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Ask for: Anna Taylor
Date: 8 July 2024

Dear Member

SCRUTINY COMMITTEE - WEDNESDAY, 10 JULY 2024

I am now able to enclose, for consideration at next Wednesday, 10 July 2024 meeting of the Scrutiny Committee, the following report(s) that were unavailable when the agenda was printed.

Agenda Item No

B1 **Call-in of Decision 24/00049 - Higher Disability Benefits (Pages 1 - 126)**

C2 **SEND Scrutiny Process (Pages 127 - 130)**

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ben Watts', is written over a faint circular stamp.

Benjamin Watts
General Counsel

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By: Joel Cook – Democratic Services Manager

To: Scrutiny Committee – 10 July 2024

Subject: Call-in of Decision 24/00049 – Adult Social Care Charging Policy – Higher Level Disability Benefits

Background

1. The proposed decision was discussed at the **Adult Social Care Cabinet Committee on Wednesday, 15th May, 2024** prior to the key decision being taken by the Cabinet Member on 24 June 2024.
2. Following the decision being taken, the call-in request was submitted by Mr Streatfeild and Ms Meade, thus meeting the requirement for any call-in to be requested by two Members from different political Groups.
3. The reasons of the call-in were duly assessed by Democratic Services, including a review of the reasons given by those Members calling in the decision and an investigation into whether any issues raised in the call-in were adequately addressed by the decision paperwork, committee reports, responses to written questions or committee debate. The results of this review were considered by the Democratic Services Manager and the call-in was determined to be valid under the call-in arrangements set out in the Constitution. Call-in reasons must be clear, correct and align to one or more of the following criteria under s17.67 of the Constitution:

Members can call-in a decision for one or more of the following reasons:

- (a) The decision is not in line with the Council's Policy Framework,
 - (b) The decision is not in accordance with the Council's Budget,
 - (c) The decision was not taken in accordance with the principles of decision making set out in 8.5, and/or
 - (d) The decision was not taken in accordance with the arrangements set out in Section 12.
4. The reasons for this call-in are set out in the attached document (a), submitted by Mr Streatfeild and Ms Meade.
 5. The core call-in request elements determined as valid are reasons 1 and 3. Specifically, under reason 1, clarification is sought in terms of the implications and policy considerations relating to Disability Related Expenditure (DRE). While this mitigation area was flagged in the EqIA, it was noted in the reports that increased DRE costs would be unsustainable within KCC's budget which could undermine the budget management objectives of the decision. In view of the challenges in

this area and the negative impacts identified by the EqIA, the call-in queries how far the decision is proportionate to the objective of managing KCC's spending. Under Reason 3, clarity is sought regarding KCC's approach to 'acting reasonably' in relation to individual assessments, what this means in practice and the implications of such an approach within the context of increased costs for disabled service users.

Process

6. As per the call-in procedure, Democratic Services must consider all call-in requests against the criteria detailed in the constitution, which are themselves based on the legal requirements under the Local Government Act 2000 to have an appropriate mechanism to allow Executive decisions to be scrutinised. In determining the validity of any call-in, no judgement is made by Democratic Services as to whether the decision itself is flawed, inappropriate or invalid. Similarly, where some individual reasons submitted for an overall valid call-in are not assessed as valid, this does not mean they merit no consideration as part of any subsequent call-in meeting. Paragraph 5 of this report do not indicate endorsement or agreement with the challenges made in the call-in – this report only confirms that the points set out in the call-in are not all completely addressed through the available documentation and previous debate. It should be highlighted that the decision documentation is detailed, thorough and extensive. However, the call-in identified elements that merit further consideration or clarification. In accordance with the call-in arrangements, it is therefore for Members, via the Scrutiny Committee, to determine whether any reconsideration of the decision is necessary.
7. The Cabinet Member and relevant Officers will be attending the Scrutiny Committee meeting to present their response to the call-in and to respond to questions.
8. The Scrutiny Committee should consider the reasons set out by the Members calling-in the decision, the documentation already available and the response from the Executive given at the meeting, giving due regard to the information made available during questioning and discussion on this item.
9. The decision papers remain available online but are republished in the agenda pack as appendices for ease of reference.

Options for the Scrutiny Committee

10. The Scrutiny Committee may:
 - a) make no comments
 - b) express comments but not require reconsideration of the decision

- c) require implementation of the decision to be postponed pending reconsideration of the matter by the decision-maker in light of the Committee's comments; or
- d) require implementation of the decision to be postponed pending review or scrutiny of the matter by the full Council.

Attached documents

- a) Scrutiny call-in reasons submitted by Mr Streatfeild and Ms Meade.
- b) [24/00049 – Decision Report](#)
- c) [24/00049 – Record of Decision](#)
- d) [Appendix A – Higher Level of Disability Benefits Consultation Report](#)
- e) [Appendix B – EqlA Post Consultation](#)
- f) [Appendix C – Post consultation mitigations](#)
- g) [Appendix D – Financial calculation examples and mitigation explored](#)

Background Documents

[Adult Social Care Cabinet Committee on Wednesday, 15th May, 2024](#)

Report Author

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Call-in Request for Executive Decision 24/00049 – Adult Social Care Charging Policy –
Higher Level Disability Benefits

Proposer: Mr Richard Streatfeild, MBE

Seconder: Ms Jackie Meade

Summary of the decision:

- The decision proposes to change Kent County Council's (KCC) Adult Social Care Charging Policy. Specifically, to stop disregarding the higher or enhanced rates of Attendance Allowance (AA), Personal Independent Payment (PIP) and Disability Living Allowance (DLA) when calculating a person's contribution towards the cost of their care and support.
- This decision would mean that individuals in receipt of care who receive a higher rate of these benefits would have more income taken into account in their financial assessment which would mean that they are likely to pay more for their care and support than they do currently.
- At present, KCC provides adult social care services to approximately 16,394 residents aged over 18 years old. Approximately 15,806 of these people receive chargeable social care services, this includes providing services like residential care and support and care in a person's own home or in the community.

Reasons for calling in the decision:

Reason 1: The decision is not in line with the Council's Policy Framework and action proportionate to the desired outcome.

- These reasons apply because the decision fails to take into account the council's vision, values, and priorities, as set out in the Making a difference everyday Adult Social Care Strategy 2022-27.
- The strategy aims to support the most vulnerable people in Kent, and to promote their independence and wellbeing, and to ensure they have a voice and a choice in their care.
- In the EQIA it states that to mitigate the significant risk identified within the associated consultation of severely disabled residents within Kent being negatively impacted by this decision, individuals would be entitled to apply for a Disability Related Expenditure (DRE) assessment.
- However, within the Options Appraisal of this Decision Report, options three, five and six which relate to DRE assessments are dismissed due to an increase in pressure on frontline services and the budget impacts this may have on adult social care within Kent. As potentially 2,973 individuals may be financially impacted by this policy change, that is a notable number of individuals that would then be entitled, and based on the negative responses received during the consultation would be motivated, to apply for a DRE assessment.
- Between April 2023 and February 2024, only 7 DRE's had been approved and as of February 2024 there were a total of only 122 agreed DRE's in Kent. Based on this data, it is clear that if the significant number of individuals who will be impacted by this decision decide to apply for a DRE assessment as they should be informed, they are able to, this places a critical risk of increased pressure on KCC's services.

- As the Decision Report outlines that this decision is motivated by the Council's financial position and a desire to 'generate income', we therefore do not feel that the financial and service pressure risks this presents for adult social care justifies the potential serious instability and disruption for Kent's residents this decision may inflict.

Reason 2: Clarity of aims and desired outcomes.

- We believe that the decision is contrary to the council's principles of good governance, as set out in the Annual Governance Statement 2022/23, which requires the council to act in the public interest, to be transparent and accountable to base decisions on robust evidence, and to engage effectively with stakeholders.
- Whilst a public consultation was carried out, 74% of respondents strongly disagreed with the proposal to include the higher rate benefits payment of AA, DLA, and PIP in the financial assessment for existing and new people who receive care in their own home and in the community.
- Proceeding with the decision with such strong opposition as evidenced in the public consultation in our view is against the public's interest.

Reason 3: Respect for human rights in all its forms.

- We believe that the decision is contrary to the council's legal obligations, as set out in the Equality Act 2010, which requires the council to eliminate discrimination, advance equality of opportunity, and foster good relations between different groups of service users, and to conduct a full equality impact assessment before making any decisions that may have a significant effect on the protected groups of service users. The assessment places emphasis on the significant impact this decision will have on people with a disability.
- The decision's Equality Impact Assessment highlights the negative impacts this decision will have on people with a disability.
- Paragraph 20b. states '*People with certain severe disabilities/health issues may be more likely to be on the higher rate of disability benefits, due to being unable to work and needing support through the night, and therefore more significantly affected if the proposed changes are approved following consultation*'.
- We are not convinced the mitigations outlined are comprehensive, nor address the concerns of carers and care receivers. The report details that KCC will '*act reasonably*' in assessing individual circumstances – however no detail is given explaining what this means.

Desired outcome of the call-in:

- We request that the Scrutiny Committee recommends that the implementation of the decision to be postponed pending review or scrutiny of the matter by the full Council.

From: Richard Smith, Corporate Director Adult Social Care and Health

To: Dan Watkins, Cabinet Member for Adult Social Care and Public Health

Subject: Adult Social Care Charging Policy – Higher Level Disability Benefits

Decision no: 24/00049

Key Decision: It affects more than 2 Electoral Divisions

Classification: Unrestricted

Past Pathway of report: Adult Social Care Cabinet Committee – 15 May 2024

Future Pathway of report: Cabinet Member Decision

Electoral Division: All

Is the decision eligible for call-in? Yes

Summary: The report provides information about the outcome of the consultation regarding proposed changes to the charging policy. Specifically, to stop disregarding the higher or enhanced rates of Attendance Allowance (AA), Personal Independent Payment (PIP) and Disability Living Allowance (DLA) when calculating a person's contribution towards the cost of their care and support. The budget assumed that this proposal could raise an additional £2.6m in income in 2024-2025 (£3.4m in a full year). The latest forecasts are that this proposal could raise an additional £2.8m income in 2024/2025 (£3.7 million in full year).

Recommendations: The Cabinet Member for Adult Social Care and Public Health is asked to:

- a) **APPROVE** the changes to the Adult Social Care Charging Policy; and
 - b) **DELEGATE** authority to the Corporate Director Adult Social Care and Health to revise the Adult Social Care Charging Policy and to take relevant actions, including keeping the policy updated as necessary, to implement the decision.
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1. Introduction

- 1.1 The council's budget which was approved in February 2024 included a proposed provision, subject to the necessary consultation and equality impact assessment, to change the charging policy for people who receive care and support in their own home or in the community. As a result, it is necessary to consider the amount of income generated through the contribution people may have to make towards the cost of their care and support.

- 1.2 This report is about Kent County Council's (KCC) proposed change to the charging policy. Specifically, to stop disregarding the higher or enhanced rates of Attendance Allowance (AA), Personal Independent Payment (PIP) and Disability Living Allowance (DLA) when calculating a person's contribution towards the cost of their care and support.
- 1.3 This policy and proposed change does not impact on people who live in and receive care and support in a residential care home.
- 1.4 A public consultation on the proposal was held from the 6 February to 7 April 2024. The full consultation outcome report is attached to this report as Appendix A.
- 1.5 The Adult Social Care Cabinet Committee considered a report on this subject at its meeting on 15 May 2024.

2. Background

- 2.1 KCC provides adult social care services to approximately 16,394 residents aged over 18 years old as at April 2024. Approximately 15,806 of these people receive chargeable social care services, this includes providing services like residential care and support and care in a person's own home or in the community.
- 2.2 When people living in Kent need adult social care, as well as assessing their care needs, we also assess their income to decide how much they have to pay towards their care and support. This is known as means testing. Following financial assessment, some people do not have to pay anything, and the council picks up all of the cost, some people pay some contribution, and some other people pay for all of their care.
- 2.3 KCC sets out what and how people need to pay in the Adult Social Care Charging Policy further details of our current charging policy (including examples) can be found at: www.kent.gov.uk/social-care-and-health/care-and-support/paying-for-care/charges-for-care-and-support.
- 2.4 KCC's Budget Recovery Strategy, [Securing Kent's Future](#), was agreed at a Cabinet meeting on 5 October 2023 which was required to address the in-year and future years' financial pressures faced by the council arising from overspends and future spending growth largely in adults and children's services. The strategy sets out the background to the financial pressures which have not been reflected in recent finance settlements and the Best Value duty to resolve competing statutory duties to set a balanced budget whilst also delivering statutory services and securing value for money. The strategy prioritises "new models of care and support" in response to recent and unsustainable increases in spending on social care and home to school transport services. Key areas addressed throughout the strategy included the specific drivers causing the financial pressure and the specific and broader action that needed to be taken through Securing Kent's Future to return the

council to financial sustainability. The report also identified opportunity areas for further savings, accelerated transformation of the council alongside possible policy choices, all of which provided the scope to deliver significant savings over the next Medium Term Financial Plan (MTFP) period.

2.5 KCC has already made substantial improvements and efficiencies to the way social care is delivered in Kent, alongside trying to limit the impact on the people that draw on care and support and help make the service sustainable. We need to look at the amount of income we can generate by people contributing towards the cost of their own care. This is why we are proposing a change to the charging policy.

2.6 Whilst KCC continues to strive to provide the best services we can, we continue to have the following growing pressures:

- The overall resourcing for local authority services has gone through three distinct phases including period of austerity between 2011/2012 to 2015/2016 when overall funding was reducing due to combination of reductions and changes to grant distribution from central government and council tax freezes, a period of flat cash between 2016/2017 to 2019/2020 when council tax increases offset grant reductions (including a shift to more social care grants), and period since 2020 which has seen increases in government grants and council tax although not sufficient to keep pace with rapid spending expansion in this period.
- These changes have resulted in an expectation that a greater share of the cost of council services are funded from council tax and other income sources such as client charges¹.
- Increasing demand (an additional 1,152 people from March 2022-March 2023) for adult social care services, including people having complex care and support needs.
- Significant annual increases in the National Minimum Wage (NMW) since 1999, which have impacted on the fees charged by care and other providers.

¹ A separate Adult Social Care council tax levy was introduced in 2016/2017 which now raises £135.3m in 2024/2025. KCC has levied the maximum amount permissible through the adult social care council tax levy in each year since this power was introduced and raising further council tax to offset the proposed change in client charges would only be possible if supported in a referendum. Conducting a referendum would in itself incur additional expenditure and would still have to set out an alternative budget should council tax increases not be supported. The amount raised through general council tax has increased by £228.3m since 2016/2017. The Revenue Support Grant (which includes adult social care as well as other council services) has reduced from £246.7m in 2013/2014 (the first year of current funding arrangements) to £11.8m in 2024-25. There have been a number of separate social care grants which have been provided progressively since 2016/2017 (not exclusively adult social care) which amount to £205.7m in 2024/2025 but these grants have been provided in recognition of the pressures in social care and to fund improvements rather than replace the Revenue Support Grant reductions.

- Continuing impact of inflation, which means we face growing pressures in the care market, including workforce challenges and rising costs for delivering care packages.
 - Other market factors such as recruitment challenges, complexity of people that draw on care and support and placement decisions all of which have driven up the average unit cost of care placements.
- 2.7 The revenue budget for 2024/2025 was approved by full Council on 19 February 2024. Overall, the net budget requirement increased by £113.9m (+8.7%) over the approved budget for 2023/2024. This matched the additional funding received through general un-ringfenced government grant settlement and local taxation. Planned spending for the year is forecast to increase by £209.6m and the budget was balanced by planned savings and income of £88.9m and net £6.8m change in reserves. The budgets for adult social care, children in care and home to school transport increased by more than the overall increase in the net budget. Collectively the budgets for all other services saw no overall increase.
- 2.8 The budget includes a combination of unavoidable spending changes, funding from central government and local policy decisions covering spending, savings and income, and local taxation. The financial pressures facing KCC were set out in the [budget report](#). KCC managed to set a balanced budget, and avoided issuing a section 114 report, but this required a challenging set of spending cuts and the need to maximise income where possible. The budget also includes spending and income from external sources. There was a public consultation on the budget processes that fed into budget considerations. Scrutiny of budget proposals was carried out in November and January, and final County Council approval considered alternative budget proposals and amendments as part of that political process. The budget included provisional sums to increase income as a result of these amendments to the Adult Social Care Charging Policy. No final decision was taken at the budget stage to make these amendments, as they needed to be consulted on, and an Equality Impact Assessment considered. However, at no stage in the budget setting process was an alternative to the additional income generated by these proposals identified.
- 2.9 The budget strategy sought to ensure the council continues to plan for revenue and capital budgets which are affordable, reflects the council's strategic priorities, allows the council to fulfil its statutory responsibilities and continues to maintain and improve the council's financial resilience. The budget recognises that these aims are not always an easy combination and involves some difficult decisions about service levels and provision.
- 2.10 The budget report to County Council included the following recommendations regarding the council's reserves.
- To note that the planned use of reserves still ensures sufficient reserves are available in the short term with no immediate concerns triggering a S114 notice provided the use of these reserves is replaced with sustainable savings over the medium term.
 - To note the rate of recent drawdown from reserves and increase in risk is cause for serious concern and reserves need to be strengthened,

particularly general reserve and the draft budget includes a strategy to restore the general reserve to 5% by 2025/2026. Further unplanned drawdowns would weaken resilience and should only be considered as a last resort with an agreed strategy to replenish reserves at earliest opportunity.

- Whilst it is permissible for councils to use reserves to balance revenue budget this is only a short-term measure and is not a substitute for making sustainable savings and generating ongoing income to balance any gaps between recurring spending and funding available from government, local taxation and other income sources. There is no set defined levels for reserves and each council makes its own judgement taking into account local circumstances and risks.

2.11 The budget for adult social care services (including 18-25) increased by £61.8m (+9.9%) in 2024/2025. This means that even after the savings required to balance the adult social care budget this represented a disproportionate increase compared to the overall position. Without the proposed additional income from the proposed changes to the Adult Social Care Charging Policy, this would have been an even larger disproportionate increase in spending on adult social care. The increase in adult social care was £8.7m more than the additional funding from the adult social care council tax levy and additional adult social care grants in the final local government finance settlement.

2.12 A separate [section 25 assurance statement](#) was presented to Council prior to the budget consideration. This statement sets out the opinion of the statutory Section 151 officer on the robustness of budget estimates and adequacy of reserves. The statement recognised that setting the budget for 2024-25 was incredibly challenging due to ongoing and escalating cost pressures alongside insufficient funding in the local government finance settlement. This combination required the Council to deliver significant policy, efficiency and transformation savings, generate additional income as well as one-off solutions from reserves and use of capital receipts. Any deviation from that plan increases the risk of service failure through inadequate resources. The external auditors had also emphasised in their latest annual report on the need for all members to agree proposals that represented a balanced budget for 2024/2025. The 2024/2025 reported noted the combination of drawdowns from and transfers between reserves as part of finalising the 2022/2023 accounts which has reduced the adequacy of reserves compared to previous assurance statements and that the levels of reserves are now considered to pose a more significant risk to the Council's medium to long term sustainability than levels of debt. This is a significant change from previous assurance statements. The statement identified that the drawdown in 2022/2023 was disproportionate compared to other authorities and the risk remains of further drawdowns should the management action necessary to balance 2023/2024 and savings/income planned for 2024/2025 not be delivered in full. Using reserves to mitigate the proposed change to the Adult Social Care Charging Policy would fall within this risk further weakening financial sustainability.

2.13 Further details about the council and adult social care's financial position are set out under the financial implications section of the report. If this proposal is not implemented, then alternative savings/income would need to be achieved in

other areas in KCC services. The council already has an agreed policy on fees and charges for discretionary services. This policy is based on a default position of full cost recovery unless discounts, subsidies, concessions are in place. Nominal charges or no charges are specifically agreed by the Cabinet. Whilst Adult Social Care Charging does not fall under this policy, the policy confirms that the council is already maximising income from other services.

2.14 Analysis of the data received from other councils via the National Association for Financial Assessment Officers (NAFAO), October 2023, (table below) with regards to whether they include the higher or enhanced rate of AA, DLA or PIP within their financial assessment, shows that Kent's current policy is more generous than the majority of other councils and the proposed changes are in line with current charging policies for many other councils.

Council	Include higher rate of AA and DLA	Do not include higher rate of AA and DLA	Include AA and DLA only if providing night care	Include enhanced rate of PIP	Do not include enhanced rate of PIP
York	x			x	
Herefordshire	x			x	
Isle of Wight	x			x	
Leeds	x			x	
Reading	x			x	
Brighton	x			x	
Norfolk		x			x
Buckinghamshire		x			x
Bradford		x			x
Warrington		x			x
Derbyshire		x			x
Telford and Wrekin		x		x	
Leicestershire		x		x	
West Berkshire			x	x	
Cornwall			x		x
Nottingham			x	x	
Torbay and South Devon NHS Trust			x	x	
Rutland			x		x
Cheshire West and Chester			x	x	
Redcare and Cleveland			x		x
Grimsby			x	x	
Wokingham			x	x	
Dorset			x		x

Council	Include higher rate of AA and DLA	Do not include higher rate of AA and DLA	Include AA and DLA only if providing night care	Include enhanced rate of PIP	Do not include enhanced rate of PIP
Stoke-on-Trent			x	x	
Worcestershire			x	x	
Kingston			x	x	
Birmingham			x	x	
Kent's proposal			x	x	

2.15 An analysis of the data from Adult Social Care and Health (adults 18+) and Children, Young People and Education (young people 18-25 transitioning from children's social care to adults' social care) directorates has been undertaken to identify the individuals who will be directly affected by the proposal. The data used for financial modelling in September 2023 shows there are potentially 3,153 adults and 631 young people directly affected by the proposal. However, 2,879 will have a financial impact. 905 are not financially impacted as they will see no change to their charge. This could be due to the cost of their care package being lower than their chargeable income or because they currently pay no charge for their care and the proposed change will not impact this.

	18-25 adults	25+ adults	Total
Financially impacted	395	2,484	2,879
Not financially impacted	236	669	905
Total	631	3,153	3,784
% financially impacted	63%	79%	76%

2.16 A refresh of the data from March 2024, used within the Equality Impact Assessment (EqIA) Appendix B, shows the number of people, broken down by care need, and how much the proposed change to charging would impact their weekly charge. This tables does not take into account the effect of applying higher rate disability related expenditure based on individual circumstances.

	Learning Disability	Mental Health	Older People	Physical Disability	Sensory	Unknown	Total
Zero impact	392	74	63	348	39	11	927
Up to £5	65	19	2	24	3	0	113
Between £5 and £15	13	9	9	43	3	0	77
Between £15 and £25	42	6	10	50	2	1	111
Between £25 and £30	6	4	5	19	0	0	34
Between £30 and £33.65	27	4	3	23	3	0	60
Full £33.85	1,597	120	195	582	33	15	2,542
	2,142	236	287	1,089	83	27	3,864

2.17 If the decision is taken to proceed with new charging arrangements, we would expect to implement this from July 2024.

