

CABINET	AGENDA ITEM No. 4
10 DECEMBER 2012	PUBLIC REPORT

Cabinet Member(s) responsible:	Councillor Fitzgerald, Cabinet Member for Adult Social Care	
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CONSULTATION ON PROPOSED CHANGES TO ELIGIBILITY CRITERIA AND CHARGES FOR ADULT SOCIAL CARE

RECOMMENDATIONS	
FROM : Executive Director of Adult Social Care	Deadline date : n/a
<p>Cabinet is asked to:</p> <ol style="list-style-type: none"> 1. Approve the commencement of consultation with social care service users, carers and partners on revising the Council's eligibility criteria for Council supported social care services. 2. Include within that consultation, proposals to enhance the range of preventative services available to people with care needs who fall below current or any revised eligibility criteria. 3. Approve consultation on a series of modifications to the Adult Social Care charging policy including a review of the treatment of Disability Related Expenditure in the financial assessment, the introduction of charges for the supply of assistive technology and the "Appointeeship Service" (as detailed in paragraph 4.15) and the removal of the subsidy to the home meals delivery service (as detailed in paragraph 4.16). 4. To note that phase three of the increases in charges agreed in 2010/11 is due to be implemented in April 2013 as set out in the attached schedule. 	

1. ORIGIN OF REPORT

- 1.1 The report arises out of a continuing review of the operation of Adult Social Care following its transfer back to the Council from the NHS in March 2012.
- 1.2 It is part of the way in which services are brought in line with good practice and address an historic gap between demand and available resources.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to seek approval to commence consultation on a number of measures designed to increase the emphasis on promoting independence and prevention amongst people with developing social care needs and to revise the eligibility criteria for Adult Social Care from April 2013.
- 2.2 It also proposes some changes to the Adult Social Care charging policy, including a review of the Disability Related Expenditure Disregard in the financial assessment and the introduction of new charges for assistive technology and the appointeeship service.

2.3 This report is for Cabinet to consider under its Terms of Reference No. 3.2.1, to take responsibility of the delivery of all strategic Executive functions within the Council's Major Policy and Budget Framework and lead the Council's overall improvement programmes to deliver excellent services.

3. **TIMESCALE**

Is this a Major Policy Item/Statutory Plan?	NO
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4. **BACKGROUND AND KEY ISSUES**

Eligibility Criteria

- 4.1 Adult Social Care services are subject to eligibility criteria which were introduced by the Department of Health in 2003 (see appendix 1). This is the Fair Access to Care Services (FACS) framework. The principle was that there should be one single process to determine eligibility for adult social care and to provide a fairer, more transparent and consistent system for allocation of social care support.
- 4.2 FACS identifies four levels of need: Critical, Substantial, Moderate and Low. Councils are required to determine which bands of eligibility they will provide to, taking into account factors including the resources available to them to deliver care.
- 4.3 Peterborough City Council has operated at a level which is essentially Critical and Substantial – in common with an estimated 84% of Social Services authorities, but also included a variation, defined as “High Moderate”.
- 4.4 Many authorities have undertaken regular reviews of eligibility criteria together with their charging policies. There are fewer than 16% of authorities remaining that operate eligibility below the level of Critical and Substantial. Public funding for social care will always be limited in the face of demand for resources and the majority of Councils have tightened eligibility criteria to shift their focus to groups with the highest needs.
- 4.5 Since 2003, there have been significant changes in the delivery of Adult Social Care in line with ‘Putting People First: a shared vision and commitment to the transformation of Adult Social Care.’ This sets out the approach to personalisation and culminated in the White Paper published earlier this year.
- 4.6 The White Paper signals that there is likely to be national guidance for local authorities on eligibility criteria by 2015. It is expected that the national threshold will be set at substantial. There has been an increasing move by some authorities to consider tightening of eligibility criteria to include only “critical” and the White Paper discourages such further eligibility tightening in advance of a national threshold being set. However, in Peterborough, eligibility is more generous than is provided in the majority of Councils and the level anticipated within a future national threshold.
- 4.7 In addition, the criteria have not been reviewed for nine years and have not been considered either in relation to the resources available to the Council, or in the light of the transformation of adult social care and the increased emphasis on personalisation and promoting independence.
- 4.8 Over the last decade our average length of stay in residential and nursing home settings in the city would indicate that in the past many people were admitted to long term care at too early a stage rather than being supported to maintain their independence at home. Today people with similar levels of needs are successfully being supported either in supported housing, including extra care housing, or in their own homes. This option is now routinely available for people who fall within the substantial and often the critical bands of eligibility.

