51. Engaging with the people who may require social care in the future, or those who are currently supported by Adult Social Care, can present some challenges due to the diverse nature of individual needs, preferences, and often complex health conditions. Comprehensive stakeholder mapping has meant for a better understanding of effective communication approaches for seldom heard groups. This will continue to be developed throughout consultation, utilising co-production where possible.
52. The key equalities considerations, issues and opportunities include:
 - a. Intersectionality of equalities and how people with the same protected characteristics may be impacted differently by policy decisions.
 - b. Consideration to lived experiences of the impact of a person's disability on their finances.

- c. Consideration of how accessible our public information is and how it is disseminated to hard-to-reach (seldom heard) groups, and what we can do to improve this.
- d. The opportunity to create a policy for our communities: how we can place power and trust into our communities through their participation, which will foster on-going relationships.

Data Protection Impact Assessment (DPIA) implications

- 53. Whilst a DPIA was not mandatory for this decision, it has been completed in line with best practice standards.
- 54. The lawful basis of this consultation is public task.
- 55. The County Council will not require respondents to provide it with personal data as part of the consultation survey questions regarding the ASC Fairer Contributions Policy. Any personal details respondents choose to provide will be subject to the Data Protection Act and handled accordingly. For more information on how the County Council handles personal data, respondents will be directed to the County Council 's adult social care privacy notice and privacy notice pages.
- 56. Equalities monitoring information will be collected outside of the consultation survey questions regarding the ASC Fairer Contributions Policy.
- 57. Further support will be sought from the information management service (IMS) with regards to ongoing consultation.

Consultation approach

- 58. The Communications team have supported with the development of a communication plan to help:
 - Proactively communicate details of the proposed changes and to encourage everyone to have their say.

- Raise awareness of the consultation to gather the broadest possible range of views to help inform the decision-making process.

59. There will be a mix of internal and external communication activity via a range of channels, including:

- Internal newsletters
- the County Council 's intranet
- Partnership board meetings
- The weekly councillor newsletter
- Leaflets.
- Media Release
- Face to Face sessions / focus groups
- NHS Information Bus
- Paid advertorial
- Invoice supplements
- Letters and events

60. The County Council will engage with its partners, and wider voluntary and charitable organisations asking for their support in raising awareness of the subject and the consultation.

61. Full stakeholder mapping has been completed to ensure that hard-to-reach (seldom heard groups) are prioritised during the consultation period. Due regard considerations are included within the EqIA.

Performance management/follow-up

62. Following the proposed consultation, the results will be analysed and used to inform any changes to the proposed policy. The final policy will be subject to approval by Cabinet.