3. Options Considered

3.1 Before identifying the proposal presented in the consultation, a number of options were considered:

Alternative option considered	Why the option has not been taken forward to consultation
<p>Only apply the proposed change to people new to receiving care and support from KCC’s adult social care service from the date the new policy is implemented. This would mean that existing people receiving adult social care services would not have the higher or enhanced rates of disability benefits considered when KCC calculates a person’s income</p>	<p>Whilst this would reduce the number of people impacted by the proposed change it would not be fair and equitable for all people who draw on care and support and would not deliver the planned savings/income requirement.</p>
<p>Introduce the policy in stages, no more than a £12 increase to anyone’s charge per year, for existing people who draw on care and support to give them time to adjust</p>	<p>Whilst this would reduce the impact of the proposed change it does not deliver the planned savings/income requirement as quickly. This would also be quite challenging to administrate both manually and on the case management system.</p>
<p>An increase to the £17 standard Disability Related Expenditure (DRE) that is already applied to all people in receipt of non-residential services.</p> <p>This is in addition to any individual DRE applications.</p>	<p>This does not take into account the individual’s needs and is treating everyone the same regardless of need. This would reduce the income available for adult social care and cause a budget gap and would be applied to all rather than just those who receive the higher and enhanced benefits.</p>
<p>Increase Minimum Income Guarantee (MIG) for basic living expenses such as utility bills and food</p>	<p>This would reduce the income available for adult social care and cause an even larger budget gap. This would also be applied to all and not address those who have a greater need or increased charge.</p> <p>More information regarding the MIG can be found in appendix D.</p>
<p>In line with policy, we offer individual DRE assessment when requested. This option is to undertake individual DRE assessments for all individuals directly impacted regardless of request.</p>	<p>This would reduce the funding available for adult social care and have a significant impact on operational resources and the possibility for people to go through an unnecessary process. Currently there are 114 number of individual DRE’s above the standard £17.</p>

Do nothing	Does not deliver the aim of achieving the desired level of income to balance the budget (due to the Council's prioritisation of moving to new models of care under the budget recovery strategy "Securing Kent's Future").
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3.2 The proposal we consulted on was to stop disregarding the higher or enhanced rates of disability benefits when calculating a person's contribution towards the cost of their care and support as this would reduce the funding gap for adult social care services in Kent in year.

3.3 Following consultation, and the evaluation of the latest data about different cohorts of people impacted by the proposal, there is an indication that severely disabled people who are unable to work relative to disabled people who are able to work, will be more impacted as they will contribute a greater proportion of their income towards their care and support arranged by KCC.

3.4 The following alternatives to adopting the proposal have been identified.

Mitigation	Overall impact
Increasing the Minimum Income Guarantee (MIG)	<p>Officers do not advise taking this option. This option would not deliver the desired level of income and (if applied only to those directly affected by the policy change) would result in increased administration and increased costs.</p> <p>If applied to all people in receipt of care and support from adult social care, this mitigation would not take into account individual circumstances as would be applied to all.</p> <p>KCC has set a balanced budget, which required a challenging set of spending cuts and income generation. In setting the budget, KCC has made local policy decisions covering spending, savings and income, and local taxation. If the maximum level of income is not generated by this policy, KCC will have no option but to make cuts to services in adult social care (or other areas). It is for elected members to decide on KCC's spending priorities, taking into account the impact on people who draw on care and support and all of KCC's population.</p>

<p>An increase to the £17 standard Disability Related Expenditure (DRE) that is already applied to all people in receipt of non-residential services for individuals receiving higher rate benefits.</p> <p>This is in addition to any individual DRE applications.</p>	<p>Officers do not advise taking this option. It would not deliver the financial aim of achieving the desired level of income and (if applied only to those directly affected by the policy change) would result in increased administration and increased costs.</p> <p>See above for consideration of alternatives if this option were taken.</p> <p>This mitigation does not take into account individual circumstances as would be applied to all who receive higher rate benefits.</p> <p>All people that draw on care and support are entitled to apply for an individualised DRE assessment. Officers financial estimates assume approximately 300 people will request an individualised DRE assessment. If the number of people requesting an individualised DREA is above 300, this would have an impact on the level of income generation.</p>
<p>Phase the changes to the charging policy over three years</p>	<p>Officers do not advise taking this option. It would not achieve the desired level of income, would result in significant increased administration and administration costs. Although this would initially reduce impact for people their charges would still increase over a three-year period.</p>
<p>Carry out an individual DRE assessment for anyone who requests one</p>	<p>This option is recommended as a possible mitigation to reduce the impact of this proposal.</p>
<p>Not to implement proposed policy change</p>	<p>Officers do not advise this option. It would not achieve the aim of achieving the desired level of income.</p> <p>KCC has set a balanced budget, which required a challenging set of spending cuts and income generation. In setting the budget, KCC has made local policy decisions covering spending, savings and income, and local taxation. If the maximum level of income is not generated by this policy, KCC will have no option but to make cuts to services in ASC (or other areas). It is for elected members to decide on KCC's spending priorities, taking into account the impact on people who draw on care and support and all of KCC's population.</p>

- 3.5 Considering the relevant factors and financial modelling set out in the table above and the impact detailed in appendix B, no mitigation has been identified that will deliver the aim of setting a balanced budget, closing the budget gap and maximising income, and at the same time reduce the negative impact on people impacted by the proposal.
- 3.6 However, we will continue to encourage and support people to request a Disability Related Expenditure Assessment (DREA). The DREA considers disability related expenses that are above the spending a person without the disability and complex health conditions would expect to pay. They are unique to the individual.
- 3.7 To encourage people to apply for individualised assessment/inform them of right to request it, the following actions are underway:
- Improving information and guidance on individual DRE on website
 - Developing a digital solution for people to request an individualised DRE
 - Ensuring consistency in the approach of assessment for individualised DRE through dedicated staff
 - Ensuring consistency on approval for individualised DRE through peer approval panels
 - Communication with people affected by the proposed policy change include guidance on individualised DRE.

4. Financial Implications

- 4.1 The latest budget monitoring presented to Cabinet on 21 March 2024 shows £30m budget gap for 2023/2024, of which £31.3m relates to the Adult Social Care and Health Directorate before management action and one-off use of reserves are considered. Members have agreed the immediate actions needed to reduce spending in the short term and have set the course for getting the council back to financial sustainability, securing the services that residents in Kent need the most.
- 4.2 Forecast spending growth in the 2024/2025 budget approved by full Council is £209.6m (excluding externally funded). The net change to the budget is £113.9m (matched by funding increases through government grants, council tax, etc), leaving £95.7m savings and reserves to balance the budget.
- 4.3 Of the above, the spending growth in Adult Social Care (including the services for 18–25-year-olds) 2024-25 is £115.9m as stated in the 2024-25 budget. The net change to the budget is £61.8m (matched by funding increases through government grants, council tax, etc), leaving £54.1m in savings/additional income which needs to be found, of which this proposal is included within.
- 4.4 The calculations informing the MTFP estimated that the proposed policy change could raise a net figure of approximately £3.4m in a full year. The £3.4m is after allowing £1m to cover the risk of increased debt and an increase in individual DRE assessments above the authorities' standard allowance.

- 4.5 The increase in income is assumed as part of the overall savings/income requirement to balance the 2024/2025 budget for the whole council/adult social care. If this proposal is not implemented, then alternative savings/income would need to be achieved in other areas in KCC services. The council already has an agreed policy on fees and charges for discretionary services. This policy is based on a default position of full cost recovery unless discounts, subsidies, concessions. Nominal charges or no charges are specifically agreed by the Cabinet. Whilst Adult Social Care Charging does not fall under this policy it is evidenced that the council is already maximising income for other services and the policy does recognise that charges for statutory services are set in line with legal requirements and nationally set government charging policies.
- 4.6 An example of an alternative saving to the proposed adult social care charging is the support the council provides for circa 80 local bus routes that are considered socially necessary but otherwise uneconomic. The local authority has a defined role under the 1985 Transport Act to support such routes where the authority deems it appropriate i.e. there is scope for local policy choice. Spend on supporting these services is £5.8m. In considering budget options members looked at the users of these supported routes and made the political choice to continue support due to the number of journeys by children getting to school and use by vulnerable residents. The political consideration also included the objectives sought through local Bus Services Improvement Plan agreed with government.
- 4.7 The latest estimates suggest that the proposed changes could now raise approximately £3.7m in a full year if the policy was implemented, which is £0.3m higher than the original estimate as shown in the table below.

Summary of Charging Change Estimates compared to MTFP	Full Year in 25-26	9 months 24-25
	(£000)	(£000)
Latest Estimated Increased Additional Income	3,703.9	2,777.9
MTFP Assumptions	3,400.0	2,600.0
Impact on MTFP	303.9	227.9

5. Legal implications

- 5.1 The Care Act 2014 details the council’s duty when assessing an individuals’ care and support needs as well as the process for conducting financial assessments to work out how much the council will pay towards an individuals’ care. The council has a power to charge individuals for meeting their needs under the Care Act. The amount of any charge is determined by the Care and Support (Charging and Assessment of Resources) Regulations 2014 (“the Regulations”). The Regulations detail the income that the council must, and must not, take into account. The Regulations provide for a “Minimum Income Guarantee” (“the MIG”) – any charge must not leave the individual with less

than this amount. The MIG is set by central Government and is updated annually.

- 5.2 The Regulations also set out the income that must be disregarded. The council must disregard (a) the mobility component of any DLA/PIP; (b) any housing-related costs (such as mortgage repayments, rent or ground rent, council tax etc); and (c) any disability related expenditure (DRE). A local authority must also disregard any earned income (under reg. 14). The council may take other income into account, including welfare benefits and pension. The council has a discretion, under regulation 15(2), to disregard any other sums the adult may receive as the authority considers appropriate.
- 5.3 The council must act under the general guidance of the Secretary of State (currently set out in the Care and Support statutory guidance (“the Guidance”).
- 5.4 The Guidance states that local authorities should have a policy on how they wish to exercise the discretion to charge. Paragraph 8.46 of the Guidance states that local authorities should consult people with care and support needs when deciding how to exercise this discretion. In doing so, local authorities should consider how to protect a person’s income. The guidance sets out the Government’s position that it is inconsistent with independent living to assume, without further consideration, that all of a person’s income above the MIG is available to be taken in charges. Paragraph 8.47 states that local authorities should consider whether it is appropriate to set a maximum percentage of disposal income (over and above the guarantee minimum income) which may be taken into account in charges.
- 5.5 Annex C to the guidance states that local authorities may take most of the benefits people receive into account (save where they must be disregarded). But a local authority must ensure that in addition to the MIG, people retain enough of their benefits to pay for things to meet those needs not being met by the local authority. In particular, where disability-related benefits are taken into account, the local authority should allow the person to keep enough benefit to pay for 'necessary disability-related expenditure to meet any needs which are not being met by the local authority'.
- 5.6 The council must comply with the public sector equality duty in section 149 of the Equality Act 2010, and must have due regard to the three equality needs set out in section 149(1) – i.e. the need to eliminate discrimination, the need to promote equality of opportunity and the need to foster good relations between different protected groups. The council is also under a duty to avoid discriminating against an individual in the exercise of its public functions (section 29(6) of the Equality Act 2010). The council is also under a duty to act compatibly with Convention rights, which includes Article 14 of the Convention.
- 5.7 The council’s current charging policy provides for a disregard at paragraph 17.3: which details that certain benefits namely Attendance Allowance (AA), Personal Independent Payment (PIP) and Disability Living Allowance (DLA) should be taken into account only up to the lower rate of AA and standard rate of PIP/DLA

(Care Component) disregarding whether individuals actually receive the higher rate of these benefits.

- 5.8 The proposal to change the charging policy will mean that the disregard will no longer apply and if higher rates of AA and PIP/DLA are received by individuals they would be taken into account in a financial assessment and would no longer be disregarded. This would mean that people in receipt of care who receive higher rate of these benefits would pay more for their care than they currently do, and a higher proportion of their income may be paid by way of charges than someone who is not as severely disabled.
- 5.9 The council is able to change its charging policy to take into account the higher rates of AA / DLA / PIP but before making this decision must undertake appropriate consultation and an Equality Impact Assessment (EqIA). It must comply with the duties set out above.
- 5.10 The results of the consultation that has been undertaken are in appendix B and must be taken into account when making this decision.
- 5.11 The EqIA identifies how the proposed change to the charging policy will affect different groups of people and must also be taken into account. A detailed analysis of the impact on different protected groups can be found in the EqIA (appendix C), which must be considered before a decision is taken.
- 5.12 The outcome of these consultation and EqIA exercises is contained in the report and enables the council to consider how the proposed change to the charging policy will affect different groups of individuals; consider alternative proposals to minimise any negative impact and introduce any additional measures to mitigate against any negative impact.
- 5.13 This is important because otherwise the council may find itself in a position of challenge such as occurred in the case of R (SH) v Norfolk County Council and another [2020] EWHC 3436 (Admin), where changes to Norfolk's charging policy, similar to what is being proposed here, gave rise to an unintended and unforeseen discrimination.
- 5.14 In the Norfolk case, the council had "exercised its discretion to charge SH the maximum permissible (disregarding only those elements it is required to disregard by law), in particular by taking into account her PIP (daily living component), which it did not do before. That, alongside proposing to apply only the statutory MIG meant that proportionately more of SH's income was taken into account when calculating her contribution as a severely disabled person, when compared to other disabled users who could earn money from work because earnings from employment or self-employment continued to be disregarded.
- 5.15 The judge found that SH was at a distinct disadvantage being severely disabled and unable to work as against her peers being charged for care services and who are also disabled but able to work. Not having earned income that could be disregarded SH found herself in the position of having proportionately more of

her income taken into account than a working disabled person allowed to keep their earnings. The judge considered that this was discriminatory as it could not be justified by Norfolk on the facts of that case, particularly as the Judge considered that Norfolk had alternative means of raising the same amount of revenue.

- 5.16 The judge crucially found that there was no evidence that the council had considered this differential impact or the alternative approach of setting a “maximum percentage of disposable income” over and above the minimum income guarantee (as the Care Act 2014 Guidance required the council to consider). The outcome for SH was overlooked and not considered or consciously justified at all. None of the proposed mitigations structurally addressed the discriminatory impact.
- 5.17 In the case of R (YVR) v Birmingham City Council [2024] EWHC 701 (Admin) YVR argued that Birmingham did not properly consider its discretion to take less in charges than the statutory maximum, that Birmingham’s charging policy was discriminatory on the same basis as Norfolk’s was and there was no justification other than maximising revenue, which was not a good reason capable of justifying discrimination. In this case, the Judge recognised that there was no evidence showing that Birmingham’s policy discriminates between those who are unable to work by reason of severe disability and those who are disabled are not unable to work but who have no earned income on the other. It was not the ability or inability to work, but the receipt of earned income, which caused the disparity of treatment. Yet that was the inevitable impact of the Regulations. Instead, the Judge identified a different adverse impact that required justification, namely the local authority’s failure to treat differently (a) people who are unable to work by reason of severe disability, and (b) people who are severely disabled, in receipt of care, are able to work, but have no earned income. In other words, it was a failure to address a systemic issue with the statutory scheme that could be discriminatory.
- 5.18 However, the Judge concluded that Birmingham had justified any discriminatory impact. Birmingham had carefully and demonstrably, considered its discretionary options and treating differently people who earn from people who do not was part of the fundamental structure of the statutory scheme. Birmingham’s pressing budgetary predicament took its financial situation far beyond the considerations of simply saving money and it had to weigh the interests of its taxpayers overwhelmingly in the balance at the present time. In Birmingham’s case all the authority’s other heads of revenue and expenditure were fully accounted for, and Birmingham had no other choice but to raise the maximum income in order to balance its budget.
- 5.19 The council must consider the negative impact of the proposal carefully. The EqIA confirms that there is no statistical evidence of disproportionate impact on the severely disabled who are unable to work, as the proportion of income that this cohort pays varies depending on a number of factors (as does the proportion of income paid by those who are able to work). Any differential impact is a direct result of regulation 7 of the Regulations, which requires the Council to disregard any earned income. However, the second type of impact

identified in the Birmingham case is likely to exist. In any event, where there is the possibility of indirect discrimination careful consideration needs to be given to whether the change can be justified and is proportionate.

- 5.20 The aim seeking to be achieved by the council by implementing this policy is to ensure that the council can balance its budget, given the forecasted position set out above. Given the financial pressures the council is facing, it is imperative that it makes extensive spending cuts and maximises income where possible. This is a legitimate aim.
- 5.21 The council has to consider therefore if the change is a proportionate means of achieving the aim set out above.
- 5.22 This involves considering if a less intrusive measure could achieve the same aim. The alternatives that have been considered are set out above and in Appendix D. The council must also consider whether there are possible ways of reducing that impact, which are also considered above.
- 5.23 To be able to defend this decision the council needs to have consulted properly and undertaken a thorough EqIA which has identified the impact. Recognising this impact the council's position has to balance any possible mitigation against the financial challenge to reduce the forecasted overspend in 24/25.
- 5.24 The legitimate aim being pursued is to set a charging policy which is sustainable for the council in the long term, and the need to reduce expenditure/ maximise income in order to balance its budget. In light of the financial pressures which the council is facing, it must take measures to fill the budget gap, and it is imperative that it maximises income and manages spending within the resources available from government settlement and local taxation. As against this, the impact on people we support has been outlined in the EqIA and is illustrated by way of worked examples in Appendix D. All people we support will keep the MIG (which reflects income replacements benefits and a buffer), and all people we support will retain disability related expenditure and other items which must be disregarded under the statutory regime. The income to be taken into account is examined in the illustrative examples, and is, in general, limited to benefits paid to people we support to meet additional costs arising out of their disability. Paying for care and support provided by the council to meet assessed needs is part of those additional costs.
- 5.25 A number of alternative options have been considered, which would not generate the same level of income for the council. The council's reserves are already at a minimum level, and cannot be safely reduced further. The council is already maximising income by charges for other services. If this policy is not adopted, the council would be forced to make further cuts to the adult social care budget (which would inevitably impact on vulnerable people we support) or other services provided to council taxpayers more generally. It is for the decision maker to determine whether, balancing the severity of the proposed policy's effects on the persons to whom it applies, against the importance of the objective, the latter outweighs the former, i.e. whether the policy is proportionate.

6. Equalities implications

- 6.1 An initial Equality Impact Assessment (EqIA) was published alongside the consultation document on Let's talk Kent. This has since been updated to reflect the views of consultees and other stakeholders from the consultation (Appendix B. This is a live document and will continue to be reviewed and updated.
- 6.2 Age, disability, sex, race and carer's responsibilities have been identified as having potential for negative impact if we were to implement the proposed change.
- 6.3 We have taken the following information from two sets of data, these are:
- Young people drawing on care and support aged from 18 to 25, who are moving from children's social care into adults' social care.
 - Adults aged 18 and over drawing on care and support from adult social care.
- 6.4 In the data for young people, there are 612 active individuals who receive care at home, in the community or have a direct payment that may be affected.
- 6.5 In the data for adults, there are potentially 9,011 individuals who receive care at home and in the community that may be affected now or in the future of which 3,765 are directly impacted by this proposal and could see an increase to their charge.
- 6.6 If the proposal is implemented, there is a risk of a person not being able to meet all their financial commitments and getting into debt either to KCC and/or other companies. There is also a risk to a person's limited income meaning that they have no surplus monies for socialising or leisure activities to support their quality of life and wellbeing. However, as outlined above, all those receiving local authority-arranged care and support other than in a care home are entitled to retain a certain level of income to meet their living costs – i.e. through the MIG and other disregards outlined above. In particular, where disability-related benefits are taken into account, the local authority must allow the person to keep enough benefit to pay for 'necessary disability-related expenditure to meet any needs which are not being met by the local authority'.
- 6.7 The proposal will have the most negative impact on disabled people and the below is a list summarising the impacts this proposal could have:
- Increased self-neglect and safeguarding as some people may reduce or refuse care and support based on the increased costs.
 - Impact on wellbeing due to the increased costs limiting their choices for social or leisure activities.
 - Direct payments and the potential for this to no longer be a suitable option due to the increase in their financial assessment limiting the flexibility a direct payment allows.
 - Impact on the cost of living due to the increase cost of care alongside the growing inflation on everyday basics such as food and heating.

- Mental health and the impact the proposal and increased costs could have on people's quality of life.

6.8 The following two quotes were provided during the public consultation by people we support or someone on their behalf.

“Disabled People who solely rely on benefits can't get money from additional sources, e.g. paid work for taking on additional jobs that able bodied people can if they wish to. In an inflationary climate this is adding to financial anxiety, pressure and isolation. It's been an extremely worrying and struggling time for disabled people especially throughout the Covid pandemic, followed by the cost-of-living crisis”.

“Taking more money out of the higher rate of benefit will potentially affect other areas of daily life and cost of living for someone who is already at a disadvantage. The higher rate is given because the person is severely disabled and needs help night & day in some cases especially severely disabled people who have very limited lifestyles. They cannot work or go out alone and need support to do anything. More money taken from them will just reduce their already very limited social life leaving them isolated and alone. This will adversely impact their financial, mental and physical wellbeing making it difficult for them and their Carers to live good lives”.

6.9 A mitigation has been identified to reduce the negative impact on people impacted by the proposal is to in line with policy increase the promotion and awareness of DREA. Encouraging and supporting people to request a Disability Related Expenditure Assessment (DREA). The DREA considers disability related expenses that are above the spending a person without the disability would expect to pay. They are unique to the individual.

6.10 The council also has the ability to provide exceptional disregards if people demonstrate basic living expenses cannot be met.

6.11 KCC has to have “due regard” to the three equality needs identified in section 149(1) – the need to eliminate discrimination, the need to promote equality of opportunity and the need to foster good relations between different protected groups. These three equality needs have been considered as part of the EqIA.

- The need to eliminate discrimination – data identifies that the severely disabled will be the most affected due to a greater proportion of their income being taken into account. However, for the reasons set out above, any disproportionate impact will be justified.
- Promote equality of opportunity – the proposal may impact on equality of opportunity if individuals are less able to access the community and participate in social/leisure activities due to having fewer resources available. However, by understanding the impact of charge the council will apply the individual assessments as a way of accounting for cost associated with persons disability and through that mechanism support equality of opportunity for those impacted.

- Foster good relations between different protected group – this change in itself does not impact on relations between different groups. The broad range of services and provision of functions offered by the local authority are geared to promoting good relations within the community. Through the way we recruit, commission and develop services and strategies we take into account the person's voice to help us foster good relations between protected groups.