- 4.9 More recently the development of reablement for people at the point where they first enter the social care system is also being successful in helping people, often with lower levels of need and dependency, regain full independence and be free of funded social care support for longer.
- 4.10 Greater emphasis is also being given to providing information, advice and guidance to people with developing care needs and their families and signposting them to services which may be provided within the community or through voluntary organisations rather than offering to provide formal, funded care.
- 4.11 As well as ensuring the council's resources are deployed to prioritise those in greatest need of social care support, it is also the intention to better identify and address the needs of the wider community including self funders. There are already a number of services which are provided or commissioned by Adult Social Care and the wider Council which form a preventative strategy. The intention is to cost, quantify, strengthen and include these services as part of a more universal offering from information and advice to low level support, brokerage and other support to enable the wider population to benefit.
- 4.12 It is intended that the proposed consultation will both outline the range of preventative services already available and to seek views on the types of services which might be required to help people to remain independent for longer and, therefore, not need to become reliant on council-funded social care services.

Charging policy

- 4.13 Members agreed at the last review of the Council's Adult Social Care charging policy in 2011 to allow care charges to rise to the level of their actual cost for those service users who can afford to pay (either because they have capital above the funding threshold of £23,250, or have high incomes); and approved phased increases of these charges for existing service users over three financial years to protect them from the impact of steep increases.
- 4.14 The first two phased increases have been applied, and the third and final phased increase is due to be applied from April 2013, and will affect the following services:

Respite	Increase from £364 to the full cost (£387 to £430pw).
Day care	Increase from £24 to £35 per day care session.
Homecare x 2 carers	Increase from £21.94 per hour to £26.32 per hour.

- 4.15 In addition to the charge increases to be applied from April 2013, it is now proposed to consult on the introduction of further amendments to the charging policy to be introduced at the same date:
- Disability Related Expenditure disregard - within the financial assessment calculation for people who pay an assessed charge towards the cost of their care, there is a deduction for additional costs they might expect to incur relating to their disability - known as the Disability Related Expenditure (DRE) disregard. Peterborough currently operates a flat rate DRE of £32 applied to all those with an assessed charge. A comparison with other local authorities has identified that the level of this disregard is both comparatively high and unusual in that it is applied universally. It is proposed to consult on the introduction of a banded Disability Related Expenditure disregard, applied only where specific evidence of additional costs of living with a disability is identified. If implemented, this change could affect around 600 people and generate in the region of £250,000 per annum, depending on the bandings introduced.
 - Assistive Technology - to be included as a chargeable service both when part of a personal budget or as a commissioned service. Those over the upper income or capital threshold would meet the full cost whilst the majority of service users will continue to pay an affordable charge towards the total cost of their personal budget following a financial assessment. The charge will range from £2.88 to £6.40 per week depending

on the equipment provided. There are currently 229 service users in receipt of an AT service. Some of these service users are already in receipt of care services and paying their maximum assessed charge, so there would be no additional impact from these. There are around 60 service users whom these changes would affect, and could generate additional income of around £9,000 per annum.

- Protected levels of income used in the charging policy are based on Department for Work and Pension's original Pension Credit qualifying age of 60. As the qualifying age for Pension Credit will increase to 66 by 2020, it is proposed to substitute "Pension Credit qualifying age" in order to reflect this change in place of "at age 60".
- Adult Social Care acts as "appointee" for a number of service users who lack mental capacity to manage their own finances and who have no next of kin or representative who can do so. No charge is currently made for this service. However the Association of Public Authority Deputies (APAD) has advised that Councils can charge for the provision of an appointee client income management service, and has provided comprehensive good practice guidance. This emphasises that charges should not be applied if it is likely to cause financial hardship. Adult Social Care is currently appointee for approximately 160 clients and it is estimated that, if introduced, a minimum of a third of this group would be subject to a charge of the APAD recommended figure of £5 per week. This could generate additional income of £13,000 per annum.