6.12 The full EqIA is in Appendix B and must be taken into account when making this decision.

7. Consultation

- 7.1 KCC undertook a public consultation from 6 February to 7 April 2024. The consultation was hosted on KCC's [Let's talk Kent](#) website, with hard copies and support available for those who could not participate online.
- 7.2 Letters were sent to those potentially impacted by the proposals with an easy read version of the letter sent to those identified as having a learning disability. The letters contained a telephone number and email address to contact with any queries relating to the consultation or if the person was unable to access the information online and needed any support to take part. Contact details were also available on the website and all consultation material.
- 7.3 Easy read and large print versions of the consultation document and questionnaire were available at the outset, alongside a British Sign Language translation of the webpage. Posters to promote the consultation (displayed in libraries and gateways) gave information on how to request paper copies and support if people could not go online. Social care providers and staff were briefed and asked to support people in taking part in the consultation. People phoning for support were also given the option for staff to complete the questionnaire over the phone for them if required. A Word version of the questionnaire was also available from the consultation webpage for those who did not want to complete the online version.
- 7.4 223 voluntary and community organisations were offered engagement sessions to provide feedback on the proposal and the EqIA, as well as being asked to support people to participate in the consultation.
- 7.5 In advance of the consultation, meetings were held with the People's Panel, whose members include people from the Older Peoples' Forums, Mental Health User Voice and the Kent Physical Disability Forum as well as Healthwatch Kent volunteers, to discuss the proposals and review the consultation material.
- 7.6 During the consultation, constant monitoring took place to try to ensure that responses were being received across all response types including ethnic and faith groups. Where needed targeted communications were sent to encourage more responses. This targeting included reaching out to community groups and paid social media activities. There were regular targeted communications sent to 565 contacts including organisations/charities covering Older People,

Physical Disability, Carers and Learning Disability. To support people that may have found it difficult to engage with the Consultation, there was a request sent to organisations and charities to be invited to forums to discuss the Consultation and impact. There was a session with the PAN Disability Forum which is facilitated by EK360 and consists of representatives from different disability groups in Kent, the driver for the PAN Disability Forum is to recognise and engage the underserved voices and communities across Kent & Medway.

- 7.7 There were 330 responses to the consultation. The below breakdown shows the extent to which respondents agree or disagree with the proposal. 328 respondents answered this question.

How much do you agree or disagree with the proposal to include the higher rate benefits payment of AA, DLA and PIP in the financial assessment for existing and new people who receive care in their own home and in the community?	No. of responses	% of responses
Strongly agree	19	6%
Tend to agree	24	7%
Neither agree nor disagree	16	5%
Tend to disagree	23	7%
Strongly disagree	242	74%
Don't know	4	1%
Total number of responses	328	

- 7.8 Following analysis of the feedback the main themes from the open questions were the negative financial and wellbeing impact on the affected people, the perceived unfairness and discrimination of the proposal, and suggestions to find alternative sources of funding or savings.

7.9 Ten themes were identified within the feedback. The below breakdown shows the number of responses for each theme. Some responses mentioned more than one theme so the number of responses to each theme is higher than the total number of questionnaires completed.

If you have any comments on our proposal, please share these with us below:	No. of responses	% of responses
Theme		
Negative financial impact on people receiving the higher rate benefits payment of AA, DLA and PIP	283	42%
Negative impact on wellbeing for people receiving the higher rate benefits payment	136	20%
The proposal discriminates negatively against people receiving the higher rate benefits payment	109	16%
Strong negative emotions about the proposal such as being annoyed, stressed or worried	38	6%
Discrimination and negative financial, physical and mental impact on families and carers of people receiving the higher rate benefits payments	37	5%
Potential additional cost to KCC due to increased care needs	29	4%
Confusion about the proposal or felt there was a lack of information	19	3%
Difficult to complete the questionnaire online	11	2%
Comments on the legality of the proposal	10	1%
Concern that the decision has already been made	7	1%
Total number of responses	679	

7.10 The consultation report (Appendix A) includes example quotes from consultee's responses.

7.11 The Adult Social Care Cabinet Committee considered a report on 15 May 2024, about the outcome of the consultation exercised carried out in respect of the proposed changes to the charging policy. Members of the committee sought to understand how the view of the 74% of the 330 responses to the constitution, who expressed an opinion that they were "strongly against" the proposed decision would be taken into consideration. Members were informed that Officers have explored mitigations, and an allowance had been included within the estimated increased income for some costs of additional requests for individual disability related expenditure assessments for those disabled adults who can evidence higher costs due to their disability.

8. Data Protection Implications

- 8.1 A full Data Protection Impact Assessment was carried out and signed off by the Information Governance Lead and the Corporate Director Adult Social Care and Health

9. Other corporate implications

- 9.1 Feedback from the consultation was shared with the KCC Strategic Reset Programme Board on 18 April 2024.

10. Conclusions

- 10.1 KCC has undertaken a public consultation to gain feedback on proposed changes to the policy for chargeable care and support services provided or arranged at home and in the community to allow KCC to stop disregarding the higher or enhanced rates of AA, PIP and DLA when we calculate a person's contribution towards the cost of their care and support.
- 10.2 330 consultees responded to the consultation of which 81% (265) disagreed with the proposal (74% (242) strongly disagreed), stating the negative impact on financial and emotional wellbeing as the main reasons due to the increased costs of care reducing the available money they have for general living costs and social and leisure activities.
- 10.3 The proposal will have the most negative impact on disabled people. Feedback provided during the consultation from people who are severely disabled, told us that they rely solely on their benefits to enable them to 'have a life and not just exist' due to being unable to work and generate another source of income.
- 10.4 Considering the relevant factors and financial modelling no mitigation has been identified that will deliver the aim of achieving the desired level of income and reduce the negative impact on people impacted by the proposal. However, we will continue to encourage and support people to request a Disability Related Expenditure Assessment (DREA). The DREA considers disability related expenses that are above the spending a person without the disability would expect to pay. They are unique to the individual.
- 10.5 The proposed changes are estimated to raise an additional £3.7 million in income which, if this proposal is not implemented, then alternative savings/income would need to be achieved in other areas in KCC services. The legitimate aim being pursued is to set a charging policy which is sustainable for the council in the long term, and the need to reduce expenditure/ increase income in order to balance its budget. In light of the financial pressures which the council is facing, it must take measures to fill the budget gap, and it is imperative that it maximises income and manages spending within the resources available from government settlement and local taxation.

11. Recommendations

11.1 Recommendations The Cabinet Member for Adult Social Care and Public Health is asked to:

- a) **APPROVE** the changes to the Adult Social Care Charging Policy; and
- b) **DELEGATE** authority to the Corporate Director Adult Social Care and Health to revise the Adult Social Care Charging Policy and to take relevant actions including keeping the policy updated as necessary, to implement the decision.

12. Background Documents

None

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KENT COUNTY COUNCIL - RECORD OF DECISION

DECISION TAKEN BY:

**Cabinet Member for
Adult Social Care and Public Health**

DECISION NO:

24/00049

For publication Yes

Key decision: YES

Title of Decision: Adult Social Care Charging Policy – Higher Level Disability Benefits

Decision: As Cabinet Member for Adult Social Care and Public Health, I:

- a) **APPROVE** the changes to the Adult Social Care Charging Policy; and
- b) **DELEGATE** authority to the Corporate Director Adult Social Care and Health to revise the Adult Social Care Charging Policy and to take relevant actions, including keeping the policy updated as necessary, to implement the decision.

Reason(s) for decision: The council's budget which was approved in February 2024 included a proposed provision, subject to the necessary consultation and equality impact assessment, to change the charging policy for people who receive care and support in their own home or in the community. As a result, it is necessary to consider the amount of income generated through the contribution people may have to make towards the cost of their care and support.

This decision relates to the proposed changes to the charging policy. Specifically, to stop disregarding the higher or enhanced rates of Attendance Allowance (AA), Personal Independent Payment (PIP) and Disability Living Allowance (DLA) when calculating a person's contribution towards the cost of their care and support.

The proposed changes are estimated to raise an additional £3.7 million in income which, if this proposal is not implemented, then alternative savings/income would need to be achieved in other areas in KCC services. The legitimate aim being pursued is to set a charging policy which is sustainable for the council in the long term, and the need to reduce expenditure/ increase income in order to balance its budget. In light of the financial pressures which the council is facing, it must take measures to fill the budget gap, and it is imperative that it maximises income and manages spending within the resources available from government settlement and local taxation.

This policy and proposed change does not impact on people who live in and receive care and support in a residential care home.

Financial Implications: The latest budget monitoring presented to Cabinet on 21 March 2024 shows £30m budget gap for 2023-2024, of which £31.3m relates to the Adult Social Care and Health Directorate before management action and one-off use of reserves are considered. Members have agreed the immediate actions needed to reduce spending in the short term and have set the course for getting the council back to financial sustainability, securing the services that residents in Kent need the most.

Forecast spending growth in the 2024-2025 budget approved by full Council is £209.6m (excluding externally funded). The net change to the budget is £113.9m (matched by funding increases through government grants, council tax, etc), leaving £95.7m savings and reserves to balance the budget.

Of the above, the spending growth in adult social care (including the services for 18–25-year-olds) 2024-25 is £115.9m as stated in the 2024-2025 budget. The net change to the budget is £61.8m (matched by funding increases through government grants, council tax, etc), leaving £54.1m in savings/additional income which needs to be found, of which this proposal is included within.

The calculations informing the MTFP estimated that the proposed policy change could raise a net figure of approximately £3.4m in a full year. The £3.4m is after allowing £1m to cover the risk of increased debt and an increase in individual Disability Related Expenditure (DRE) assessments above the authorities' standard allowance.

The latest estimates suggest that the proposed changes could now raise approximately £3.7m in a full year if the policy was implemented, which is £0.3m higher than the original estimate as shown in the table below.

Summary of Charging Change Estimates compared to MTFP	Full Year in 2025-2026	9 months 2024-2025
	(£000)	(£000)
Latest Estimated Increased Additional Income	3,703.9	2,777.9
MTFP Assumptions	3,400.0	2,600.0
Impact on MTFP	303.9	227.9

Legal Implications: The Care Act 2014 details the council's duty when assessing an individuals' care and support needs as well as the process for conducting financial assessments to work out how much the council will pay towards an individuals' care. The council has a power to charge individuals for meeting their needs under the Care Act.

The amount of any charge is determined by the Care and Support (Charging and Assessment of Resources) Regulations 2014 ("the Regulations"). The Regulations detail the income that the Council must, and must not, take into account. The Regulations provide for a "Minimum Income Guarantee" ("the MIG") – any charge must not leave the individual with less than this amount. The MIG is set by central Government and is updated annually. The Regulations also set out the income that must be disregarded.

The Council must act under the general guidance of the Secretary of State (currently set out in the Care and Support statutory guidance ("the Guidance"). The Guidance states that local authorities should have a policy on how they wish to exercise the discretion to charge and that local authorities should consult people with care and support needs when deciding how to exercise this discretion. In doing so, local authorities should consider how to protect a person's income.

The council must comply with the public sector equality duty in section 149 of the Equality Act 2010, and must have due regard to the three equality needs set out in section 149(1) – i.e. the need to eliminate discrimination, the need to promote equality of opportunity and the need to foster good relations between different protected groups. The Council is also under a duty to avoid discriminating against an individual in the exercise of its public functions (section 29(6) of the Equality Act 2010). The council is also under a duty to act compatibly with Convention rights, which includes Article 14 of the Convention.

Equalities implications: An initial Equality Impact Assessment was published alongside the consultation document on Let's talk Kent. This has since been updated to reflect the views of consultees and other stakeholders from the consultation. This is a live document and will continue to be reviewed and updated.

Data Protection implications: A full Data Protection Impact Assessment was carried out and signed off by the Information Governance Lead and the Corporate Director Adult Social Care and Health.

Cabinet Committee recommendations and other consultation: KCC undertook a public consultation from 6 February to 7 April 2024. The consultation was hosted on KCC's [Let's talk Kent](#) website, with hard copies and support available for those who could not participate online.

The proposed decision was discussed at the Adult Social Care Cabinet Committee on 15 May 2024 and the recommendations were endorsed by the majority.

Any alternatives considered and rejected:

Alternative option considered	Why the option has not been taken forward to consultation
<p>Only apply the proposed change to people new to receiving care and support from KCC's adult social care service from the date the new policy is implemented. This would mean that existing people receiving adult social care services would not have the higher or enhanced rates of disability benefits considered when KCC calculates a person's income</p>	<p>Whilst this would reduce the number of people impacted by the proposed change it would not be fair and equitable for all people who draw on care and support and would not deliver the planned savings/income requirement.</p>
<p>Introduce the policy in stages, no more than a £12 increase to anyone's charge per year, for existing people who draw on care and support to give them time to adjust</p>	<p>Whilst this would reduce the impact of the proposed change it does not deliver the planned savings/income requirement as quickly. This would also be quite challenging to administrate both manually and on the case management system.</p>
<p>An increase to the £17 standard Disability Related Expenditure (DRE) that is already applied to all people in receipt of non-residential services.</p> <p>This is in addition to any individual DRE applications.</p>	<p>This does not take into account the individual's needs and is treating everyone the same regardless of need. This would reduce the income available for adult social care and cause a budget gap and would be applied to all rather than just those who receive the higher and enhanced benefits.</p>
<p>Increase Minimum Income Guarantee (MIG) for basic living expenses such as utility bills and food</p>	<p>This would reduce the income available for adult social care and cause an even larger budget gap. This would also be applied to all and not address those who have a greater need or increased charge.</p> <p>More information regarding the MIG can be found in the supporting recommendation report.</p>
<p>In line with policy, we offer individual DRE assessment when requested. This option is to undertake individual DRE assessments for all individuals directly impacted regardless of request.</p>	<p>This would reduce the funding available for adult social care and have a significant impact on operational resources and the possibility for people to go through an unnecessary process. Currently there are 114 number of individual DRE's above the standard £17.</p>

Do nothing

Does not deliver the aim of achieving the desired level of income to balance the budget (due to the Council's prioritisation of moving to new models of care under the budget recovery strategy "Securing Kent's Future").

Any interest declared when the decision was taken and any dispensation granted by the Proper Officer: None



24 June 2024

.....
signed

.....
date

Kent Adult Social Care and Health

Consultation Report

Consultation on proposed changes to our charging policy to include the higher level of disability benefits in financial assessments.

Consultation dates: 6 February - 7 April 2024

<http://www.kent.gov.uk/adultsocialcarecharging>

Higher Level Disability Benefits - Consultation Report

April 2024

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Executive summary

Kent County Council (KCC) has undertaken a public consultation to gain feedback on proposed changes to the policy for chargeable care and support services provided or arranged at home and in the community.

328 responses were received. The below breakdown shows the extent to which they agree or disagree with the proposal.

How much do you agree or disagree with the proposal to include the higher rate benefits payment of AA, DLA and PIP in the financial assessment for existing and new people who receive care in their own home and in the community?	No. of responses	% of responses
Strongly agree	19	6%
Tend to agree	24	7%
Neither agree nor disagree	16	5%
Tend to disagree	23	7%
Strongly disagree	242	74%
Don't know	4	1%
Total number of responses	328	

Following analysis of the feedback the main themes from the open questions were the negative financial and wellbeing impact on the affected people, the perceived unfairness and discrimination of the proposal, and suggestions to find alternative sources of funding or savings.

10 themes were identified within the feedback. The below breakdown shows the number of responses for each theme. Some responses mentioned more than one theme so the number of responses to each theme is higher than the total number of questionnaires received.

If you have any comments on our proposal, please share these with us below:	No. of responses	% of responses
Theme		
Negative financial impact on people receiving the higher rate benefits payment of AA, DLA and PIP	283	42%
Negative impact on wellbeing for people	136	20%

receiving the higher rate benefits payment		
The proposal discriminates negatively against people receiving the higher rate benefits payment	109	16%
Strong negative emotions about the proposal such as being annoyed, stressed or worried	38	6%
Discrimination and negative financial, physical and mental impact on families and carers of people receiving the higher rate benefits payments	37	5%
Potential additional cost to KCC due to increased care needs	29	4%
Confusion about the proposal or felt there was a lack of information	19	3%
Difficult to complete the questionnaire online	11	2%
Comments on the legality of the proposal	10	1%
Concern that the decision has already been made	7	1%
Total number of responses	679	

Example quotes from consultee's responses have been included in section 3 of this document.

Comments were also received from respondents on the Equality Impact Assessment (EqIA) and can be found within section 3 of this document. These comments along with all of the feedback will be used to review and update the EqIA.

This report and the updated EqIA will be presented to KCC's Strategic Rest Programme Board and then included in a report to the Adult Social Care Cabinet Committee on 15 May 2024. Following these meetings, a decision will be taken by the Cabinet Member for Adult Social Care and Public Health.

This report and the decision will be made available on the consultation webpage www.kent.gov.uk/adultsocialcarecharging.

1. Introduction

From 6 February to 7 April 2024, Kent County Council (KCC) consulted on a proposal to include the higher level of disability benefits in financial assessments.

KCC provides adult social care services to approximately 16,394 residents aged over 18 years old. Approximately 15,806 of these people receive chargeable social care services, this includes providing services like residential care, and support and care in a person's own home or in the community.

When people living in Kent need adult social care, as well as assessing their care needs, we also assess their income to decide how much they pay towards their care. This is known as means testing. Some people don't pay anything, and the council picks up all of the cost, some people pay a contribution, and some people pay for all of their care.

KCC is proposing to stop disregarding the higher or enhanced rates of Attendance Allowance (AA), Personal Independent Payment (PIP) and Disability Living Allowance (DLA) when we calculate a person's contribution towards the cost of their care and support. This proposal does not impact on people who live in and receive care and support in a residential care home.

KCC sets out what and how people need to pay in the Adult Social Care Charging Policy. More information on the proposal, current policy, other options explored and why we are proposing to make these changes can be found in the Consultation Document, which is available from the consultation webpage www.kent.gov.uk/adultsocialcarecharging.

This document presents the analysis of the responses to the public consultation and the next steps.

2. Consultation process

Preparation for public consultation

The following activities and documentation were developed to deliver and support the consultation:

- Stakeholder analysis, including undertaking an Equality Impact Assessment (EqIA).
- Preparation of consultation and communication material, including Consultation Document, questionnaire, poster, letters, briefings and social media content.
- Presentation and discussion with KCC's People's Panel (members include people from the Older Peoples' Forums, Mental Health User Voice and the Kent Physical Disability Forum as well as Healthwatch Kent volunteers) to gather feedback on the proposal, options considered and review the consultation material.
- Formal meetings and updates at boards and committees to ensure input by the appropriate professionals.
- Briefing notes for all KCC members and Kent MPs.
- Written briefing for all care in the community providers with online briefing sessions.

Promoting the consultation

The consultation was promoted in the following ways:

- Letter to people who receive care and support.
- Direct emails to our stakeholder contact databases including contacts from health organisations, care sector, voluntary sector and community organisations, registered users of KCC's engagement website Let's talk Kent who have requested to be kept informed of Adult Social Care activity, and our Adult Social Care Your Voice network members.
- Organic and paid for social media Facebook, X and Nextdoor.
- Staff communications and provider communications via our bulletins, intranet, newsletters, briefing sessions and updates.
- Media release distributed to media outlets and uploaded to the Kent Media Hub website <https://news.kent.gov.uk/articles/call-for-views-on-future-care-charging>.
- Articles in KCC's residents' e-newsletter and Kent Association of Local Council (KALC) newsletter.
- Posters in KCC libraries and gateways.
- Digital adverts and content on websites including Kent.gov.uk homepage and Adult Social Care webpages and Connect to Support website.
- Briefing for all KCC Members and Kent MPs
- Briefing to Kent Community Wardens to enable them to raise awareness with the people and groups they engage with and provide support to participate as required.

- Targeted communication and engagement with community and disability groups and forums, including KCC’s Level Playing Field staff group and meeting with PAN disability forum.

Making the consultation accessible

The consultation was hosted on KCC’s engagement website Let’s talk Kent. To help make sure the consultation was accessible the following activity was undertaken:

- The webpage and all documentation met digital accessibility requirements.
- The Consultation Document provided examples to help illustrate how the proposed change could impact people and included a glossary explaining unfamiliar terms.
- All consultation material included details of how people could contact KCC to ask a question, request hard copies or alternative format.
- Providers and relevant KCC staff were briefed so that they could support people to participate in the consultation.
- A Word version of the questionnaire was provided on the consultation webpage for people who did not wish to complete the online version. Responses made by letter / email / telephone were also be accepted.
- Easy Read and Large print versions of the consultation material were available from the consultation webpage and on request.
- The webpage was translated into British Sign Language.
- The letters sent to people who received care contained a telephone number and email address to contact with any queries relating to the consultation.

Engagement with the webpage

A summary of the engagement with the consultation webpage and material during the consultation period can be found in the table below.

Engagement type	Total
Total visits to the webpage	2,306
Unique visitors to the webpage	1,721
Document downloads	880
Questionnaire completions	330
Telephone calls received	217
Hard copies provided	122
Emails received	92

Organic posts via Facebook had a reach of 38,693 and there were 210,155 impressions on X (Twitter) and Nextdoor.

Reach refers to the number of people who saw a post at least once and impressions are the number of times the post is displayed on someone's screen.

The posts generated 928 clicks through to the consultation webpage. (Not all social media platforms report the same statistics).

Paid Facebook adverts had a reach 87,304 and there were 335,960 impressions, which generated 3,107 clicks through to the consultation webpage.

3. Consultation responses

330 consultees took part in this consultation, completing the questionnaire either online (266) or hard copy (64).

Points to note

Consultees were given the choice of which questions they wanted to answer or provide comments on. Also, some of the questions were only asked to certain consultees depending on their answers to previous questions. Therefore, the number of consultees responding to each question may differ. The number of consultees providing an answer is shown in each table featured in this report. The sum of percentages for each table in the report may not add up to 100% due to rounding.

Respondents

The first question asked consultees to select from a list the option that best described how they were responding to the consultation.

Q1. Are you responding as ...?	No. of responses	% of responses
A person supported by adult social care or on behalf of a person supported by adult social care services	133	41%
A carer for a friend or relative that uses adult social care services	79	24%
A friend or relative of someone that uses adult social care services	59	18%
A member of the public	37	11%
A health or social care professional	6	2%
On behalf of organisation	5	2%
Other	8	2%
Total number of responses	327	

Responses were received from all respondent types included on the questionnaire. With the largest categories being 'A person supported by adult social care or on behalf of a person supported by adult social care' (41%, 133), 'A carer for a friend or relative that uses adult social care services' (24%, 79), 'A friend or relative of someone that uses adult social care services' (18%, 59) or 'A member of the public' (11%, 37).

Respondents who selected that they were responding as 'A person supported by adult social care services or on behalf of a person supported by adult social care services', 'A carer for a friend or relative' or 'A friend or relative of someone that uses adult social care services' were asked some follow up questions.

Do you, or the person you know supported by adult social care services, currently receive care provided by KCC in ...?	No. of responses	% of responses
Your own home	176	65%
In the community	77	28%
In a care home (as a resident)	10	4%
Don't know	8	3%
Total number of responses	271	

93% of respondents shared that they or the person they represent receive care in their own home or in the community.

Do you or the person you know pay a contribution/charge adult social care services that you receive in your/their own home or in the community?	No. of responses	% of responses
Yes	171	67%
No	74	29%
Don't know	9	4%
Total number of responses	254	

67% of respondents or the people they represent pay towards their own care.

What contribution do you or the person you know currently make towards the cost of the adult social care services provided by KCC?	No. of responses	% of responses
Nothing	2	1%
Pay some of the cost	137	80%
Pay most of the cost	21	12%
Pay the full cost	8	5%
Don't know	3	2%
Total number of responses	171	

97% of respondents or the people they represent contribute towards the cost of their care services.

How much do you or the person you know pay towards this care per week?	No. of responses	% of responses
I do not pay towards my care	0	0%
Under £20	20	15%
£21 to £40	43	32%
£41 to £60	17	13%
£61 to £80	17	13%
£81 to £99	8	6%
Over £100	26	19%
Don't know	5	4%
Total number of responses	136	

98% of respondents or people they represent pay towards their care with the majority of respondents or people they represent paying between £21 and £40 (32%).

Do you or the person you know receive any disability benefits?	No. of responses	% of responses
Yes	249	97%
No	5	2%
Don't know	2	1%
Total number of responses	256	

97% of respondents or people they represent receive a disability benefit.

Please tell us which of the following disability benefits you receive:	No. of responses	% of responses
Attendance Allowance (AA)	24	8%
Disability Living Allowance (DLA) Care Component	42	15%
Personal Independent Payment (PIP) Daily Living Component	201	70%
A different benefit	16	6%
Don't know	5	2%
Total number of responses	288	

Of the 249 people who responded 'Yes' to the previous question, they were then asked two follow up questions. 70% of respondents or people they represent receive PIP.

Do you receive any of the benefits listed above at the higher or enhanced rate?	No. of responses	% of responses
Yes	210	85%
No	16	6%
Don't know	21	9%
Total number of responses	247	

As above, of those that answered 'Yes' to a previous question, 85% of respondents or people they represent received benefits at the higher or enhanced rate.

How did you find out about this consultation?	No. of responses	% of responses
An email from adultsocialcarecharging@kent.gov.uk	44	13%
An email from Let's talk Kent or KCC's Engagement and Consultation team	36	11%
From a friend or relative	12	4%
From a member of KCC adult social care staff	28	8%
From my Parish / Town / Borough / District Council	7	2%
Kent.gov.uk website	9	3%
Newspaper	1	0%
Saw a poster	3	1%
Social media (Facebook, Nextdoor or X (Twitter))	24	7%
Letter	166	49%
Other	8	2%
Total number of responses	338	

49% of respondents or people they represent found out about the consultation from the letter that was sent to them.

Towards the end of the questionnaire consultees were given the opportunity to answer some additional demographic questions. It was not necessary to answer these questions if they were responding on behalf of an organisation. 240 respondents agreed to answer these questions, and the responses have been included in Appendix 1.

Consultation responses to our proposal

The questionnaire provided a summary of the proposals and link to the Consultation Document for more information. Consultees were asked if they agreed or disagreed with the proposal.

How much do you agree or disagree with the proposal to include the higher rate benefits payment of AA, DLA and PIP in the financial assessment for existing and new people who receive care in their own home and in the community?	No. of responses	% of responses
Strongly agree	19	6%
Tend to agree	24	7%
Neither agree nor disagree	16	5%
Tend to disagree	23	7%
Strongly disagree	242	74%
Don't know	4	1%
Total number of responses	328	

13% (43) respondents indicated that they either strongly agree or tend to agree with proposal and 81% (265) tend to disagree or strongly disagree. The highest response was strongly disagree, with 74% (242).

Respondents were then given the opportunity to provide comments on the proposal in their own words. These comments have been grouped into themes, as shown in the table below. Individual comments may have included more than one theme so the number of responses will be more than 330.

If you have any comments on our proposal, please share these with us below:	No. of responses	% of responses
Theme		
Negative financial impact on people receiving the higher rate benefits payment of AA, DLA and PIP	283	42%
Negative impact on wellbeing for people receiving the higher rate benefits payment	136	20%
The proposal discriminates negatively against people receiving the higher rate benefits payment	109	16%
Strong negative emotions about the proposal such as being annoyed, stressed or worried	38	6%
Discrimination and negative financial, physical and mental impact on families and carers of people receiving the higher rate benefits payments	37	5%
Potential additional cost to KCC due to increased care needs	29	4%

Confusion about the proposal or felt there was a lack of information	19	3%
Difficult to complete the questionnaire online	11	2%
Comments on the legality of the proposal	10	1%
Concern that the decision has already been made	7	1%
Total number of responses	679	

Four of the themes highlighted the fact that this proposal would have a negative impact on people affected or those that care for them. The most common theme was the negative impact this proposal would have on people financially, which was raised 283 times.

There were no positive themes from these comments.

Several quotes from consultee's responses have been included below to illustrate the themes that have been raised. Please note that the quotes are in people's own words and have not been edited.

Example quotes

"As a person on benefit and DLA iam on high rate mobility/high rate care. You took my enhancement off me because my P.A lives in my home already. I'm already paying for the extra gas electric water etc on top for that person. If you do this I will not be able to survive and pay any bills at all. Already struggling on bear bones now. If you do this you will make me homeless or leave me with no carer. So you will have to put me in a care home. Then house my family. I am at the point of thinking about suicide, congratulations KCC" (A person supported by adult social care services, or on behalf of a person supported by adult social care services)

"We are in a cost of living crisis. Disabled people are currently struggling as it is. To take more money from them is shocking, How do you expect them to afford even the basics?

I have read social media posts where disabled people have considered suicide because of this. Is that something that Kent Council are comfortable with?

Look at the actual figure that disabled people would be left with should you decide to take more money from them. Then ask yourself how you would manage with such a small amount.

As a Council, you waste loads of money. Spend wisely and you won't need to leave disabled people living in poverty." (A member of the public)

"You are targeting the most vulnerable group of people - many have no voice and cannot understand your proposal and the impact it will have on them. They cannot oppose the proposal which means the outcome of your Consultation (i.e. based on the

responses you receive) will be questionable. Some individuals will have family to speak for them but many do not have family and are solely reliant on their care companies - it is doubtful that they will be opposing this on behalf of their clients.

Many of the affected group are the people that KCC makes no provision for in the day services and activities they offer. These are the people receiving the worst services and minimal stimulation. While KCC provides these services for some people, many of the affected group receive nothing. Your expectation is that the care providers provide stimulating daily opportunities but they do not.

You are proposing to take more money from people when the quality of the care they receive is often below standard. Care companies are unable to recruit, they are using agency workers and experiencing poor staffing levels. Are they even able to provide the number of hours of care that you are paying them for each individual? The group of people that you want to pay more are being cared for by total strangers - agency workers. These people who cannot express themselves are being cared for by staff who do not know their needs (usually complex) and as a result cannot provide a high standard of care. Yet you are expecting them to pay more. They have total strangers coming into their homes to care for them, they wake up in the night to find a total stranger in their homes. How would you feel if that were you?

Why is it just these groups that you are targeting? Why not everyone? Why is it fair that only they should pay more to plug the gap for everyone?

Referring to the charging principles of the Care Act as set out in your consultation:

Promote wellbeing, social inclusion and support the vision of personalisation, independence, choice and control:

For the individuals that KCC wants to charge more for their care, KCC is certainly not promoting wellbeing and social inclusion - you provide no activities or opportunities for social interaction/ inclusion for them (unlike others with lesser needs that you do provide for). And no doubt the additional revenue raised from your proposal will help to maintain these services even though those with high needs, who will be paying more, cannot access these services.

Be person-focused - individuals are expected to fit into a care providers model of care , there is no person-centred approach.

This proposal is not fair. One group of individuals are going to be charged more to pay for everyone's care. Fair would be for everyone to pay some more and share the burden. The proposal does not apply equally, it impacts those with the highest needs and the most severely disabled.

You are already discriminating against many of these individuals in that you only provide day opportunities for those with mild to moderate learning difficulties. There is nothing

for those with severe learning difficulties - so those that you want to pay more are the ones receiving the poorest services,

In fact, with the absence of day services and activities, any activity that they do access costs them more as they not only have to pay for themselves but also their carers. With the absence of day activities and the use of agency staff, often the only activity they get is a long drive in the car and they pay for the fuel which is costly. Therefore, charging them more and reducing their available income will further reduce access to any activities, reduce wellbeing, social inclusion and any stimulation. There will be no scope for any person-centred approach.

Individuals are awarded higher rates for a reason. They have specific and higher care needs that usually mean additional expenses.

Sadly, those specific and high care needs are not provided for adequately within the current care system. However, you want them to pay more for care that is not meeting their needs, which is a situation that KCC continues to ignore.” (A person supported by adult social care services, or on behalf of a person supported by adult social care services)

“As the person paying for this, my finances would be severely affected by any increase like this. This would put my whole life in jeopardy and make living impossible. This amount of money is far too much to take from those already struggling and I do not agree with this at all. It would mean I have to choose between having care or eating/heating my house. Many may have to lose care which then causes safety and living problems. This in turn will increase health issues for the disabled and elderly and add to NHS costs. I know that if I am stressed about bills and living costs, my health suffers and deteriorates. It makes me more ill. This increases the need for more treatments in a vicious circle.

Now it is becoming impossible to access NHS treatments and medications, these have to be paid for out of disability money. It is very expensive to be disabled.

Once again this is an attack on the vulnerable and disabled when there would be other areas that could be used such as high salaries and bonuses for workers at the council.

The strain of being disabled and suffering each day is bad enough, this proposal would add so much misery to people who are already leading compromised lives. I cannot believe how cruel the council is to attack the disabled like this. There is NOTHING right about doing this and it will lead to more health issues, both physical and mental. It will lead to people possibly losing their homes. And treating older people who have given to this country throughout life, is beyond despicable. This is the lowest form of discrimination I have come across. There may well be a gap in the finances, but as someone who worked for the council in Highways, I saw how much false economy there

was and so much waste. This is not the fault of the disabled so do not use them to plug a gap that has been caused by other factors.

The NHS is letting disabled people down and many treatments that make life tolerable are now unavailable unless paid for privately. Even if available the waiting lists mean deterioration in health whilst waiting, therefore many disabled people are forced to go privately. So now disabled people are struggling to pay for a lot of their own care and the council wants to take more money from them, this will push many into more poverty.

People do not choose to be disabled and this would make them suffer even more. Why is this government taking away the rights that disabled people have fought hard for. It is like we are going backwards. When the election comes around, I will not forget this.

The levels of anxiety and depression through just being disabled are a constant battle, to take money away from disabled people, who are already struggling, will increase these levels. In fact, even the mere thought of what you are doing has increase my anxiety and depression ten-fold. This is yet another battle to fight and is so demoralising and demeaning. It makes disabled people feel like they are worth nothing.” (A person supported by adult social care services, or on behalf of a person supported by adult social care services)

“You are financially targeting one of the most vulnerable cohorts (vulnerable, disabled and elderly) most of whom will be unable to respond to letters and your 'consultation' around wanting to charge a high contribution. A cohort, who find themselves made more vulnerable because of the catastrophic lack of social care, and in my experience, poor quality 'care'. Many individuals in this cohort are already contributing hundreds of pounds per month, toward the 'care' following a financial assessment by the Council, and determination that they can live on a minimum income. The reality is they cannot; they too suffering from eye watering inflation and essentials such as food and heating being out of reach.

This approach is immoral.

If charged more, it will no longer be possible to pay for social care in the home. NHS 'continuance of care' will be sought by many I hope.” (A health or social care professional)

“We are now deeply distressed regarding this. As we are on benefits and only get income support & carers for our sons. I myself suffer bad mental health as well as MS & PsA and feel now yet again disabled and the ones on the very lowest of financial income are being target YET again. I feel that we are just a burden on society now.

I pray that you consider this as we have NO savings.” (A person supported by adult social care services, or on behalf of a person supported by adult social care services)

"I am writing to register my shock and disapproval that you are contemplating targeting the sick and elderly to claw back money to pay off over spends and wastage.

I am severely disabled due to MS, I receive the highest component of PIP because of this. My bills are higher due to being primarily housebound, thus higher heating bills and higher energy bills to maintain the running of my mobility aids, hoist, bed, wheelchair, etc. My finances are already stretched to the limit.

I eagerly await the day that euthanasia is legalised in the UK, but, until then, I have to "exist".

Please, please, please reconsider singling out the most vulnerable and in need." (A member of the public)

"I have just read your new proposals for adult social care funding and to say I am disgusted is an understatement. You have over spent for years and are now praying on the vulnerable people in society to bail you out of the situation you have got yourselves in to. You are leaving people in hospitals unnecessarily because then the NHS has to fund their support and not you, so not only are you taking away beds from people that actually need them you are stopping people who don't need them from living a better life for themselves.

Your heartless approach to adult social care and the funding is reprehensible. How can you justify any part of the proposals you have made? The people needing the support aren't the reason you haven't been able to manage a budget for years and years. You are the problem and it is absolutely horrendous that you find this anywhere near acceptable.

Of course, it's all about cutting corners and saving money for you so you don't care what happens to the people it affects.

Diabolical behaviour." (A member of the public)

"You are planning to discriminate against disabled people with higher needs by making them pay more, the very people who cannot fight for themselves as the extent of their disabilities don't allow them to. These are the most vulnerable people in our society who we should be protecting not abusing in this way. Every time disability benefits increase, KCC simply take them away, leaving these vulnerable people in financial poverty. All you'll end up doing is forcing people into residential care and much higher cost to KCC. You should be increasing awareness about direct payments and making changes to how you run your direct payment schemes to actually encourage people to use this. It works out as a much cheaper option for KCC when people employ their own staff, but you continually put barriers in place that stop people using them. You don't allow people to pay enough to employ staff (even though it's far cheaper than agencies charge), you

don't put an automatic uplift in wages each year (do your staff go years without a pay increase? No they don't and there would be uproar if they did). You won't allow home owners to access DFG's to build a space for carers to stay making it difficult to gets staff and for families sharing their homes with disabled relatives and carers. You refuse to allow direct payments to be used flexibly, such as purchasing equipment for a disabled person, we were told the mobile hoist we needed wouldn't be funded by KCC and we couldn't use our son's direct payment, we'd have to use his own money. He has no money because you deliberately keep him poor and force people to become charity cases.

It's actually the people who have these enhanced payments who have the highest disability expenditure requirements and it's these people who you should be automatically setting to 0 contributions. I hate to think how much money you waste on financial assessments and the stress it causes families who are dealing with so much and then have to become accountants on top of everything else whilst trying to keep their loved ones where they want to be at home.

As you will be aware In *SH v Norfolk County Council* [2020] EWHC 3426, the High Court decided that Norfolk's charging policy unlawfully discriminated against severely disabled people in the enjoyment of their benefits income (a human right), which is exactly what KCC is intending to do.

Our son is in the ESA group where he will never get paid employment, so this directly puts him at a disadvantage since others can earn without affecting their charges (or benefits within given parameters), thus they are capable of doing something to alter their poverty but our son cannot. Higher PiP daily care should not be included." (A person supported by adult social care services, or on behalf of a person supported by adult social care services)

Consultees were given the opportunity to make suggestions for how we could reduce the impact of these proposals or provide alternative options for us to consider. These responses have been grouped into themes in the table below. Some consultees took the opportunity to reiterate the feedback they provided to the previous question.

Do you have any comments on the alternative options we considered or any other options that you would like us to consider? Please tell us below:	No. of responses	% of responses
Theme		
Raise tax/council tax/funding somewhere else / tax higher earners	31	16%
Reduce staff/wage bill/money wastage / stop using agency staff / streamline services and internal processes	31	16%
Do nothing - no to the proposal	24	13%
Gradual/phased increase would be better	17	9%
Proposal is unrealistic / no common sense / unreasonable / unfair	10	5%
The budget deficit should be met by government funding	15	8%
Proposal is realistic / common sense / reasonable / fair	9	5%
A graded system dependant on the type of care and number of hours received	8	4%
Savings / income generations should be spread equally among all who receive care from ASCH and not just disabled people	8	4%
Re-assessment of Disability Related Expenses (DRE) / increase DRE	10	5%
Only apply the proposed change to new people receiving care and support from KCC's adult social care service from the date the new policy is implemented	8	4%
Stop illegal immigrants / migrants accessing public services until they have paid into them	4	2%
Look at councillor's pay and expenses	3	2%
Increase the Minimum Income Guarantee (MIG)	5	3%
Utilise direct payments more as a way of saving money	1	1%
Take into consideration the higher component of the mobility element, when not used for a Motability vehicle	1	1%
Take a percentage of the care component from people on lower rates	1	1%
Take away or charge services that don't endanger health or life	1	1%
Do not understand options	1	1%

Two clear themes rising from the suggestions were that KCC should find the funding elsewhere e.g. increase council tax and that KCC should look to reduce spend on staff, management or wastage, with both themes having 31 responses.

The next most common theme was “Do nothing – no to the proposal”, with 24 responses.

Several quotes from consultee’s responses have been included below to illustrate the themes that have been raised. Please note that the quotes are in people’s own words and have not been edited.

Example quotes
<p>“I understand savings need to be made but I feel a gradual increase would be better.” (A carer for a friend or relative that uses adult social care services)</p>
<p>“Yes raise tax somewhere else perhaps do a rich tax for people who earn over 100k and have more then one home , don’t take money from disabled people . It’s like going back to the 1800s perhaps bring back work houses?” (A person supported by adult social care services, or on behalf of a person supported by adult social care services)</p>
<p>“Your alternative options all focus on taking money away from disabled people. The budget deficit should be met by government funding. How about asking MP’s to start paying for their own lunches, for example.” (A carer for a friend or relative that uses adult social care services)</p>
<p>“Look at councillors pay and expenses. I am sure you can find savings there.” (A member of the public)</p>
<p>“Do nothing, and plug the funding elsewhere. Whilst I appreciate that there is a clear gap in the funding for KCC’s budget, targeting the most vulnerable people in our society is absolutely not the way to approach this. Do not use disabled people’s benefits, which are there to support them in their already difficult lives, to plug your gap in funding - this is not morally right or just.” (A member of the public)</p>
<p>“A combination of alternate proposals 1 and 2 - apply to new service users a step increase for existing service users Again - as above, protecting AA etc of those who are on a low income.” (A health or social care professional)</p>
<p>“I would propose looking into profit care providers are charging Care providers own supported living homes , and subsequently charge up to £2,500 per</p>

monthly rent on accommodation.

Often double of cost of identical rent on property .

Direct payment could save local authority's huge amount of money .

Care providers get fixed care package for each individual but often sharing support.” (A member of the public)

“The only fair option is to raise council tax. The burden is spread evenly, not just on the poorest and most disabled.” (A friend or relative of someone that uses adult social care services)

“Increased DRE only for people on enhanced disability benefits

Reduce the frequency of social worker review meetings” (A person supported by adult social care services, or on behalf of a person supported by adult social care services)

“A phased introduction will lessen the impact and allow individuals time to adjust personal budgets” (A person supported by adult social care services, or on behalf of a person supported by adult social care services)

Equality analysis

To help ensure that we are meeting our obligations under the Equality Act 2010, we produced an initial Equality Impact Assessment (EqIA) for the proposal put forward in this consultation. A summary of the impacts identified in the EqIA was included in the Consultation Document and the full EqIA was available to read from the consultation webpage. Consultees were asked to provide their views on the equality analysis. 150 respondents provided a response to this question.

These have been grouped into themes in the table below.

We welcome your views on our equality analysis and if you think there is anything we should consider relating to equality and diversity, please add any comments below.	No. of responses	% of responses
Theme		
Treat people equally and without discrimination	35	34%
Negative financial impact on people receiving the higher rate benefits payment	15	15%
Disagreed with the proposal or had alternative suggestions to savings / income generation	17	17%
Disagreed with EqIA's and the need for classifying	8	8%

We welcome your views on our equality analysis and if you think there is anything we should consider relating to equality and diversity, please add any comments below.	No. of responses	% of responses
people		
Negative wellbeing impact on people receiving the higher rate benefits payment	7	7%
Discrimination and negative financial, physical and mental impact on families and carers of people receiving the higher rate benefits payments	3	3%
Concerns that some consultees will struggle to participate in the consultation	11	11%
Potential additional cost to KCC due to increased care needs	3	3%
Concern that the decision has already been made	1	1%
Concern over the legality of the proposal	1	1%

Many of the themes recorded mirror those of the previous questions, including there being a large impact on people receiving the higher rate benefits payments of AA, DLA and PIP who could potentially be affected by the proposal.

The largest proportion of responses focused on the proposal not being equal for all or treating everyone equally.

Several quotes from consultee’s responses have been included below to illustrate the responses to the EqIA. Please note that the quotes are in people’s own words and have not been edited.

Example quotes
<p>“It is not equitable to tax those most in need of support services more, purely on the basis their disability benefits are higher due to this need. I know my benefit is fully utilized in my own care needs for heating, additional costs related to my needs and care are more than the meagre benefit allows for.” (A member of the public)</p>
<p>“You are discriminating against disabled people by driving them into poverty and making them pay for a financial crisis caused by wealthy people.” (A carer for a friend or relative that uses adult social care services)</p>
<p>“This certainly sounds like another tax on the more vulnerable in society.” (A member of the public)</p>

“Not much about making things equal with your proposals.” (A member of the public)

“I really feel that the disabled people that live in the community are left at a disadvantage already. Taking more off them will leave them more disadvantaged” (A friend or relative of someone that uses adult social care services)

“The proposed measure will obviously have a very serious negative impact on people with severe disabilities, especially those with congenital learning disabilities who are likely to have no savings or other income.” (A person supported by adult social care services, or on behalf of a person supported by adult social care services)

“Particularly concerned on effects of young people. Inequalities relating to being able to express views are also concerning. This is a complicated consultation document, some families may not have access to the internet to express views . Carers are exhausted and don't have time to complete such things. Risk of carer breakdown” (A friend or relative of someone that uses adult social care services)

“A further breakdown according to severity of disability needs to be considered, as the requirement for care and support exponentially increase the more severe the disability. Therefore these people will have a greater impact from taking the higher rate into account, and will result in a reduction in care and support given, reduction to ability to pay for basic daily living expenditure and an increase in the potential for more peoples to have to be referred to inappropriate and more costly residential living, thus increasing the Council budget rather than reducing and failing to meet the requirement under the Care Act to provide individuals with choice, let alone break the councils own policy of more viable people being able to live in own homes and as independent as possible.” (A carer for a friend or relative that uses adult social care services)

“Your not treating everyone the same. In actual fact you are targeting the most vulnerable.” (A carer for a friend or relative that uses adult social care services)

“Many people in the category that you're targeting are severely disabled, will often lack capacity, cannot read or write, cannot speak or are terminally ill. Their carers are exhausted, stressed and have no time to fill in even more paperwork on top of everything else they do. Therefore unable to respond to this consultation.” (A person supported by adult social care services, or on behalf of a person supported by adult social care services)

The above feedback will be used to update and further inform the EqIA.

4. Next steps

This report and the updated EqIA will be presented to KCC's Strategic Rest Programme Board and then included in a report to the Adult Social Care Cabinet Committee on 15 May 2024. Following these meetings, a decision will be taken by the Cabinet Member for Adult Social Care and Public Health.

This report and the decision will be made available on the consultation webpage www.kent.gov.uk/adultsocialcarecharging and an email will be sent to all of those who responded and asked to be kept informed via Let's talk Kent.

5. Appendix 1 – Demographic data from ‘About You’ equality monitoring questions

The below tables show the demographics of the consultee respondents. 240 respondents agreed to answer these questions. These questions were not mandatory so volumes may differ. Only the response options selected by consultees have been included in the tables. The full list of response options for each question can be found in the Word version of the questionnaire, which is available in Appendix 2.