4.16 In addition it is proposed to consult on the proposal to remove the subsidy from the current home meals service. If the subsidy were to be removed in a single phase, it would result in an increase from £3.20 to £5.20 per meal for hot meals and from £2.00 to £2.60 for frozen meals. The consultation will also test out alternatives, including whether there remains a case to continue with a hot meals delivery service. This would generate additional income in the region of £96,000 per annum, if the subsidy is removed in one year.

5. CONSULTATION

- 5.1 Changes to eligibility criteria and charging are subject to consultation with those affected by the proposal. It is intended that a questionnaire will go out to existing service users and their carers/families and to organisations representing service users and carers groups.
- 5.2 Consultation will take place during December 2012 and January 2013 and the results considered prior to a final decision being proposed to be taken as part of the Council's budget setting process.
- 5.3 The approach to the consultation needs to be handled well to ensure a coherent rationale and process as well as compliance with equalities legislation. In so doing, it is important to be mindful of two recent High Court Judgements: **R (W) v Birmingham City Council (2011)** and **JG and Another v Lancashire County Council (2011)**.
- 5.4 Commencing consultation now would enable implementation for the new criteria from April 2013. Existing service users would be reviewed in line with the dates for their annual review. The full year savings would, therefore, come into effect from 2014 in preparation for the new national thresholds due in 2015 together with the anticipated decisions about carers. It is expected that from 2015 all carers will have a right to an assessment and clear entitlement to support so they can maintain their own health and well being.
- 5.5 It is proposed that consultation takes place on the proposal to tighten eligibility criteria and charging with all current service users, carers and families as well as other partners and stakeholders. Focus groups will be held with each customer group to discuss and seek input to the 'preventative offer' to help mitigate the effects of giving priority for ongoing statutory support to those in the greatest need.
- 5.6 The charging policy was last reviewed by Council in February 2011 when consultation about the charge increases was included in the extensive city-wide consultation undertaken for the Council's mid-term financial strategy.

6. ANTICIPATED OUTCOMES

- 6.1 Analysis of existing spend suggests that a change of criteria to critical/substantial could result in savings in the order of £500,000 p.a. This is based on an assumption that there would be a reduction in low value (less than £150 per week) packages of care as more people are reabled, signposted to other services or are provided with advice on how else they might meet their needs. It is acknowledged that some low value packages will continue, for example where a family carer provides the majority of the care to someone with high needs but receives a low level of funded support to help them to manage.
- 6.2 Should a change in eligibility criteria be agreed, changes to individual care packages would only take place following a review of needs. Such a review may well identify changes, increased needs, but may also identify reablement potential.
- 6.3 It is anticipated that following consultation, if the changes are to proceed, investment of part of the future savings will be recommended to be made in additional preventative services to ensure that those no longer eligible are able to access other support.

7. REASONS FOR RECOMMENDATIONS

- 7.1 Consultation with those affected by a change to eligibility criteria will enable implications of those changes to be fully considered. It will provide opportunities for people receiving care services, their families and carers, and for partner agencies to give their views and to outline any concerns or consequences.
- 7.2 The consultation will also enable views and evidence to be gathered of the effectiveness of the current range of preventative services in place and views of where these might be developed should the decision be made to implement a change in criteria.
- 7.3 Consultation on the proposed revisions to the charging policy will enable views to be gathered from those likely to be affected by changes and for the impact to be fully considered prior to decisions being made. In relation to the Disability Related Expenditure disregard, consultation will involve discussion with disabled service users and with disability groups, including the Disability Forum, about the best ways of targeting resources and in this case income disregards to take account of the additional costs of living as a disabled person.
- 7.4 Given that each of these proposals, if implemented, will result in financial savings either through reducing costs or increasing income, consultation will also ensure that when decisions are made, consideration of the availability of resources and the service implications are appropriately balanced.

8. ALTERNATIVE OPTIONS CONSIDERED

Eligibility criteria

- 8.1 Consideration was given to waiting for Department of Health guidance on eligibility criteria expected in 2015. However, it is felt reviewing the criteria now places the Authority in a sound position to be prepared for the national changes being signalled in line with available resources.