Please tell us the first 5 characters of your postcode:	No. of responses	% of responses
CT	78	40%
TN	53	27%
ME	43	22%
DA	15	8%
BR	4	2%
HD	1	1%
TA	1	1%
DR	1	1%
Total number of responses	196	

Are you...?	No. of responses	% of responses
Female	131	56%
Male	92	39%
I prefer not to say	11	5%
Total number of responses	234	

Is your gender the same as your birth?	No. of responses	% of responses
Yes	224	96%
No	1	0%
I prefer not to say	9	4%
Total number of responses	234	

Which of these age groups applies to you?	No. of responses	% of responses
16-24	12	5%
25-34	30	13%
35-49	40	17%
50-59	50	21%
60-64	26	11%
65-74	38	16%
75-84	25	11%
85+ over	8	3%
I prefer not to say	6	3%
Total number of responses	235	

Do you regard yourself as belonging to a particular religion or holding a belief?	No. of responses	% of responses
Yes	104	44%
No	104	44%
I prefer not to say	27	11%
Total number of responses	235	

Which of the following applies to you	No. of responses	% of responses
Christian	89	85%
Buddhist	2	2%
Hindu	1	1%
Jewish	1	1%
Muslim	1	1%
Sikh	1	1%
Other	1	1%
I prefer not to say	9	9%
Total number of responses	105	

Do you consider yourself to be disabled as set out in the Equality Act 2010?	No. of responses	% of responses
Yes	170	72%
No	57	24%
I prefer not to say	8	3%
Total number of responses	235	

Please tell us the type of impairment that applies to you?	No. of responses	% of responses
Physical impairment	112	30%
Sensory impairment (hearing, sight or both)	41	11%
Longstanding illness or health condition, such as cancer, HIV/AIDS, heart disease, diabetes or epilepsy	75	20%
Mental health condition	55	15%
Learning disability	58	16%
I prefer not to say	4	1%
Other	23	6%
Total number of responses	368	

Are you a Carer	No. of responses	% of responses
Yes	81	35%
No	146	63%
I prefer not to say	5	2%
Total number of responses	232	

Are you ...?	No. of responses	% of responses
Heterosexual/Straight	166	72%
Bi/Bisexual	5	2%
Gay man	3	1%
Gay woman/Lesbian	5	2%
I prefer not to say	43	19%
Other	8	3%
Total number of responses	230	

To which of these ethnic groups do you feel you belong?	No. of responses	% of responses
White English	202	86%
White Scottish	4	2%
White Welsh	2	1%
Asian or Asian British Indian	3	1%
Mixed White & Black Caribbean	1	0
Mixed White & Asian	2	1%
Black or Black British African	1	0%
I prefer not to say	12	5%

Others	7	3%
Total number of responses	234	

6. Appendix 2 – Word version of consultation questionnaire

Included below is a full copy of the questionnaire.

Consultation Questionnaire

Kent County Council (KCC) is seeking your views on the proposed change to the Charging Policy for Adult Social Care provided in a person's own home or in the community. The proposal is to take into account the higher or enhanced rate of the following disability benefits when KCC calculates a person's income:

- Attendance Allowance (AA) for those receiving night care provided by KCC.
- Care component of the Disability Living Allowance (DLA) for those receiving night care provided by KCC.
- Daily living component of the Personal Independence Payment (PIP).

The consultation runs from 6 February to midnight on 7 April 2024

We recommend that you read the Consultation Document before filling in this questionnaire. All consultation material is available on our website at www.kent.gov.uk/adultsocialcarecharging.

A paper copy of the questionnaire along with a freepost envelope can be provided on request and sent by post to:

Consultation Team
 Adult Social Care & Health
 Kent County Council
 Invicta House
 Sandling Road
 Maidstone ME14 1XX

If you have any queries, please contact 03000 422 557 (Monday to Friday, 9am to 5pm) or email adultsocialcarecharging@kent.gov.uk.

Privacy: Kent County Council (KCC) collects and processes personal information in order to provide a range of public services. KCC respects the privacy of individuals and endeavours to ensure personal information is collected fairly, lawfully, and in compliance with the United Kingdom General Data Protection Regulation and Data Protection Act 2018. The full Privacy Notice is available at the end of this document.

Please ensure your response reaches us by midnight on Sunday 7 April 2024.

Section 1 – About You

If you are helping someone to respond because they cannot fill in the questionnaire themselves, please make sure your answers are about them and their details. If you also want to give your views, please fill in a separate questionnaire and include your details in that questionnaire.

Q1. Are you responding as...?

Please select the option from the list below that best represents how you are responding to this consultation.

Please select **one** option.

- | | |
|--------------------------|---|
| <input type="checkbox"/> | A. A person supported by adult social care services, or on behalf of a person supported by adult social care services |
| <input type="checkbox"/> | B. A carer for a friend or relative that uses adult social care services |
| <input type="checkbox"/> | C. A friend or relative of someone that uses adult social care services |
| <input type="checkbox"/> | D. A member of the public |
| <input type="checkbox"/> | E. A health or social care professional |
| <input type="checkbox"/> | F. On behalf of an organisation |
| <input type="checkbox"/> | G. Other |

If you are responding on behalf of an organisation, please give the name:

If you selected 'Other', please tell us how you are responding:

If you have answered Question 1 with options A, B or C, please go to the next question.

If you answered with options D, E, F or G please go to Question 9.

Q2. Do you, or the person you know supported by adult social care services, currently receive care provided by KCC in ...?

*Please select **one** option.*

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

- A. Your own home
- B. In the community
- C. In a care home (as a resident)
- D. Don't know

If you answered Question 2 with options A or B, please go to the next question.

If you answered with options C or D, please go to Question 9.

Q3. Do you or the person you know pay a contribution/charge adult social care services that you receive in your/their own home or in the community?

*Please select **one** option.*

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

- A. Yes
- B. No
- C. Don't know

If you answered Question 3 with options A, please go to the next question.

If you answered with options B or C, please go to Question 6.

Q4. What contribution do you or the person you know currently make towards the cost of the adult social care services provided by KCC?

*Please select **one** option.*

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

- A. Nothing
- B. Pay some of the cost
- C. Pay most of the cost
- D. Pay the full cost
- E. Don't know

If you answered Question 4 with option A or E, please go to Question 6.

If you answered with options B, C, or D, please go to the next question.

Q5. How much do you or the person you know pay towards this care per week?

*Please select **one** option.*

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

- A. I do not pay towards my care
- B. Under £20
- C. £21 to £40
- D. £41 to £60
- E. £61 to £80
- F. £81 to £99
- G. Over £100
- H. Don't know

Q6. Do you or the person you know receive any disability benefits?

*Please select **one** option.*

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

A. Yes

B. No

C. Don't know

If you answered Question 6 with option A, please go to the next question.

If you answered with options B or C, please go to question 9.

Q7. Please tell us which of the following disability benefits you receive:

*Please select **all that apply** option.*

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

A. Attendance Allowance (AA)

B. Disability Living Allowance (DLA) Care Component

C. Personal Independent Payment (PIP) Daily Living Component

D. A different benefit

E. Don't know

If you selected 'A different benefit', please tell us which benefit you receive:

Q8. Do you receive any of the benefits listed above at the higher or enhanced rate?

Please select one option.

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input type="checkbox"/>	Don't know

Q9. How did you find out about this consultation?

Please select all that apply

<input type="checkbox"/>	An email from adultsocialcarecharging@kent.gov.uk
<input type="checkbox"/>	An email from Let's talk Kent or KCC's Engagement and Consultation team
<input type="checkbox"/>	From a friend or relative
<input type="checkbox"/>	From a member of KCC adult social care staff
<input type="checkbox"/>	From my Parish / Town / Borough / District Council
<input type="checkbox"/>	Kent.gov.uk website
<input type="checkbox"/>	Newspaper
<input type="checkbox"/>	Saw a poster
<input type="checkbox"/>	Social media (Facebook, Nextdoor or X (Twitter))
<input type="checkbox"/>	Other, please tell us how you found out about this consultation:

Section 2 – Our Proposal

As a council, we are facing a large increase in the cost of providing services and ever-increasing demand for services and need to find ways to make our services sustainable.

Spending growth in 2024-25 is £184.5m as stated in the updated draft 2024-25 budget. The net change to the budget is £100m (matched by funding increases through government grants, council tax, etc), leaving £84.5m gap in funding. Therefore, we are looking very closely across the whole council to close this gap through income, savings and use of reserves. One possibility is to make changes to the Adult Social Care Charging Policy.

We are proposing to start taking into account the higher or enhanced rates of the following benefits when we calculate what contribution individuals may need to make towards the cost of their care:

- Attendance Allowance (AA) for those receiving night care provided by KCC.
- Care component of the Disability Living Allowance (DLA) for those receiving night care provided by KCC.
- Daily living component of the Personal Independence Payment (PIP).

This would mean that for these people there could be an increase of up to £33.65 per week in the amount they have to pay towards their care.

This change would be applicable for all existing and new people receiving care from KCC's adult social care services in a person's own home or in the community, who have to financially contribute towards their care. The proposal is explained in full, from page 8 of the Consultation Document.

There are many other councils who already include the higher or enhanced rates of these benefits within the financial assessment. Appendix 4 of the Consultation Document provides more information.

Q10. How much do you agree or disagree with the proposal to include the higher rate benefits payment of AA, DLA and PIP in the financial assessment for existing and new people who receive care in their own home and in the community?

*Please select **one** option.*

<input type="checkbox"/>	Strongly agree
<input type="checkbox"/>	Tend to agree
<input type="checkbox"/>	Neither agree nor disagree
<input type="checkbox"/>	Tend to disagree
<input type="checkbox"/>	Strongly disagree
<input type="checkbox"/>	Don't know

Q10a. If you have any comments on our proposal, please share these with us below:

Please do not include any information that would identify you or anyone else in your answer.

On pages 10 and 11 of the Consultation Document we have provided information on alternative options we considered for how we could implement this change before reaching our preferred proposal.

Q11. Do you have any comments on the alternative options we considered or any other options that you would like us to consider? Please tell us below:

Please do not include any information that would identify you or anyone else in your answer.

To help ensure that we are meeting our obligations under the Equality Act 2010 we have prepared an initial Equality Impact Assessment (EqIA) for the proposal put forward in this consultation.

An EqIA is a tool to assess the impact any proposals would have on the protected characteristics: age, disability, sex, gender identity, sexual orientation, race, religion or belief, and carer's responsibilities.

On page 12 of the Consultation Document, we summarise the impacts that have been identified in the EqIA. The full EqIA is available from the consultation webpage www.kent.gov.uk/adultsocialcarecharging or on request.

Q12. We welcome your views on our equality analysis, including suggestions for anything we should consider relating to equality and diversity. Please add any comments below:

Please do not include any information that would identify you or anyone else in your answer

Section 3 – More About You

We want to make sure that everyone is treated fairly and equally, and that no one gets left out. That is why we are asking you these questions. We will only use this information to help us make decisions and improve our services.

If you would rather not answer any of these questions, you don't have to.

It is not necessary to answer these questions if you are responding on behalf of an organisation.

If you are responding **on behalf of someone else**, please answer using their details.

Q13. Please tell us the first 5 characters of your postcode

Please do not reveal your whole postcode. We use this to help us to analyse our data. It will not be used to identify who you are.

Q14. Are you...?

*Please select **one** option.*

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Male

Female

I prefer not to say

Q15. Is your gender the same as your birth?

*Please select **one** option.*

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Yes

No

I prefer not to say

Q16. Which of these age groups applies to you?

*Please select **one** option.*

<input type="checkbox"/>	0-15
<input type="checkbox"/>	16-24
<input type="checkbox"/>	25-34
<input type="checkbox"/>	35-49
<input type="checkbox"/>	50-59
<input type="checkbox"/>	60-64
<input type="checkbox"/>	65-74
<input type="checkbox"/>	75-84
<input type="checkbox"/>	85+ over
<input type="checkbox"/>	I prefer not to say

Q17. Do you regard yourself as belonging to a particular religion or holding a belief?

Please select one option.

- | | |
|--------------------------|---------------------|
| <input type="checkbox"/> | Yes |
| <input type="checkbox"/> | No |
| <input type="checkbox"/> | I prefer not to say |

Q17a. If you answered 'Yes' to Q17, which of the following applies to you?

Please select one option.

- | | |
|--------------------------|---------------------|
| <input type="checkbox"/> | Christian |
| <input type="checkbox"/> | Buddhist |
| <input type="checkbox"/> | Hindu |
| <input type="checkbox"/> | Jewish |
| <input type="checkbox"/> | Muslim |
| <input type="checkbox"/> | Sikh |
| <input type="checkbox"/> | Other |
| <input type="checkbox"/> | I prefer not to say |

If you selected Other, please specify:

The Equality Act 2010 describes a person as disabled if they have a long standing physical or mental condition that has lasted, or is likely to last, at least 12 months; and this condition has a substantial adverse effect on their ability to carry out normal day-to-day activities. People with some conditions (cancer, multiple sclerosis and HIV/AIDS, for example) are considered to be disabled from the point that they are diagnosed.

Q18. Do you consider yourself to be disabled as set out in the Equality Act 2010?

*Please select **one** option.*

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input type="checkbox"/>	I prefer not to say

Q18a. If you answered 'Yes' to Q18, please tell us the type of impairment that applies to you.

You may have more than one type of impairment, so please select all that apply. If none of these applies to you, please select 'Other' and give brief details of the impairment you have.

<input type="checkbox"/>	Physical impairment
<input type="checkbox"/>	Sensory impairment (hearing, sight or both)
<input type="checkbox"/>	Longstanding illness or health condition, such as cancer, HIV/AIDS, heart disease, diabetes or epilepsy
<input type="checkbox"/>	Mental health condition
<input type="checkbox"/>	Learning disability
<input type="checkbox"/>	I prefer not to say
<input type="checkbox"/>	Other

Other, please specify:

A Carer is anyone who provides unpaid care, for a friend or family member who due to illness, disability, a mental health problem or an addiction cannot cope without their support. Both children and adults can be carers.

Q19. Are you a Carer?

*Please select **one** option.*

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input type="checkbox"/>	I prefer not to say

Q20. Are you ...?

*Please select **one** option.*

<input type="checkbox"/>	Heterosexual/Straight
<input type="checkbox"/>	Bi/Bisexual
<input type="checkbox"/>	Gay man
<input type="checkbox"/>	Gay woman/Lesbian
<input type="checkbox"/>	Other
<input type="checkbox"/>	I prefer not to say

Q21. To which of these ethnic groups do you feel you belong?

Please select **one** option. (Source 2011 Census)

<input type="checkbox"/>	White English	<input type="checkbox"/>	Mixed White & Black Caribbean
<input type="checkbox"/>	White Scottish	<input type="checkbox"/>	Mixed White & Black African
<input type="checkbox"/>	White Welsh	<input type="checkbox"/>	Mixed White & Asian
<input type="checkbox"/>	White Northern Irish	<input type="checkbox"/>	Mixed Other*
<input type="checkbox"/>	White Irish	<input type="checkbox"/>	Black or Black British Caribbean
<input type="checkbox"/>	White Gypsy/Roma	<input type="checkbox"/>	Black or Black British African
<input type="checkbox"/>	White Irish Traveller	<input type="checkbox"/>	Black or Black British Other*
<input type="checkbox"/>	White Other*	<input type="checkbox"/>	Arab
<input type="checkbox"/>	Asian or Asian British Indian	<input type="checkbox"/>	Chinese
<input type="checkbox"/>	Asian or Asian British Pakistani	<input type="checkbox"/>	I prefer not to say
<input type="checkbox"/>	Asian or Asian British Bangladeshi	<input type="checkbox"/>	
<input type="checkbox"/>	Asian or Asian British Other*	<input type="checkbox"/>	

*Other - If your ethnic group is not specified on the list, please describe it here:

Thank you for taking the time to complete this questionnaire; your feedback is important to us. All feedback received will be reviewed and considered before any decisions are taken.

We will report back on the feedback we receive, but details of individual responses will remain anonymous, and we will keep your personal details confidential.

Please ensure your response reaches us by midnight on Sunday 7 April 2024.

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EQIA Submission Draft Working Template

If required, this template is for use prior to completing your EQIA Submission in the EQIA App. You can use it to understand what information is needed beforehand to complete an EQIA submission online, and also as a way to collaborate with others who may be involved with the EQIA. Note: You can upload this into the App when complete if it contains more detailed information than the App asks for and you wish to retain this detail.

Section A

1. Name of Activity (EQIA Title):

Proposed changes to the charging policy for Adult Social Care in a person's own home or in the community

Updated post Consultation 22 May 2024

2. Directorate

Adult Social Care and Health

3. Responsible Service/Division

Strategic Safeguarding, Practice, Policy and Quality Assurance (SSPPQA)

Accountability and Responsibility

4. Officer completing EQIA

Note: This should be the name of the officer who will be submitting the EQIA onto the App.

Louise White – Project Manager, Innovation Delivery Team

Oluwafemi Orebe – Project Officer, Innovation Delivery Team

5. Head of Service

Note: This should be the Head of Service who will be approving your submitted EQIA.

Sarah Denson – Assistant Director Strategic Safeguarding, Practice, Policy, and Quality Assurance (SSPPQA)

6. Director of Service

Note: This should be the name of your responsible director.

Richard Smith, Corporate Director, Adult Social Care

The type of Activity you are undertaking

7. What type of activity are you undertaking?

Service Change – operational changes in the way we deliver the service to people. Answer Yes/No
No

Service Redesign – restructure, new operating model or changes to ways of working. Answer Yes/No
No

Project/Programme – includes limited delivery of change activity, including partnership projects, external funding projects and capital projects. Answer Yes/No
No

Commissioning/Procurement – means commissioning activity which requires commercial judgement. Answer Yes/No
No

Strategy /Policy – includes review, refresh or creating a new document. Answer Yes/No
Yes

Other – Please add details of any other activity type here.

8. Aims and Objectives and Equality Recommendations – Note: You will be asked to give a brief description of the aims and objectives of your activity in this section of the App, along with the Equality recommendations. You may use this section to also add any context you feel may be required.

The proposal under consideration in this Equality Impact Assessment (EqIA) is to start to take into account the higher/enhanced rates of the following benefits when Kent County Council (KCC) calculates what contribution, if any, individuals may need to make towards the cost of their care and support:

- Attendance Allowance (AA)*.
- Disability Living Allowance (care component) (DLA)*.
- Personal Independence Payment (daily living component) (PIP).

*Only if they are receiving night care which is arranged or provided by KCC.

Data received for adults (18+) shows there are potentially 9,011 individuals who receive care at home and in the community that may be affected now or in the future by the proposal. Of these, 3,765 individuals are directly impacted due to being in receipt of higher rate benefits as shown in the data used within our analysis.

The Care Act 2014 provides a single legal framework for charging for care and support under sections 14 and 17. It enables a local authority to decide whether to charge a person when arranging to meet a person's care and support needs or a carer's support needs.

KCC provides care and support for people with disabilities and older people who meet the eligibility criteria. Most services provided are subject to a financial assessment. The purpose of a financial assessment is to determine how much (if any) financial support a person or carer may be entitled to from their local authority.

There are three possible outcomes following a financial assessment: a). A local authority will provide no financial support. In this case the person or carer is self-funding, meaning they have to meet the full cost of their care and support, b). A local authority will provide some financial support, but not enough to cover the full amount. In this case the person or carer will be required to contribute the difference; or c). A local authority will provide full financial support. In this case the person or carer will not have to make any contribution towards the cost of their care and support.

We ensure that care and support needs are assessed **separately** from a person's ability to pay. And are clear and transparent, so that people know what they will be charged and how their contribution is calculated. We also need to be mindful of our Public Sector Equality Duty and our duties as a public sector body to protect and apply, without discrimination, all of the rights and freedoms of people that draw on care and support, as set out in the Human Rights Act.

The Department of Health and Social Care's 'Care and Support Statutory Guidance' places a duty on local authorities to promote the wellbeing of adults with care and support needs. Section 1.3 says "The wellbeing principle applies in all cases where a local authority is carrying out a care and support function, or making a decision, in relation to a person."

The aim of the proposal is to increase the income to the council from the people that contribute towards their own care and support, while ensuring we offer individuals high-quality care regardless of their contribution towards it.

There is increasing demand for care and support services and financial pressures on the council to manage public funds. To make sure that services are available to those that need them, the council must make the very best use of the resources it holds and consider every option to bring in more income.

Whilst the priorities in Framing Kent's Future set out the ambition and priorities for KCC in the medium to long-term, inevitably in the short to medium-term there are policy and service decisions that must be taken to balance the annual budget, which may impact on some residents, and some people that access services and partner organisations. KCC's Budget Recovery Strategy, Securing Kent's Future, was agreed at a Cabinet meeting on 5 October 2023. The revenue budget for 2024-25 was approved by full Council on 19th February 2024.

Adults who receive care and support in their own home or in the community, will need to pay for daily living costs such as rent, food and utilities; therefore, the charging rules must ensure they have enough money to meet these costs. This is referred to as minimum income guarantee (MIG) which is set at a statutory level.

For costs incurred as a direct result of a person's disability or medical condition over and above what a non-disabled person would spend, KCC applies a standard Disability Related Expenditure (DRE). The DRE is currently £17 per week for all people regardless of whether they are in receipt of a disability benefit. KCC informs the person with care and support needs and/or carer that if a person in receipt of a disability benefit believes they have Disability Related Expenditure more than the standard £17 allowance, they (or their representative) can request an individual Disability Related Expenditure Assessment, by contacting their practitioner.

In order to gain a better understanding of the impact the proposals may have on people, a public consultation was undertaken from 6 February to 7 April 2024. This was open to those individuals who already receive care in their own home or in the community and receive higher rate AA, DLA or PIP. Members of the wider public, KCC staff, service providers and organisations known to KCC, representing disabled and older people's views were very much welcomed.

The EqIA has been updated to reflect the views of consultees and other stakeholders from the consultation. The EqIA and will be submitted to the Adult Social Care Cabinet Committee in May 2024 with a view to a decision being taken by the Cabinet Member for Adult Social Care and Public Health in late May 2024.

Section B – Evidence

Note: For questions 9, 10 & 11 at least one of these must be a 'Yes'. You can continue working on the EQIA in the App, but you will not be able to submit it for approval without this information.

9. Do you have data related to the protected groups of the people impacted by this activity?

Answer: Yes/No

Yes

10. Is it possible to get the data in a timely and cost-effective way? Answer: Yes/No

Yes

11. Is there national evidence/data that you can use? Answer: Yes/No

No

12. Have you consulted with Stakeholders? Answer: Yes/No

Stakeholders are those who have a stake or interest in your project which could be residents, service users, staff, members, statutory and other organisations, VCSE partners etc.

Yes

13. Who have you involved, consulted and engaged with?

Please give details in the box provided. This may be details of those you have already involved, consulted and engaged with or who you intend to do so with in the future. If the answer to question 12 is 'No', please explain why.

Formal meetings and updates at boards, committees and the working group were undertaken to ensure input by the appropriate professionals into the development of the proposals and the consultation planning. KCC members and Kent MPs were provided briefings. Briefings were given to care in the community providers to help them understand how they can support people to engage with the Consultation.

Ahead of the launch of the consultation we met with KCC's People's Panel, whose members include people from the Older Peoples' Forums, Mental Health User Voice and the Kent Physical Disability Forum as well as Healthwatch Kent volunteers, to gather feedback on the proposal, discuss the options considered and review the consultation material.

The consultation was hosted on KCC's engagement website Let's talk Kent. To help make sure the consultation was accessible the following activities were undertaken:

- The webpage and all documents met digital accessibility requirements.
- The Consultation Document provided examples to help illustrate how the proposed change could impact people and included a glossary explaining unfamiliar terms.
- All consultation material included details of how people could contact KCC to ask a question, request hard copies or alternative format.
- Providers and relevant KCC staff were briefed so that they could support people to participate in the consultation.
- A Word version of the questionnaire was provided on the consultation webpage for people who did not wish to complete the online version. Responses made by letter / email / telephone were also be accepted.
- Easy Read and Large print versions of the consultation material were available from the consultation webpage and on request.
- The webpage was translated into British Sign Language.
- The letters sent to people who received care contained a telephone number and email address to contact with any queries relating to the consultation.

Letters were sent to all potentially impacted people. Emails were sent to stakeholders including contacts from health organisations, care sector, voluntary sector and community organisations, registered users of KCC's engagement website Let's talk Kent who have requested to be kept informed of Adult Social Care activity, and Adult Social Care Your Voice network members. Consultation promotional activities also included social media, newsletters, websites, posters displayed in libraries and gateways and a media release.

During the Consultation there was regular review of the data to ensure all groups and communities were engaging. There were regular targeted communications sent to 565 contacts including organisations/charities covering Older People, Physical Disability, Carers and Learning Disability. To support people that may have found it difficult to engage with the Consultation, there was a request sent to organisations and charities to be invited to forums to discuss the Consultation and impact. There was a session with the PAN Disability Forum which is facilitated by EK360 and consists of representatives from different disability groups in Kent, the driver for the PAN Disability Forum is to recognise and engage the underserved voices and communities across Kent & Medway.

14. Has there been a previous equality analysis (EQIA) in the last 3 years? Answer: Yes/No

No

15. Do you have evidence/data that can help you understand the potential impact of your activity? Answer: Yes/No

Yes

Uploading Evidence/Data/related information into the App

Note: At this point, you will be asked to upload the evidence/ data and related information that you feel should sit alongside the EQIA that can help understand the potential impact of your activity. Please ensure that you have this information to upload as the Equality analysis cannot be sent for approval without this.

An analysis of the data from Adult Social Care and Health (adults 18+) and Children, Young People and Education (young people 18-25 transitioning from children's social care to adults' social care) directorates has been undertaken to identify the individuals who will be directly affected by the proposal. The data used for this EQIA is from December 2023 and we continued to use this dataset to ensure consistency, although there will have been some movement in the numbers since December 2023.

Data for young people (18-25) transitioning from children's to adults' social care, shows there are 612 active individuals who receive care and support at home, in the community or have a direct payment that may be affected.

Data for adults (18+) who draw on adults' care and support show there are potentially 9,011 individuals who receive care and support at home and in the community that may be affected now or in the future. This number represents 79% of all adults (18+) that receive care and support at home and in the community. The remaining 21% (2395 people) will not be affected by the proposed changes.

As a separate exercise we ran a financial model in September 2023 to understand the potential financial impact on people. We know that 3,784 people will be directly impacted by these proposed changes because they have the higher disability allowance and of these, 2,879 will have a change in their financial contribution if the proposal is implemented.

Although there has been analysis for each protected group, many will have a number of protected characteristics and therefore need to be considered holistically.

The below tables (using data from September 2023) show what people are currently contributing and what the changes would be if the decision is taken to implement the proposal.

Current position	Carers	Learning Disability	Mental Health	Older People	Physical Disability	Sensory	Unknown	Total
Nil	0	475	68	38	403	38	6	1,028
Part payer	0	1,625	117	215	591	30	13	2,591
Full payer	0	21	17	49	70	7	1	165
	0	2,121	202	302	1,064	75	20	3,784

Post-implementation if decision is taken	Carers	Learning Disability	Mental Health	Older People	Physical Disability	Sensory	Unknown	Total
Nil	0	353	42	25	288	26	6	740
Part payer	0	1,714	133	218	666	39	12	2,782
Full payer	0	54	27	59	110	10	2	262
	0	2,121	202	302	1,064	75	20	3,784

Movement	Carers	Learning Disability	Mental Health	Older People	Physical Disability	Sensory	Unknown	Total
Nil	0	353	42	25	288	26	6	740
Nil to part payer	0	122	26	13	113	12	0	286
Nil to full payer	0	0	0	0	2	0	0	2
Part payer	0	1,592	107	205	553	27	12	2,496
Part payer to full payer	0	33	10	10	38	3	1	95
Full payer	0	21	17	49	70	7	1	165
	0	2,121	202	302	1,064	75	20	3,784

A refresh of the data from March 2024 (below), used within the EqIA, shows the number of people, broken down by care need, and how much the proposed change to charging would impact their weekly contribution.

People in receipt of benefits included in the policy change							
	Learning Disability	Mental Health	Older People	Physical Disability	Sensory	Unknown	Total
Zero impact	393	74	63	348	39	11	928
up to £5	65	19	2	24	3	-	113
between £5 and £15	13	9	9	43	3	-	77
between £15 and £25	42	6	10	50	2	1	111
between £25 and £30	6	4	5	19	-	-	34
between £30 and £33.64	27	4	3	23	3	-	60
Full £33.65	1,596	120	195	582	33	15	2,541
	2,142	236	287	1,089	83	27	3,864
							People financially impacted
							2,936

The table below shows a breakdown by care need and the movement by type of payer if the proposal was implemented.

Movement in weekly contribution by type of payer							
	Learning Disability	Mental Health	Older People	Physical Disability	Sensory	Unknown	Total
Nil payer (stays as Nil payer)	371	51	22	294	30	8	776
Part payer (stays as part payer)	1,595	120	195	577	32	14	2,533
Full payer (stays as full payer)	22	23	41	54	9	3	152
Nil payer to part payer	123	30	15	121	8	1	298
Nil payer to full payer	-	-	-	1	-	-	1
Part payer to full payer	31	12	14	42	4	1	104
	2,142	236	287	1,089	83	27	3,864
							People financially impacted
							2,936

Section C – Impact

16. Who may be impacted by the activity? Select all that apply.

Service users/clients – Answer: Yes/No

Yes

Residents/Communities/Citizens – Answer: Yes/No

Yes i.e. current and prospective people that draw on care and support.

Staff/Volunteers – Answer: Yes/No

No

17. Are there any positive impacts for all or any of the protected groups as a result of the activity that you are doing? Answer: Yes/No

Yes

18. Please give details of Positive Impacts

KCC uses the financial contributions that people make to ensure we can continue to help as many people with care and support needs as possible with the limited resources that are available.

KCC anticipates that this proposal will contribute to our 'Securing Kent's Future' objective of protecting frontline services and continuing to provide the level of care and support needed by people in Kent who have a physical or mental impairment, disability or illness that meets the eligibility criteria.

Negative Impacts and Mitigating Actions

The questions in this section help to think through positive and negative impacts for people affected by your activity. Please use the Evidence you have referred to in Section B and explain the data as part of your answer.

19. Negative Impacts and Mitigating actions for Age

a) Are there negative impacts for Age? Answer: Yes/No
(If yes, please also complete sections b, c, and d).

Yes

b) Details of Negative Impacts for Age

The data shows that there is a larger proportion of young people who may be affected should these proposed changes be implemented following consultation and this could potentially impact on their emotional and social wellbeing due to having less disposable income each week.

88.07% (539) of the young people (aged 18-25) that may be impacted, currently receive learning disability support, 3.92% (24) receive Physical Support - Personal Care Support, 3.10% (19) receive Physical Support – Access, Mobility Only and the remaining people receive mental, physical, or sensory support.

Below is a breakdown of the ages and number of young people that will be affected in each age group

Age	Individual Count	% of Total
18	51	8%
19	62	10%
20	78	13%
21	70	11%
22	80	13%
23	92	15%
24	95	16%
25	84	14%
Total	612	100%

Below is the breakdown by age band of the potentially 79% (9,011) adults (aged 18+) who may be affected. The remaining 21% are not impacted by the proposed changes.

Age	Individual Count	% of Total
60 and below	4,278	38%
60+ and above	4,733	41%
Total	9,011	79%

Increased Self-Neglect and Safeguarding

The proposed changes could increase self-neglect and/or safeguarding as some people may choose to reduce or refuse care and support due to the increased cost. Some may decide to reduce or end their

service resulting in their needs potentially not being met. There is limited evidence to suggest that this could happen, and this was not reflected through feedback during the consultation. If a person chooses to reduce their care and support, in most cases this would unlikely reduce their charge, unless they significantly reduce their charge to below their own care contribution.

Impact on Wellbeing

Someone may choose to decrease or end their care and support if the proposal is implemented. Or keep the care and support the same but have less money to spend on activities, food, heating which could impact on an individual's physical or mental wellbeing. Consultation responses highlighted how people are already financially stretched due to the cost of living and these proposals will have a further negative impact, people expressed that they will "be existing and not living".

Care and support could be ceased by the individual or their carer if they lack capacity to make decision regarding care and support; potentially increasing the risk of safeguarding referrals and carer breakdown.

A person may choose to reduce or stop attending activities in the community due to increased costs to their package of care which equally could impact negatively on the persons mental health due to increased isolation, their ability to maintain personal relationships and participation in leisure activities, and contribution to society. As wellbeing is individualistic this would need to be determined for each person.

Feedback received through the consultation:

- "Please do not charge our young adults. Their PIP is used for their care needs outside of what KCC provide and it is morally and ethically wrong that you are making proposals to make vulnerable adults contribute from their PIP. The PIP is for the individual to decide what care needs they wish to spend their enhanced level PIP on to support their day to day needs. I wish you would stop preying on vulnerable people who actually need support from KCC. It is completely wrong what KCC are proposing and I urge you not to proceed with any changes. Please support our young people to live good lives instead of making it harder for them and their carers. We as parents/carers of our young people are so stressed by your proposals and I wonder if legally you are actually able to do what you are proposing!!! Also as a carer myself of our young adult we have the responsibility for caring for days not covered by local authority and also night care responsibilities".
- "Particularly concerned on effects of young people. Inequalities relating to being able to express views are also concerning. This is a complicated consultation document; some families may not have access to the internet to express views. Carers are exhausted and don't have time to complete such things. Risk of carer breakdown".

Direct Payments

A small number of people with a direct payment could be impacted by this proposal. Following a person's financial assessment the contribution that they are assessed to pay is deducted from the personal budget/direct payment i.e. the person is paid their direct payment net of their financial contribution. Therefore, this could restrict the flexibility that direct payments allow including access to types of service and support which could have a negative impact on wellbeing.

Impact of the cost of living on residents

If the proposal to increase the means tested charge is implemented, there is a risk of a person not being able to meet all their financial commitments and getting into debt either to KCC and/or other companies.

There is also a risk that a person's limited income means that they have no surplus monies for socialising or leisure activities to support their quality of life and wellbeing.

Households across the country have struggled to keep up with growing inflation due to unprecedented rises in everyday basics such as food and heating.

Mental Health

Feedback received through the consultation process confirms that:

- “For some individuals receiving a letter from KCC regarding the proposal created a great deal of stress/ anxiety and are deeply depressed as they do not know how they will survive if it is implemented which may further affect their already fragile mental health. It is taking from the most vulnerable in society who need the most help”.
- “Taking more money out of the higher rate of benefit will potentially affect other areas of daily life and cost of living for someone who is already at a disadvantage. The higher rate is given because the person is severely disabled and needs help night & day in some cases especially severely disabled people who have very limited lifestyles. They cannot work or go out alone and need support to do anything. More money taken from them will just reduce their already very limited social life leaving them isolated and alone. This will adversely impact their financial, mental and physical wellbeing making it difficult for them and their Carers to live good lives”.

c) Mitigating Actions for Age

Increased Self-Neglect and Safeguarding

Based on the duty to safeguard, KCC will respond as appropriate and apply any waivers necessary to ensure care and support is provided regardless of an individual's ability to pay. KCC will respond as appropriate and on an individual basis and assess risks to the individual. High Risk Panels /Risk Forums can be accessed as required by practitioners for advice and guidance where an individual assessed as needing care and support decides to cancel or reduce care and support.

KCC has the power to exercise discretion when making decisions on charging, taking into account individual circumstances. KCC will act reasonably when making such decisions, for example, considering impact on person's wellbeing, individual financial hardship/outgoings.

Wellbeing and Mental Health

Section 1 of the Care Act describes wellbeing as 'actively seeking improvements in wellbeing when carrying out care and support function'. Therefore, to minimise the effect on emotional, social wellbeing and mental health this proposal could have on people, practitioners will work with people that draw on care and support to ensure that the assessment and review process is holistic. They will work with the person to look at social and emotional needs and explore what is available within the community to support them.

Practitioners will take the opportunity during any contact (for example assessment and review) with the person and/ or their representative to establish impact on wellbeing, and respond appropriately in order to prevent, reduce or delay the impact on potential needs for care and support.

Community Involvement Officers will make links between communities and social care teams. Sharing with social care teams what networks and community support is available.

Feedback received through the consultation to highlight impact on young people's wellbeing and mental health:

- "Taking even more money from my Son, means at the age of 19 I'm still financially looking after him out of my own money as most of his will be taken away, just so he can attend a day centre 10 hours a week. I feel utterly disgusted this is even a thought or a suggestion. Why is it the most vulnerable are the ones hit the most. If you start charging even more, I'll have no choice but to pull him out of his day centre and his respite. Which will be detrimental to his mental health and mine. He is already a recluse and stays in his bedroom apart from the 2 days a week that he goes to a day centre. You have got to take into account that its not just his money you will be taking, its mine too. The more you take from him, the more I have to pay out of my money to keep him at home. If I put him into residential care it would cost you a lot more! The 2 days he goes to the day centre, are the 2 days I'm able to work. If I can't send him, I can't work. Which means me going onto benefits which would cost you even more money. The small pittance I get in wages and carers allowance is an embarrassing as it is".

Impact of the cost of living on residents

In the context of the cost-of-living pressures, individuals will be entitled to request an individual Disability Related Expenditure Assessment (DREA) which could help if the proposed changes are approved following consultation and more information about individual rights to request a DREA and the eligibility criteria can be found on our KCC website www.kent.gov.uk/social-care-and-health/adult-social-care/paying-for-care/disability-related-expenditure-assessment. During the consultation there has been feedback on ensuring there is increased awareness and consistency with the DREA process, through improved training and practice guidance and dedicated staff. This feedback is being taken forward with recommendations that all requests for a DREA are presented to Practice Assurance Panels, that dedicated practitioners complete the DREA's as well as introducing DREA practice champions across the County, alongside general awareness raising for the social care workforce.

Following a government announcement in September 2021, the Department for Work and Pensions introduced a Household Support Fund to help households with essential. The Household Support Fund was distributed by councils in England to directly help those who needed it most. The grant is distributed through small payments to support vulnerable households meet daily needs such as food, clothing, and utilities. This fund has again been extended until September 2024, more information on this fund and how to apply can be found on our KCC website <https://www.kent.gov.uk/social-care-and-health/adult-social-care/paying-for-care/benefits/household-support-fund>.

We will endeavour to make sure that people are aware of the above as well as independent support and advice that is available through organisations such as Citizens Advice.

The Council also has the ability to provide exceptional disregards if individuals demonstrate basic living expenses cannot be met.

Care and Support Statutory Guidance

The Department of Health and Social Care's guidance states that a person will have their benefits maximised at the same time as the means tested assessment is carried out. Having benefits maximised helps with persons overall wellbeing, can reduce stress and can help to reduce the risk of a deterioration in a person's wellbeing. It is KCC practice, at the same time as the means tested assessment, to help a person claim all their entitled benefits. The Financial Assessment Officer will ensure the person is advised

of the benefits they may be entitled to and ensure they receive the correct advice and information on how to claim, which may include signposting to the relevant organisations.

Direct Payments

Practitioners will work with people that draw on care and support to ensure if a direct payment cannot be accessed there is consideration for how care and support needs can be met.

d) Responsible Officer for Mitigating Actions – Age

Sarah Denson – Assistant Director SSPPQA

20. Negative Impacts and Mitigating actions for Disability

a) Are there negative impacts for Disability? Answer: Yes/No
(If yes, please also complete sections b, c, and d).

Yes

b) Details of Negative Impacts for Disability

People with disabilities/chronic health conditions are disproportionately represented in the adult social care group of people that draw on care and support. Within this group, the proposed change will apply to all regardless of the type of disability/health condition. However, people with certain severe disabilities/health issues may be more likely to be on the higher rate of the disability benefits, due to being unable to work and needing support through the night, and therefore more significantly affected if the proposed changes are approved following consultation.

Below is the breakdown by disability support reasons of the potentially 612 young people (18-25) who receive care at home, in the community or have a direct payment that may be affected.

Disability Support Reasons	Individuals Count	% of Total
Learning Disability Support	539	88.07%
Mental Health Support	2	0.33%
Physical Support - Access and Mobility Only	19	3.10%
Physical Support - Personal Care Support	24	3.92%
Sensory Support - Support for Dual Impairment	6	0.98%
Sensory Support - Support for Hearing Impairment	13	2.12%
Sensory Support - Support for Visual Impairment	4	0.65%
Social Support - Support for Social Isolation / Other	2	0.33%
Support with Memory and Cognition	3	0.49%
Total	612	100%

Below is the breakdown by disability support reasons of the potentially 79% (9,011) adults (18+) who may be affected.

Disability Support Reasons	Individual count of those that may be affected by the proposal	Total	Percentage of Total (those that may be affected)
Autism High Functioning	<10	<10	<1%
Carers	<10	468	<1%
Learning Disability Support 18-64	2,553	2,643	22%
Learning Disability Support 65+	218	226	2%
Mental Health Support 18-64	394	905	3%
Mental Health Support 65+	46	97	<1%
Not Recorded	30	35	<1%
Physical Support Access and Mobility Only 18-64	539	626	5%
Physical Support Access and Mobility Only 65+	1,132	1,436	10%
Physical Support Personal Care and Support 18-64	1,059	1,171	9%
Physical Support Personal Care and Support 65+	2,392	3,044	21%
Sensory Support for Dual Impairment 18-64	23	23	<1%
Sensory Support for Dual Impairment 65+	14	16	<1%
Sensory Support for Hearing Impairment 18-64	33	36	<1%
Sensory Support for Hearing Impairment 65+	15	18	<1%
Sensory Support for Visual Impairment 18-64	36	39	<1%
Sensory Support for Visual Impairment 65+	33	39	<1%
Support with Memory and Cognition 18-64	352	401	3%
Support with Memory and Cognition 65+	136	180	1%
Total	9,011	11,406	79%

Overall, from the above data we know that 3,765 people receive the higher allowance and will be directly impacted if the proposed changes are approved following consultation. Of the 3,765, we know that 2,142 people are learning disability and 1,089 are physical disability.

In two High Court cases, it has been suggested that severely disabled people who are unable to work (and are eligible for inability to work benefits) are likely to pay a greater proportion of their income than people who do not fall into this category and who are able to work. We have considered whether this is the case in Kent, and have used eligibility for higher rate disability benefits (PIP daily living component /Employment Support Allowance (ESA)) as a proxy for those who are severely disabled. We have used the

determination of limited capable for work related activity (part of Universal Credit (UC) determination) as a proxy for those who are severely disabled and unable to work.

However it is not possible to determine whether this is the case in Kent, as the proportion of income that a person will pay by way of charges will turn on:-

- (i) The amount of income they have in the first place – what benefits, what pension, what (if any) earned income
 - a. What they receive by way of benefits – the amount of UC an individual receives depends on their age, whether they are part of a couple, whether they have children/childcare costs, housing costs, whether they have been assessed as having Limited Capacity for Work Related Activity (LCWRA).
 - b. If the individual has employed income: what is the level of that income? It is possible for an individual to work minimal amounts and retain benefits
 - c. Interaction between earnings and UC –if the individual is earning low amounts are they still getting the UC taper?
 - d. Do they get an occupational pension, which is taken into account?
- (ii) The size/amount of the MIG: this will vary depending on a wide range of factors, including age, member of couple, have children, amount of any disability premium. The greater the disability, the higher the MIG.
- (iii) The operation of DRE: the greater the disability, the more likely it is that an individual will have DRE. The more disabled the person is, the more DRE they are likely to have, so more income will be discounted.
- (iv) Housing costs – these are disregarded. Again, it depends what income a person we support receives in respect of this (housing element of UC, for example).

We have prepared some hypothetical examples of the impact of the proposed policy, which are set out in Appendix D.

Impact on Wellbeing

Someone may choose to decrease or end their care and support if the proposal is implemented. Or keep the care and support the same but have less money to spend on activities, food, heating which could impact on an individual's physical or mental wellbeing. Consultation responses highlighted how people are already financially stretched due to the cost of living and these proposals will have a further negative impact, people expressed that they will "be existing and not living".

A person may choose to reduce or stop attending activities in the community due to increased costs to their package of care which equally could impact negatively on the persons mental health due to increased isolation, their ability to maintain personal relationships and participation in leisure activities, and contribution to society. As wellbeing is individualistic this would need to be determined for each person.

Feedback received through the consultation:

- "Disabled people are already disproportionately disadvantaged, as the additional costs for daily living with a disability are much greater. Many disabled people live in inappropriate housing, unable to

access even their bathroom or kitchen, with no empowerment to improve their circumstances and at increased risk of homelessness for a variety of reasons. Increasingly our clients are dealing with a very complex mix of issues, and they require support that is person-centred, intensive and long term. Many are unable to access their GP and are overwhelmed trying to navigate health and care systems”.

- “Disability allowances are designed to support where a person has greater demands upon their own resources and an award of the higher rate reflects the fact that even greater demands exist”.
- “Proposed increases in the charges levelled at those who use KCC Social Care Services will disproportionately effect those that receive the higher rates of DLA and PIP. By default, directly affecting those that are significantly disabled and are already at the lowest point is life's wheel of fortune”.
- “The more a care package is needed the higher the care contribution is. In the current system a disabled person with high social care needs is penalised financially under the current social care system. This seems counter intuitive when they have a higher level of disability and or health conditions”.
- “A reduction in available resources may result in a higher risk of falling into poverty, increased loneliness if a person isn’t able to or can’t afford to get out and this may negatively effect on a person’s mental health potentially putting more strain on adult health and social services. While short term savings may be made, in the longer term this will lead to increased cost elsewhere as people look for support, fall into ill health, or worse, crisis”.
- “Disabled People who solely rely on benefits can’t get money from additional sources, e.g paid work for taking on additional jobs that able bodied people can if they wish to. In an inflationary climate this is adding to financial anxiety, pressure and isolation. It’s been an extremely worrying and struggling time for disabled people especially throughout the Covid pandemic, followed by the cost-of-living crisis”.

Mental Health

Feedback received through the consultation process confirms that.