Charging policy

- 8.2 i) No review off the level of the Disability Related Expenditure disregard could be undertaken and the DRED could be retained at the current level. This option is rejected as the current scheme does not take account of differing levels of need, and people with lower level requirements, in terms of disability related expenditure requirements, currently receive the same level of disregard as people with higher requirements. In addition, it does not

take account of the higher level of disregard allowed in Peterborough in comparison with other authorities.

ii) Leave the charging policy unchanged. This option is rejected because the charging policy would be inconsistent in its treatment of charges for different care services, and would not be in-step with national changes to the state pension age.

iii) Maintain the status quo in terms of charging for the appointee client income service and meals charges. This option is rejected because additional revenue can be reasonably raised from the application of a charge / charge increase for these specific care services.

8.3 The consultation will seek to explore the implications of the proposals set out in this report and may lead to alternatives or modifications being considered prior to final recommendations being made.

9. IMPLICATIONS

9.1 Financial

These changes would result in financial savings which would contribute to meeting the significant financial pressures faced by the Council in relation to increasing demand for social care services at times of financial restraint. Failure to identify areas where costs can be reduced or income increased will place significant pressure on Adult Social Care's ability to manage within the resources available and to meet priority needs.

9.2 Legal

Consultation is a statutory requirement for eligibility criteria and charging.

9.3 Diversity and Equality

9.3.1 Should a change to eligibility criteria be agreed, consideration will need to be given to the differential access to preventative services for different groups that might be affected by a change. The preventative strategy and the implementation and access to services like reablement will ensure that people with disabilities are not disadvantaged. The 'preventative offer' will ensure that account is taken of wider equality issues to ensure advice, information and low level support can be easier to access across the community.

9.3.2 An equalities impact assessment has previously been completed in respect of the Day Care, Respite and Home Care (2 carers) charge increases. The recommended change to Disability Related Expenditure disregard will be designed to specifically take account of disadvantages faced by people living with a disability who are subject to a means test to determine their social care charges. The other changes proposed, whilst not likely to have a significant impact on any particular section of the community, will also be considered in a fresh Equality Impact Assessment prior to final recommendations being made.

10. BACKGROUND DOCUMENTS

DH White Paper: Caring for Our Future Reforming Care and Support July 2012-11-16
Fair Access to Care Services (FACS) Assessment Criteria among Local Authorities in England

DH Guidance on Eligibility Criteria for Adult Social Care 2012
PCC Medium Term Financial Strategy and Plan to 2015/16

Appendix 1

FACS bandings and eligibility criteria for individuals

Critical – when

- Life is, or will be, threatened; and/or
- Significant health problems have developed or will develop; and/or
- There is, or will be, little or no choice and control over vital aspects of the immediate environment ; and /or
- Serious abuse or neglect has occurred or will occur; and/or
- There is, or will be, an inability to carry out vital personal care or domestic routines; and/or
- Vital involvement in work, education or learning cannot or will be sustained; and/or
- Vital social support systems and relationships cannot or will be sustained; and/or
- Vital family and other social roles and responsibilities cannot or will not be undertaken.

Substantial – when

- There is, or will be, only partial choice and control over the immediate environment; and/or
- Abuse or neglect has occurred or will occur; and/or
- There is, or will be, an inability to carry out the majority of personal care of domestic routines; and/or
Involvement in many aspects of work, education or learning cannot or will not be sustained; and/or
- The majority of social support systems and relationships cannot or will not be sustained; and/or
- The majority of family and other social roles and responsibilities cannot or will not be undertaken.

Moderate – when

- There is, or will be, and inability to carry out several personal care or domestic routines; and/or
- Involvement in several aspects of work, education or learning cannot or will not be sustained; and/or
- Several social support systems and relationships cannot or will not be sustained; and/or
- Several family and other social roles and responsibilities cannot or will not be undertaken.