- “For some individuals receiving a letter from KCC regarding the proposal created a great deal of stress/ anxiety and are deeply depressed as they do not know how they will survive if it is implemented which may further affect their already fragile mental health. It is taking from the most vulnerable in society who need the most help”.
- “Taking more money out of the higher rate of benefit will potentially affect other areas of daily life and cost of living for someone who is already at a disadvantage. The higher rate is given because the person is severely disabled and needs help night & day in some cases especially severely disabled people who have very limited lifestyles. They cannot work or go out alone and need support to do anything. More money taken from them will just reduce their already very limited social life leaving them isolated and alone. This will adversely impact their financial, mental and physical wellbeing making it difficult for them and their Carers to live good lives”.

Increased Self-Neglect and Safeguarding

The proposed changes could increase self-neglect and/or safeguarding as some people may choose to reduce or refuse care and support due to the increased cost. Some may decide to reduce or end their

service resulting in their needs potentially not being met. There is limited evidence to suggest that this could happen, and this was not reflected through feedback during the consultation. If a person chooses to reduce their care and support, in most cases this would unlikely reduce their charge, unless they significantly reduce their charge to below their own care contribution.

Direct Payments

A small number of people with a direct payment could be impacted by this proposal. Following a person's financial assessment the contribution that they are assessed to pay is deducted from the personal budget/direct payment i.e. the person is paid their direct payment net of their financial contribution. This could mean that the person may no longer be able to use a direct payment and therefore no longer has the flexibility that direct payments allow. This could have a negative impact on the types of care and support someone accesses.

Disability and Complex Health Conditions

People with a disability and complex health conditions could be more negatively impacted by this proposal due to reduced income and expenses for disability and health condition.

Impact of the cost of living on residents

If the proposal to increase the means tested charge is implemented, there is a risk of a person not being able to meet all their financial commitments and getting into debt either to KCC and/or other companies. There is also a risk that a person's limited income means that they have no surplus monies for socialising or leisure activities to support their quality of life and wellbeing.

Households across the country have struggled to keep up with growing inflation due to unprecedented rises in everyday basics such as food and heating.

c) Mitigating Actions for Disability

Increased Self-Neglect and Safeguarding

Based on the duty to safeguard, KCC will respond as appropriate and apply any waivers necessary to ensure care and support is provided regardless of an individual's ability to pay. KCC will respond as appropriate and on an individual basis and assess risks to the individual. High Risk Panels /Risk Forums can be accessed as required by practitioners for advice and guidance where an individual assessed as needing care and support decides to cancel or reduce care and support.

KCC has the power to exercise discretion when making decisions on charging, taking into account individual circumstances. KCC will act reasonably when making such decisions, for example, considering impact on person's wellbeing, individual financial hardship/outgoings.

Wellbeing and Mental Health

To minimise the effect on emotional, social wellbeing and mental health this proposal could have on people, practitioners will work with people that draw on care and support to ensure that the assessment and review process is holistic. They will work with the person to look at social and emotional needs and explore what is available within the community to support them.

Practitioners will take the opportunity during any contact (for example assessment and review) with the person and/ or their representative to establish impact on wellbeing, and respond appropriately in order to prevent, reduce or delay the impact on potential needs for care and support.

Community Involvement Officers will make links between communities and social care teams. Sharing with social care teams what networks and community support is available.

Impact of the cost of living on residents

In the context of the cost-of-living pressures, individuals will be entitled to request an individual Disability Related Expenditure Assessment (DREA) which could help if the proposed changes are approved following consultation and more information about individual rights to request a DREA and the eligibility criteria can be found on our KCC website www.kent.gov.uk/social-care-and-health/adult-social-care/paying-for-care/disability-related-expenditure-assessment. During the consultation there has been feedback on ensuring there is consistency with the DREA process, through improved training and practice guidance and dedicated staff. This feedback is being taken forward with recommendations that all requests for a DREA are presented to Practice Assurance Panels, that dedicated practitioners complete the DREA's as well as introducing DREA practice champions across the County, alongside general awareness raising for the social care workforce.

The Council also has the ability to provide exceptional disregards if individuals demonstrate basic living expenses cannot be met.

We will endeavour to make sure that people are aware of independent support and advice that is available through organisations such as Citizens Advice.

Disability and Complex Health Conditions

To reduce the impact on disabled people with complex health conditions individuals are entitled to request an individual Disability Related Expenditure Assessment (DREA). The DREA considers disability related expenses that are above the spending a person without the disability and complex health conditions would expect to pay. The operation of DRE: the greater the disability, the more likely it is that an individual will have DRE. The more disabled the person is, the more DRE they are likely to have, so more income will be discounted. They are unique to the individual.

To encourage individuals to apply for individualised assessment/inform them of right to request it, the following actions are underway:

- Improving information and guidance on individual DRE on website.
- Developing a digital solution for people to request an individualised DRE.
- Ensuring consistency in the approach of assessment for individualised DRE through dedicated staff.
- Ensuring consistency on approval for individualised DRE through peer approval panels.
- Communication with people affected by the proposed policy change including guidance on individualised DRE.

Care and Support Statutory Guidance

The Department of Health and Social Care's guidance states that a person will have their benefits maximised at the same time as the means tested assessment is carried out. Having benefits maximised helps with persons overall wellbeing, can reduce stress and can help to reduce the risk of a deterioration in a person's wellbeing. It is KCC practice, at the same time as the means tested assessment, to help a

person claim all their entitled benefits. The Financial Assessment Officer will ensure the person is advised of the benefits they may be entitled to and ensure they receive the correct advice and information on how to claim, which may include signposting to the relevant organisations.

Direct Payments

Practitioners will work with people that draw on care and support to ensure if a direct payment cannot be accessed there is consideration to how care and support needs can be met.

d) Responsible Officer for Mitigating Actions - Disability

Sarah Denson – Assistant Director SSPPQA

21. Negative Impacts and Mitigating actions for Sex

a) Are there negative impacts for Sex? Answer: Yes/No

(If yes, please also complete sections b, c, and d).

Yes

b) Details of Negative Impacts for Sex

Whilst the proposed changes do not directly impact people based on their sex, we recognise that the data shows there is a disproportionate representation as outlined below.

In the data for young people (18-25) who draw on support 65.36% (400) of the group that may be affected are male whilst 34.64% (212) are female.

Sex	Individuals Count	% of Total
Female	212	34.64%
Male	400	65.36%
Total	612	100%

In the data for adults (18+) who draw on support, 43% (4,896) are female whilst 36% (4,051) are male.

Sex	Individual count of those that may be affected by the proposal	Total	% of Total (those that may be affected)
Female	4,896	6,192	43%
Male	4,051	5,136	36%
Not recorded	28	33	<1%
Unknown	36	45	<1%
Total	9,011	11,406	79%

During the consultation there were not any comments in regard to the impact or differences in opinion between men and women.

c) Mitigating Actions for Sex

To consider any individual needs, practitioners will work with people that draw on care and support to ensure that the assessment and review process is holistic.

Practitioners will take the opportunity during any contact (for example assessment and review) with the person and/ or their representative to establish impact on individual needs.

d) Responsible Officer for Mitigating Actions - Sex

Sarah Denson – Assistant Director SSPPQA

22. Negative Impacts and Mitigating actions for Gender identity/transgender

a) Are there negative impacts for Gender identity/transgender? Answer: Yes/No
(If yes, please also complete sections b, c, and d).

No

b) Details of Negative Impacts for Gender identity/transgender

c) Mitigating actions for Gender identity/transgender

d) Responsible Officer for Mitigating Actions - Gender identity/transgender

23. Negative Impacts and Mitigating actions for Race

a) Are there negative impacts for Race? Answer: Yes/No
(If yes, please also complete sections b, c, and d).

Yes

b) Details of Negative Impacts for Race

Whilst the proposed changes do not directly impact people based on their race, we recognise that there are specific health and economic inequalities that should be considered in terms of the impact of the proposed changes. People from a Black, Asian and other minority ethnic backgrounds are more likely to suffer from underlying health conditions.

In the data for young people (18-25) who draw on support 8% (52) of the group that may be affected are Black, Asian and other minority ethnic backgrounds. They could be impacted negatively by the proposed changes.

Race	Individuals Count	% of Total
Asian and any other Asian background	19	3%
Black and any other Black background	20	3%
Any other mixed background	13	2%
Not Recorded/Not Stated	0	0%
Any other Ethnic Groups	6	1%
White - British	520	85%
White - Other	34	6%
Total	612	100%

In the data for adults (18+) who draw on support 3% (387) of the group that may be affected are Black, Asian and other minority ethnic backgrounds and 4% (462) unknown. They could be impacted negatively by the proposed changes.

Race	Individual count of those that may be affected by the proposal	Total	% of Total (those that may be affected)
Asian/Asian British	165	227	1%

Black, Black British, Black Welsh, Caribbean or African or Unspecified	90	127	1%
Mixed/Multiple ethnic groups	100	126	1%
Not Recorded/Not Stated	462	807	4%
Any Other Ethnic Groups	32	49	<1%
White - British	7,783	9,534	68%
White - Other	379	536	3%
Total	9,011	11,406	79%

Direct Payments

A small number of people with a direct payment could be impacted by this proposal. Following a person's financial assessment the contribution that they are assessed to pay is deducted from the personal budget/direct payment i.e. the person is paid their direct payment net of their financial contribution. This could mean that the person may no longer be able to use a direct payment and therefore no longer has the flexibility that direct payments allow, this could be accessing culturally relevant care and support.

c) Mitigating Actions for Race

Impact of the cost of living on residents

In the context of the cost-of-living pressures, individuals will be entitled to request an individual Disability Related Expenditure Assessment (DREA) which could help if the proposed changes are approved following consultation and more information about individual rights to request a DREA and the eligibility criteria can be found on our KCC website www.kent.gov.uk/social-care-and-health/adult-social-care/paying-for-care/disability-related-expenditure-assessment. During the consultation there has been feedback on ensuring there is consistency with the DREA process, through improved training and practice guidance and dedicated staff. This feedback is being taken forward with recommendations that all requests for a DREA are presented to Practice Assurance Panels, that dedicated practitioners complete the DREA's as well as introducing DREA practice champions across the County, alongside general awareness raising for the social care workforce.

The Council also has the ability to provide exceptional disregards if individuals demonstrate basic living expenses cannot be met.

We will endeavour to make sure that people are aware of independent support and advice that is available through organisations such as Citizens Advice.

Direct Payments

Practitioners will work with people that draw on care and support to ensure if a direct payment cannot be accessed there is consideration to how care and support needs can be met.

Disability and Complex Health Conditions

To reduce the impact on disabled people with complex health conditions individuals will be entitled to request an individual Disability Related Expenditure Assessment (DREA). The DREA considers disability

related expenses that are above the spending a person without the disability and complex health conditions would expect to pay. They are unique to the individual.

d) Responsible Officer for Mitigating Actions – Race

Sarah Denson – Assistant Director SSPPQA

24. Negative Impacts and Mitigating actions for Religion and belief

a) Are there negative impacts for Religion and Belief? Answer: Yes/No

(If yes, please also complete sections b, c, and d).

No

b) Details of Negative Impacts for Religion and belief

Whilst the proposed changes do not directly impact people based on their religion and belief, there is a large number where religion and belief are unknown therefore actions are required to improve our data.

Direct Payments

A small number of people with a direct payment could be impacted by this proposal. Following a person’s financial assessment the contribution that they are assessed to pay is deducted from the personal budget/direct payment i.e. the person is paid their direct payment net of their financial contribution. This could mean that the person may no longer be able to use a direct payment and therefore no longer has the flexibility that direct payments allow, this could be accessing culturally relevant care and support.

c) Mitigating Actions for Religion and belief

We need to improve our data; this is being addressed through our operational teams which includes action on how we improve collecting data.

Direct Payments

Practitioners will work with people that draw on care and support to ensure if a direct payment cannot be accessed there is consideration to how care and support needs can be met, in particular culturally relevant care and support.

d) Responsible Officer for Mitigating Actions - Religion and belief

Sarah Denson – Assistant Director SSPPQA

25. Negative Impacts and Mitigating actions for Sexual Orientation

a) Are there negative impacts for sexual orientation. Answer:

Yes/No (If yes, please also complete sections b, c, and d).

No

b) Details of Negative Impacts for Sexual Orientation

c) Mitigating Actions for Sexual Orientation

d) Responsible Officer for Mitigating Actions - Sexual Orientation

Sarah Denson – Assistant Director SSPPQA

26. Negative Impacts and Mitigating actions for Pregnancy and Maternity

a) Are there negative impacts for Pregnancy and Maternity? Answer: Yes/No

(If yes, please also complete sections b, c, and d).

No

b) Details of Negative Impacts for Pregnancy and Maternity

c) Mitigating Actions for Pregnancy and Maternity

d) Responsible Officer for Mitigating Actions - Pregnancy and Maternity

Sarah Denson – Assistant Director SSPPQA

27. Negative Impacts and Mitigating actions for marriage and civil partnerships

a) Are there negative impacts for Marriage and Civil Partnerships? Answer: Yes/No
(If yes, please also complete sections b, c, and d).

No

b) Details of Negative Impacts for Marriage and Civil Partnerships**c) Mitigating Actions for Marriage and Civil Partnerships****d) Responsible Officer for Mitigating Actions - Marriage and Civil Partnerships**

Sarah Denson – Assistant Director SSPPQA

28. Negative Impacts and Mitigating actions for Carer’s responsibilities

a) Are there negative impacts for Carer’s responsibilities? Answer: Yes/No
(If yes, please also complete sections b, c, and d).

Yes

b) Details of Negative Impacts for Carer’s Responsibilities

The change may result in increased charges to individuals because less income will be disregarded, so may result in the following:

- Person may choose not to receive care from KCC because of increased charges. This might result in needs being unmet and impact on their safety and wellbeing.
- As a result, any carer may be required to provide more unpaid care, thereby affecting their economic wellbeing.
- This might also result in increased need for support from other KCC services such as more respite or the carer is not willing and able to continue with their caring role and ASC needs to meet all needs.
- Increase in safeguarding concerns due to carer breakdown.

The Care Act says Local Authorities should have regard for whether a carer works or not or whether they are participating in or wish to participate in education, training or recreational activities.

In the data for young people (aged 18-25) who draw on care and support there was no carer responsibility identified.

In adults (18+) out of the potentially 79% (9,011) individuals who may be affected. 2% (238) have carer responsibility while 77% (8,773) do not.

In Kent, an estimated 148,341 adults aged 16+ provide the following unpaid care each week:

- 94,640 provide 1-19 hours
- 18,131 provide 20-49 hours
- 35,570 provide 50 hours

Therefore, Carers are playing a key role in supporting people and if impacted by this proposal could increase carer support needs and the care and support for individuals they are caring for.

Wellbeing and Mental Health

There is a big responsibility on Carers who are already providing unpaid care and support. A lot of Carers and families are already facing problems with their financial, mental and physical wellbeing. If people decide not to go ahead with some of the care they receive due to introduction of the proposal this could have a huge impact on the financial, mental and physical health of everyone involved including Carers and

families. This is because the pressure of supporting them could fall on their Carers and this could impact them unfairly.

Financial Impact on Carers

The consultation highlighted the potential negative financial impact on Carers.

Consultation feedback:

- “My son’s PIP is used for other important things, such as clothes, food and travel to name but a few, if this is used to pay is day to day care in the community it just will not stretch. This on top of the fact you only like to spend money to support three days out in daycare services, when they are at school for five days also means my husband and I will have a lot less money as we will have to give up work to cover this. We can’t have help taken away from every direction”.
- “This service was given to me so that my daughters could have their own life's. They are young carers and were doing all the household chores. This was set in place to relief them of the burden. If I was made to pay for my care, I could not afford it as I use my pip to pay my mortgage and have no disposable income. This means I would have to cancel the support I get and my children's life's would take a huge impact”.

c) Mitigating Actions for Carer’s responsibilities

The Care Act (2014) and its supporting regulations and guidance sets out a clear legal framework for how local authorities support an individual who has been identified as a Carer.

An individual who has been identified as a Carer can be eligible for support in their own right. Carers have the right to information, advice and guidance, prevention, needs assessments, eligibility criteria, personal budgets, support planning, direct payments and reviews.

Wellbeing and Mental Health

To minimise the effect on emotional, social wellbeing and mental health this proposal could have on people, practitioners and Carer organisations will work with Carers to ensure that the assessment and review process is holistic. They will work with the person to look at social and emotional needs and explore what is available within the community to support them.

Practitioners will take the opportunity during any contact (for example assessment and review) with the Carer to establish impact on wellbeing, and respond appropriately in order to prevent, reduce or delay the impact on potential needs for care and support.

Community Involvement Officers will make links between communities and social care teams. Sharing with social care teams what networks and community support is available.

Working with health and social care staff to ensure Carers are signposted and connected with the right information, advice and guidance.

Financial Impact on Carers

An individual who has been identified as a Carer can be eligible for support in their own right. Carers have the right to information, advice and guidance, prevention, needs assessments, eligibility criteria, personal budgets, support planning, direct payments and reviews.

If the carer supporting the person is impacted by this proposal, the Carer could request the person has an individual Disability Related Expenditure Assessment (DREA) which could help if the proposed changes

are approved following consultation and more information about individual rights to request a DRE assessment and the eligibility criteria can be found on our KCC website [Disability related expenditure assessment - Kent County Council](#). During the consultation there has been feedback on ensuring there is consistency with the DREA process, through improved training and practice guidance and dedicated staff. This feedback is being taken forward with recommendations that all requests for a DREA are presented to Practice Assurance Panels, that dedicated practitioners complete the DREA's as well as introducing DREA practice champions across the County, alongside general awareness raising for the social care workforce.

The Council also has the ability to provide exceptional disregards if individuals demonstrate basic living expenses cannot be met.

We will endeavour to make sure that people are aware of independent support and advice that is available through organisations such as Citizens Advice.

d) Responsible Officer for Mitigating Actions - Carer's Responsibilities

Sarah Denson – Assistant Director SSPPQA

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Appendix C - Post consultation mitigations

Mitigation	Impact financially	Impact on people we support	Impact operationally	Overall impact
Increasing the Minimum Income Guarantee (MIG) for all affected individuals.	<p>Does not deliver the financial aim of achieving the desired level of income.</p> <p>For example, every £1 increase will reduce the full year income by £145k (does not take into account debt/increased DRE).</p>	<p>This option could reduce the impact on people we support but this would be dependent on the contribution an individual pays and the cost of their care.</p> <p>For majority of people we support they will see an increase of the full amount (£33.65 per week) and therefore any increase to the MIG would have a minor effect on the impact of this proposal.</p>	<p>This would require a manual implementation process, therefore, increasing administration and additional resources:</p> <ul style="list-style-type: none"> • implementation over a 3-month period – approximately £36k • ongoing monitoring* – approximately £72k <p>*ongoing monitoring would be required until all financially affected individual were no longer receiving care and support in their own home or in the community.</p> <p>To remove the need for a manual process, significant changes would be required to Mosaic (ASCH case management system). These changes would require a third party to action at a significant cost.</p>	<p>This option has been ruled out due to not delivering the financial aim of achieving the desired level of income, increased administration and having a minor effect on the negative impact for people we support.</p> <p>To make amendments would result in the Council no longer being in line with national guidance and doubling the currently number of permutations.</p> <p>The MIG was reviewed four years ago and brought in line with national guidance.</p>
Increasing	Does not deliver the financial	This option could reduce	This would require	This option has been ruled

<p>the Disability Related Expenditure (DRE) for individuals receiving higher rate benefits.</p>	<p>aim of achieving the desired level of income.</p> <p>For example, every £1 increase will reduce the full year income by £145k (does not take into account debt/increased DRE).</p>	<p>the impact on people we support but this would be dependent on the contribution an individual pays and the cost of their care.</p> <p>For majority of people we support they will see an increase of the full amount (£33.65 per week) and therefore any increase to the DRE would have a minor effect on the impact of this proposal.</p>	<p>increased administration if this was to be only implemented for existing people impacted by the proposal because of needing to create a manual process.</p> <p>To implement a manual process, would require increasing administration additional resources:</p> <ul style="list-style-type: none"> • implementation over a 3-month period – approximately £36k • ongoing monitoring* – approximately £72k <p>*ongoing monitoring would be required until all financially affected individual were no longer receiving care and support in their own home or in the community.</p> <p>To remove the need for a manual process, changes would be required to Mosaic (ASCH case management system). This would result in being applied to all existing and new people. These</p>	<p>out due to not delivering the financial aim of achieving the desired level of income, increased administration and having a minor effect on the negative impact for people we support.</p>
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			changes would require a third party to action at a significant cost.	
<p>Introduce an exceptional disregard for all affected individuals.</p>	<p>Does not deliver the financial aim of achieving the desired level of income.</p> <p>For example, every £1 increase will reduce the full year income by £145k (does not take into account debt/increased DRE).</p>	<p>This option could reduce the impact on people we support but this would be dependent on the contribution an individual pays and the cost of their care.</p> <p>For majority of people we support they will see an increase of the full amount (£33.65 per week) and therefore any exceptional disregard would have a minor effect on the impact of this proposal.</p> <p>This would also create a differential impact on people with the same financial means.</p>	<p>This would require increased administration if this was to be only implemented for existing people impacted by the proposal because of needing to create a manual process.</p> <p>To implement a manual process, would require increasing administration additional resources:</p> <ul style="list-style-type: none"> • implementation over a 3-month period – approximately £36k • ongoing monitoring* – approximately £72k <p>*ongoing monitoring would be required until all financially affected individual were no longer receiving care and support in their own home or in the community.</p> <p>To remove the need for a manual process, changes would be required to Mosaic</p>	<p>This option has been ruled out due to not delivering the financial aim of achieving the desired level of income, increased administration and having a minor effect on the negative impact for people we support.</p>

			(ASCH case management system). This would result in being applied to all existing and new people. These changes would require a third party to action at a significant cost.	
Phase the changes to the charging policy over three years.	<p>Does not deliver the financial aim of achieving the desired level of income.</p> <p>The income would be over three years and therefore not achieve the level of income required for 24/25 onwards.</p> <p>For example, £33.65 per week over three years based on the current implementation timeline:</p> <ul style="list-style-type: none"> • July 2024 £12 (Implementation) • April 2025 £12 • April 2026 £9.65 <p>The financial impact and reduced income based on the current implementation timeline would be as follows:</p> <ul style="list-style-type: none"> • July 2024 £1.33 million • April 2025 £1.69 million • April 2026 £1.75 million 	<p>Reduces the initial impact on people we support as the increased charging would be introduced over a three-year period.</p> <p>However, after the three years the full proposed charge would be applicable and would still have a negative impact on people we support.</p>	<p>This would require increased administration if this was to be only implemented for existing people impacted by the proposal because of needing to create a manual process.</p> <p>This would require a manual process, therefore, increasing administration and would require the following additional resources:</p> <ul style="list-style-type: none"> • implementation over a 3-month period – approximately £36k • ongoing monitoring* – approximately £72k • annual reassessment process** over a 4-month period – approximately £120k <p>*ongoing monitoring would</p>	<p>This option has been ruled out due to not delivering the financial aim of achieving the desired level of income, significant increased administration and although initial reduced impact for people their charges would still increase over a three-year period.</p>

			<p>be required until all financially affected individual were no longer receiving care and support in their own home or in the community.</p> <p>** this would be required for year two and year three.</p> <p>To remove the need for a manual process, changes would be required to Mosaic (ASCH case management system). This would result in being applied to all existing and new people. These changes would require a third party to action at a significant cost.</p>	
<p>Automatically carry out an individual DRE assessment for everyone financially affected</p>	<p>An individual DREA is available to people who draw on care and support at any time.</p> <p>The council always runs the risk of DRE's higher than the standard £17 as this is based on individual need.</p>	<p>This will be resource intensive for people as they need to provide evidence of expenditure and could see people go through an unnecessary process as a DREA may not be relevant.</p> <p>A new DREA could lead to an increased DRE payment, and this could</p>	<p>This would significantly increase administration due to being a manual process and would require the following additional resources:</p> <ul style="list-style-type: none"> • implementation face to face, over a 3-month period – approximately £155k • financial reassessment – 	<p>This option has been ruled out due to the significant increase in administration and the possibility for people to go through an unnecessary process.</p>

		<p>reduce the negative impact of the proposed changes.</p> <p>Not everyone could see an increase in DRE payments because they may not have the additional disability expenditure and the £17 standard DRE is sufficient. Therefore, not reducing the negative impact for these people.</p>	<p>approximately £71,844</p> <p>DREA's are reviewed annually and therefore will require additional resources on an annual basis.</p>	
Not to implement proposed policy change	Does not deliver the financial aim of achieving the desired level of income.	<p>No increase to charges over and above annual increases.</p> <p>Therefore, there is no negative impact on people we support.</p>	<p>Requires no system or policy changes and no additional resources.</p> <p>Therefore, there is no impact operational.</p>	<p>This option has been ruled out due to not delivering the financial aim of achieving the desired level of income.</p> <p>Alternative savings/income would need to be achieved in other areas in KCC services.</p>

Key:

RAG	Definition
	Does not deliver the financial aim of achieving the desired level of income
	Has an impact on the financial aim of achieving the desired level of income
	Has a minimal impact on the financial aim of achieving the desired level of income

Appendix D – Financial calculation examples and mitigations explored

Section 14(7) of the Act provides that a local authority may not make a charge for services under section 14(1) of the Act if the adult or carer's income would, after deduction of the amount of the charge, fall below the amount specified in regulations. Regulations 6 and 7 of the Care and Support (Charging and Assessment of Resources) Regulations 2014 (“the Regulations”) specify the personal expenses allowance for residents or temporary residents provided with accommodation in a care home and the minimum income guaranteed amount for other adults and carers provided with care and support, or support. The personal expenses allowance is £28.24 for each week.