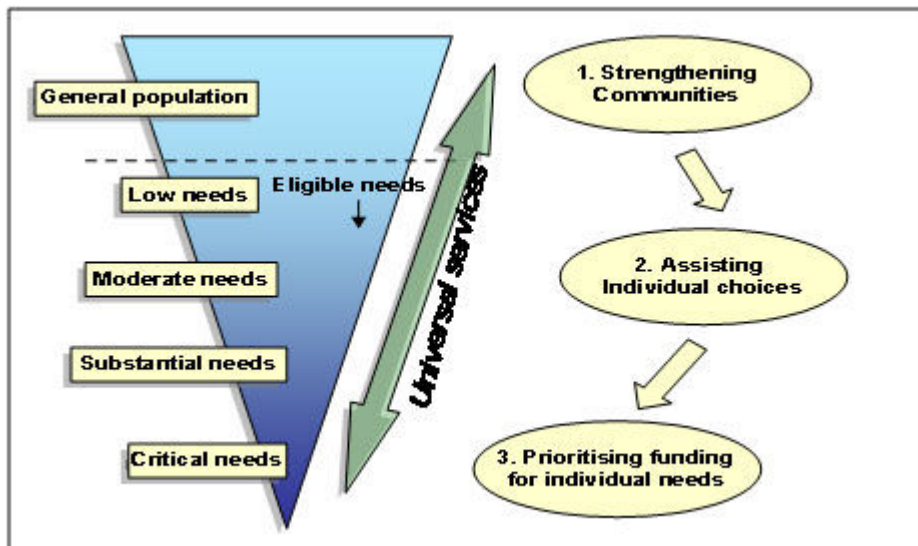
Low – when

- There is, or will be, an inability to carry out one or two personal care or domestic routines; and/or
- Involvement in one or two aspects of work, education or learning cannot or will not be sustained; and/or
- One or two social support systems and relationships cannot or will not be sustained; and/or
One or two family and other social roles and responsibilities cannot or will not be undertaken.

As indicated in Figure 1 below, the eligibility bands are set in the context of the:

- General population recognition that universal services need to be expanded to meet the needs, demands and expectations of the general population and for individuals and carers
- Need to strengthen communities, assist individual choices and prioritise funding for individual needs.

Figure 1: Eligibility needs in the context of the environment



Case Studies

High Moderate

Mr K is an 87 year old man who was admitted to hospital with infective exacerbation of COPD on the 30 October 2012 and deemed medically fit for discharge on the 6 November 2012. Mr K lives with his wife who provides natural support in relation to general household tasks, shopping and meals. Prior to his admission to hospital Mr K was independent with washing and dressing ensuring he took his time to complete these tasks and resting intermittently when he became short of breathe. Mr K was quite anxious about returning home and less confident about being able to meet his personal care needs and therefore he was referred to the reablement service who supported him to regain his confidence, relieve his anxiety and work towards becoming independent with washing and dressing. Mr K was discharged from reablement on the 20 November 2012 and without this service he may have become more dependent and reliant on a longer term care package due to his level of anxiety which exacerbates his COPD (chronic obstructive pulmonary disease).

High Moderate

Young person, mid 20s was in foster care then Shared Lives Scheme then moved into boyfriend's family home, developing skills along the way. Boyfriend also mild LD. About to set up home with boyfriend. Requires low level support such as floating support to look at mail, direct debits set up for utilities and support to make health appointments (not to attend but to remember to make). Without this support care needs might increase.

Substantial

Mr T is a 60 year old man who lives alone in sheltered accommodation and has been diagnosed with Myotonic Dystrophy (characterised by wasting of the muscles, muscle pain and disabling distal weakness). Mr T has frequent falls and requires support to access the community and his work and support in his home environment to meet his activities of daily living safely. Mr T has a care package of four calls per day to support him with his personal care needs and meal preparation. Mr T has support from his work colleagues three mornings a week to enable him to

continue to work. Mr T is supported to remain as independent as possible and whilst the risk of falls remain due to maintaining this level of independence the number of falls resulting in injury and hospital admission have significantly decreased. Mr T is supported to make informed choices and have control over decisions, for example access to work. He is aware of the risks in terms of falls and increased pain/debility but he feels the benefits far outweigh the risks.

Substantial

Young person, 18 years of age. Has autism and severe LD, elective non-verbal communication. Isolates himself both emotionally and physically requiring significant support to participate in any activity including basic Activities of Daily Living (although technically physically able).

Critical

Mrs H is a 63 year old woman who lives with her husband. Mrs H has multiple sclerosis and is dependent on others to meet most of her activities of daily living. Mrs H spends most of her time in bed where she feels more comfortable but she will sit out in a wheelchair on occasions for short periods of time. Mrs H is unable to mobilise independently and support to meet all personal care (washing/dressing toileting) is provided by 2 carers and all transfers are carried out using a hoist. Full assistance with meal preparation is provided and her carers/ husband ensure food is cut up or finger foods are offered to give Mrs H some independence as she has no useful movement in her left hand.

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