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/the Regulations, 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 minimum amount is a weekly amount and is known as the Minimum Income Guarantee.

For this financial year (2024 to 2025), the rates of the MIG are as follows where the adult concerned is:

- responsible for, and a member of, the same household as a child, the amount of £101.25 in respect of each child
- a single person and—
 - is aged 18 or older but less than 25, the amount of £87.65
 - is aged 25 or older but less than pension credit age, the amount of £110.60
 - has attained pension credit age, the amount of £228.70
 - is a lone parent aged 18 or over, the amount of £110.60
- is a member of a couple and—
 - one or both are aged 18 or over, the amount of £86.85
 - one or both have attained pension credit age, the amount of £174.60
- is a single person who is in receipt of, or the local authority considers would, if in receipt of income support, be in receipt of—
 - disability premium, the amount of the applicable premium is £48.80
 - enhanced disability premium, the amount of the applicable premium is £23.85
- is a member of a couple and one member of that couple is in receipt of, or the local authority considers would, if in receipt of income support, be in receipt of—
 - disability premium, the amount of the applicable premium is £34.80
 - enhanced disability premium, the amount of the applicable premium is £17.15

The amounts reflect the applicable amounts for income support and an additional amount in respect of each child for whom the adult is responsible together with any applicable premiums. Footnote 1 to regulation 7 of the Regulations explained that a buffer of 25% has been added to each specified amount and the applicable premium. Applicable premiums include carer premiums and disability premiums that are either paid, or would be payable, under the Income Support Regulations. The local authority can also include the listed premiums where it is satisfied that a person would be in receipt of the premium were they to be in receipt of income support.

Example 1 – Luke – is 31, single and lives with his parents, has no dependants and has severe autism.

Benefit & Purpose	Weekly Rate	MIG / Disregard	Luke's situation
UC standard allowance <i>[subsistence expenses]</i>	£90.80	£110.60 2014 Regs, reg. 7(2)(b) (c.f. standard allowance + 25% = £113.50)	Luke retains in full <i>(£90.80 per week disregarded within MIG, leaving £19.80 of £110.60)</i>
UC LCWRA allowance <i>[contribution to higher living costs due to disabilities, cannot supplement with income from work]</i>	£96.04	£92.45*	Luke retains most of LCWRA allowance within MIG disability premium disregard *Disregard £72.65 of £96.04 and the £19.80 remaining from standard MIG Luke retains £92.45 from £96.04 LCWRA allowance Thus £3.59 of UC taken into account
<i>c.f. Income Support Disability premiums</i>	Disability premium: £42.50- 1987 Regs, sch 2, para 15 Enhanced disability premium: £20.85 - 1987 Regs, sch 2, para 15) Total premiums: £63.35	Disability premium, disregard £48.80 2014 Regs, reg.7(5)(a) Enhanced disability premium disregard £23.85 2014 Regs, reg 7(5)(b) Total disregards: £72.65	

PIP Mobility element (higher rate) <i>[contribution to additional costs relating to disability, non-means tested]</i>	£75.75	Full disregard 2014 Regs: sch 1, para 8	Luke retains in full Luke has chosen to use this to fund Motability vehicle to meet transport needs
PIP Daily living element <i>[contribution to additional costs relating to disability, non-means tested]</i>	£108.55	Disregard of DRE 2014 Regs: sch 1, para 4	Luke has DRE disregard of £17.00 £91.55 of PIP daily living award remaining to pay for care and support services provided by Council to meet needs arising out of disability

From Luke's total income of £371.14 per week, the Council takes into account for charging £95.14 (£3.59 of UC LCWRA + £91.55 of PIP)

Luke pays 25.63% of his income to the Council in charges.

Example 2 - Paula – is 45, single and lives alone with no dependents and has a terminal illness.

<p>UC standard allowance <i>[subsistence expenses]</i></p>	<p>£90.80</p>	<p>£110.60 2014 Regs, reg. 7(2)(b) (c.f. standard allowance + 25% = £113.50)</p>	<p>Paula retains in full <i>(£90.80 per week disregarded within MIG, leaving £19.80 of £110.60)</i></p>
<p>UC LCWRA allowance <i>[contribution to higher living costs due to disabilities, cannot supplement with income from work]</i></p>	<p>£96.04</p>	<p>£92.45*</p>	<p>Paula retains most of LCWRA allowance within MIG disability premium disregard *Disregard £72.65 of £96.04 <u>and</u> the £19.80 remaining from standard MIG Paula retains £92.45 from £96.04 LCWRA allowance Thus £3.59 of UC taken into account</p>
<p><i>c.f. Income Support Disability premiums</i></p>	<p>Disability premium: £42.50- 1987 Regs, sch 2, para 15 Enhanced disability premium: £20.85 - 1987 Regs, sch 2, para 15)</p>	<p>Disability premium, disregard £48.80 2014 Regs, reg.7(5)(a) Enhanced disability premium disregard £23.85 2014 Regs, reg 7(5)(b)</p>	

	Total premiums: £63.35	Total disregards: £72.65	
PIP Mobility element (higher rate) <i>[contribution to additional costs relating to disability, non-means tested]</i>	£75.75	Full disregard 2014 Regs: sch 1, para 8	Paula retains in full Paula has chosen to use this to fund Motability vehicle to meet transport needs
PIP Daily living element <i>[contribution to additional costs relating to disability, non-means tested]</i>	£108.55	Disregard of DRE 2014 Regs: sch 1, para 4	Paula has a DRE disregard of £65.00 £43.55 of PIP daily living award remaining to pay for care and support services provided by Council to meet needs arising out of disability

From Paula's total income of £371.14 per week, the Council takes into account for charging £47.14 (£3.59 of UC LCWRA + £43.55 of PIP)

Paula pays 12.7% of her income to the Council in charges.

Example 3 - Daniel – is 19, lives with his parents has no dependents and has severe cerebral palsy.

Benefit & Purpose	Weekly Rate	MIG / Disregard	Daniel's situation
UC standard allowance <i>[subsistence expenses]</i>	£71.93	£87.65 2014 Regs, reg. 7(2)(b) (c.f. standard allowance + 25% = £89.91)	Daniel retains in full <i>(£71.93 per week disregarded within MIG, leaving £15.72 of £87.65)</i>
UC LCWRA allowance <i>[contribution to higher living costs due to disabilities, cannot supplement with income from work]</i> <i>c.f. Income Support Disability premiums</i>	£96.04 Disability premium: £42.50- 1987 Regs, sch 2, para 15 Enhanced disability premium: £20.85 - 1987 Regs, sch 2, para 15)	£88.37* Disability premium, disregard £48.80 2014 Regs, reg.7(5)(a) Enhanced disability premium disregard £23.85 2014 Regs, reg 7(5)(b) Total disregards:	Daniel retains most of LCWRA allowance within MIG disability premium disregard *Disregard £72.65 of £96.04 <u>and</u> the £15.72 remaining from standard MIG Daniel retains £88.37 from £96.04 LCWRA allowance Thus £7.67 of UC taken into account

	Total premiums: £63.35	£72.65	
PIP Mobility element (higher rate) <i>[contribution to additional costs relating to disability, non-means tested]</i>	£75.75	Full disregard 2014 Regs: sch 1, para 8	Daniel retains in full
PIP Daily living element <i>[contribution to additional costs relating to disability, non-means tested]</i>	£108.55	Disregard of DRE 2014 Regs: sch 1, para 4	Daniel has DRE disregard of £17.00 £91.55 of PIP daily living award remaining to pay for care and support services provided by Council to meet needs arising out of disability

From Daniel's total income of £352.27 per week, the Council takes into account for charging £99.22 (£7.67 of UC LCWRA + £91.55 of PIP)

Daniel pays 28.16% of his income to the Council in charges.

Example 4 - Poppy – is 22 lives alone in supported living has no dependents and is a quadriplegic following a car accident.

Benefit & Purpose	Weekly Rate	MIG / Disregard	Poppy's situation
UC standard allowance <i>[subsistence expenses]</i>	£71.93	£87.65 2014 Regs, reg. 7(2)(b) (c.f. standard allowance + 25% = £89.91)	Poppy retains in full <i>(£71.93 per week disregarded within MIG, leaving £15.72 of £87.65)</i>
UC LCWRA allowance <i>[contribution to higher living costs due to disabilities, cannot supplement with income from work]</i>	£96.04	£88.37*	Poppy retains most of LCWRA allowance within MIG disability premium disregard *Disregard £72.65 of £96.04 <u>and</u> the £15.72 remaining from standard MIG Poppy retains £88.37 from £96.04 LCWRA allowance Thus £7.67 of UC taken into account
<i>c.f. Income Support Disability premiums</i>	Disability premium: £42.50- 1987 Regs, sch 2, para 15 Enhanced disability premium: £20.85 - 1987	Disability premium, disregard £48.80 2014 Regs, reg.7(5)(a) Enhanced disability premium disregard £23.85 2014 Regs, reg 7(5)(b)	

	Regs, sch 2, para 15) Total premiums: £63.35	Total disregards: £72.65	
PIP Mobility element (higher rate) <i>[contribution to additional costs relating to disability, non-means tested]</i>	£75.75	Full disregard 2014 Regs: sch 1, para 8	Poppy retains in full
PIP Daily living element <i>[contribution to additional costs relating to disability, non-means tested]</i>	£108.55	Disregard of DRE 2014 Regs: sch 1, para 4	Poppy has DRE disregard of £58.00 £50.55 of PIP daily living award remaining to pay for care and support services provided by Council to meet needs arising out of disability

From Poppy's total income of £352.27 per week, the Council takes into account for charging £58.22 (£7.67 of UC LCWRA + £50.55 of PIP)

Poppy pays 16.53% of her income to the Council in charges.

	Total premiums: £63.35	Total disregards: £72.65	
PIP Daily living element <i>[contribution to additional costs relating to disability, non-means tested]</i>	£72.65	Disregard of DRE 2014 Regs: sch 1, para 4	Christopher has DRE disregard of £17.00. £55.65 of PIP daily living award remaining to pay for care and support services provided by Council to meet needs arising out of disability

From Christopher's total income of £240.62 per week, the Council takes into account for charging £63.32 (£7.67 of UC LCWRA + £55.65 of PIP)

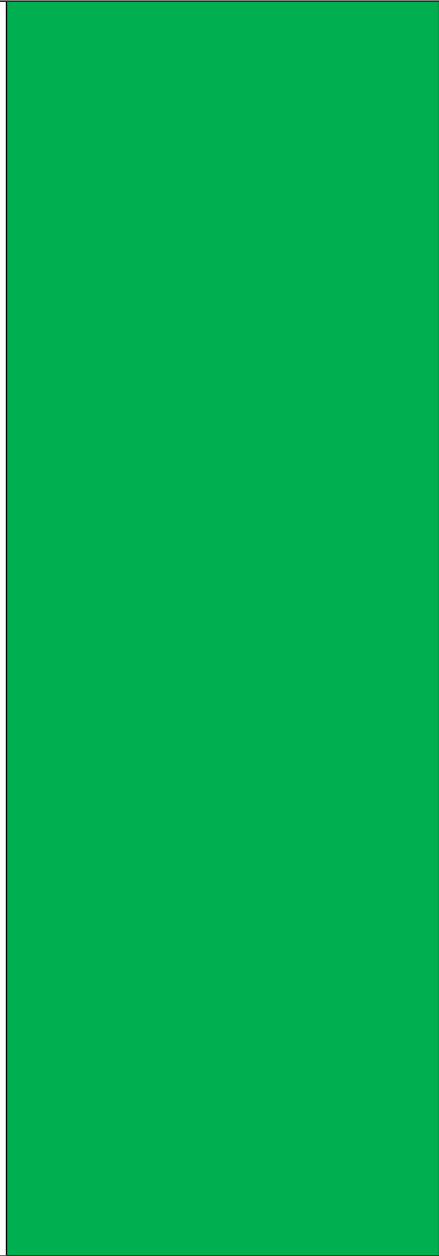
Christopher pays 26.32% of his income to the Council in charges.

Mitigation	Impact financially	Impact on people we support	Impact operationally	Overall impact
<p>Increasing the Minimum Income Guarantee (MIG) for all affected individuals.</p>	<p>Does not deliver the aim of achieving the desired level of income.</p> <p>Option 1 – If we increase the MIG allowing more ‘disposable income’ for only those people financially disadvantaged by the charging policy changes (i.e. those in receipt of higher rate PIP/DLA) the cost to the council will be:</p> <ul style="list-style-type: none"> • 5% - £1.36m approx. 2,900 people • 10% - £2.69m approx. 3,000 people <p><i>(the £4.7m full year income would be reduced by the above amounts)</i></p> <p>Option 2 – If we increase the MIG allowing more ‘disposable income’ for everyone who pays towards their services who has MIG applied to their financial assessment, regardless of whether they are financially disadvantaged by the charging policy changes:</p>	<p>This option could reduce the impact on people we support but this would be dependent on the contribution an individual pays and the cost of their care.</p>	<p>In order for this to be applied to only people affected would require a manual implementation process, which results in increased administration costs. To remove the need for a manual process, significant changes would be required to Mosaic (ASCH case management system) and the increased MIG would be applied to everyone which will have a significant financial impact and will not treat people affected by the proposal differently.</p>	<p>Officers do not advise taking this option. This option would not deliver the desired level of income and (if applied only to those directly affected by the policy change) would result in increased administration and increased costs.</p> <p>If applied to all ASC users, this mitigation would not take into account individual circumstances as would be applied to all.</p> <p>KCC has set a balanced budget, which required a challenging set of spending cuts and income generation. In setting the budget, KCC has made local policy decisions covering spending, savings and income, and local taxation. If the maximum level of income is not generated by this policy, KCC will have no option but to make cuts to services in ASC (or other areas). It is for elected</p>

	<ul style="list-style-type: none"> • 5% - £3.12m approx. 5,400 people • 10% - £6.17m approx. 5,400 people <p><i>(the £4.7m full year income would be reduced by the above amounts and in the case of the 10% option it would actually be a cost to the council as approximately 2,500 people will financially benefit who are not impacted by the changes)</i></p>			<p>members to decide on KCC's spending priorities, taking into account the impact on people who draw on care and support and all of KCC's population.</p>
<p>An increase to the £17 standard Disability Related Expenditure (DRE) that is already applied to all people in receipt of non residential services for individuals receiving higher rate benefits.</p>	<p>Does not deliver the financial aim of achieving the desired level of income.</p> <p>For example, a £5 increase to the flat rate DRE afforded to all, will reduce the full year income after contingency by £563k (does not take into individual DRE).</p>	<p>This option could reduce the impact on people we support, but this would be dependent on (a) any individually assessed DRE; (b) the disability-related expenditure that each individual has. It could result in a proportion of individuals receiving more DRE than the actual DRE they incur.</p>	<p>In order for this to be applied to only people affected would require a manual implementation process, which results in increased administration costs.</p>	<p>Officers do not advise taking this option. It would not deliver the financial aim of achieving the desired level of income and (if applied only to those directly affected by the policy change) would result in increased administration and increased costs.</p> <p>see above for consideration of alternatives if this option were taken.</p> <p>This mitigation does not take into account individual circumstances as would be</p>

<p>This is in addition to any individual DRE applications.</p>				<p>applied to all who receive higher rate benefits.</p> <p>All people that draw on care and support are entitled to apply for an individualised DRE assessment. Officers financial estimates assume approximately 300 people will request an individualised DRE assessment. If the number of people requesting an individualised DREA is above 300, this would have an impact on the level of income generation.</p>
<p>Phase the changes to the charging policy over three years.</p>	<p>Does not deliver the financial aim of achieving the desired level of income.</p> <p>The income would be over three years and therefore not achieve the level of income required for 24/25 onwards.</p> <p>For example, £33.65 per week over three years based on the current implementation timeline:</p> <ul style="list-style-type: none"> • July 2024 £12 (Implementation) • April 2025 £12 • April 2026 £9.65 	<p>Reduces the initial impact on people we support as the increased charging would be introduced over a three-year period.</p> <p>However, after the three years the full proposed charge would be applicable and would still have a negative impact on people we support.</p>	<p>This would require increased administration if this was to be only implemented for existing people impacted by the proposal because of needing to create a manual process.</p> <p>This would require a manual process, therefore, increasing administration and would require the following additional resources:</p>	<p>Officers do not advise taking this option. It would not achieve the desired level of income, would result in significant increased administration and administration costs. Although this would initially reduce impact for people their charges would still increase over a three-year period.</p>

	<p>The financial impact and reduced income based on the current implementation timeline would be as follows:</p> <ul style="list-style-type: none"> • July 2024 £1.33 million • April 2025 £1.69 million • April 2026 £1.75 million 		<ul style="list-style-type: none"> • implementation over a 3-month period – approximately £36k • ongoing monitoring* – approximately £72k • annual reassessment process** over a 4-month period – approximately £120k <p>*ongoing monitoring would be required until all financially affected individual were no longer receiving care and support in their own home or in the community.</p> <p>** this would be required for year two and year three.</p> <p>To remove the need for a manual process, changes would be required to Mosaic (ASCH case management system). This would result in being applied to all existing and new people. These changes would require a third party to action at a significant cost.</p>	
<p>Carry out an individual DRE assessment</p>	<p>An individual DREA is already available to people who draw on care and support at any time.</p>	<p>This will be resource intensive for people as they need to provide evidence of expenditure.</p>	<p>Work has begun to ensure the information provided to individuals and staff is clear, consistent and makes the</p>	<p>This option is recommended as a possible mitigation to reduce the impact of this proposal.</p>

<p>for anyone who requests one</p>	<p>The DRE afforded to an individual following an individual assessment may be higher than the standard £17, as this is based on individual need.</p>	<p>A new DREA could lead to an increased DRE payment, and this could reduce the negative impact of the proposed changes.</p> <p>Not everyone would see an increase in DRE payments because they may not have the additional disability expenditure and the £17 standard DRE is sufficient. This would not reduce the negative impact for these people.</p>	<p>assessment process as efficient as possible.</p> <p>To encourage individuals to apply for individualised assessment/inform them of right to request it, the following actions are underway:</p> <ul style="list-style-type: none"> - Improving information and guidance on individual DRE on website. - Developing a digital solution for people to request an individualised DRE. - Ensuring consistency in the approach of assessment for individualised DRE through dedicated staff. - Ensuring consistency on approval for individualised DRE through peer approval panels. - Communication with people affected by the proposed policy change include guidance on individualised DRE. 	
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<p>Not to implement proposed policy change</p> <p>Page 125</p>	<p>Does not deliver the financial aim of achieving the desired level of income.</p>	<p>No increase to charges over and above annual increases.</p> <p>Therefore, there is no negative impact on people we support.</p>	<p>Requires no system or policy changes and no additional resources.</p> <p>Therefore, there is no operational impact.</p>	<p>Officers do not advise this option. It would not achieve the aim of achieving the desired level of income.</p> <p>KCC has set a balanced budget, which required a challenging set of spending cuts and income generation. In setting the budget, KCC has made local policy decisions covering spending, savings and income, and local taxation. If the maximum level of income is not generated by this policy, KCC will have no option but to make cuts to services in ASC (or other areas). It is for elected members to decide on KCC's spending priorities, taking into account the impact on people who draw on care and support and all of KCC's population.</p>
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Key:

RAG	Definition
Red	Does not deliver the financial aim of achieving the desired level of income
Yellow	Has an impact on the financial aim of achieving the desired level of income
Green	Has a minimal impact on the financial aim of achieving the desired level of income

From: Joel Cook – Democratic Services Manager
To: **Scrutiny Committee – 10 July 2024**
Subject: SEND Scrutiny
Classification: **Unrestricted**

Recommendation:

Scrutiny Committee is asked to:

AGREE to adopt the following as the approach to SEND Scrutiny by the main committee:

- Scrutiny Committee to receive, as part of its existing meeting schedule, quarterly overview reports on SEND provision, including performance information such as KPIs.
- Each quarterly report to include a service or issue specific section providing further information, allowing for more detailed scrutiny on key areas.
- Separate, informal information gathering sessions will be organised in consultation with the Chair and Spokespeople to secure input from parents, carers and other relevant stakeholders.
- Ad hoc SEND related item requests will be managed in the context of this agreed protocol, without prejudice to Members' statutory rights to require that items be considered by the Scrutiny Committee.

Introduction

- 1) On 24 April 2024, the Scrutiny Committee reviewed the SEND Sub-Committee's One Year On Review report. At this meeting the Scrutiny Committee was asked to determine whether future work around the scrutiny of SEND provision required the dedicated sub-committee function or if the sub-committee should be discontinued and the delegated powers to scrutinise SEND provision returned to the main committee.
- 2) Previously, the SEND Sub-Committee had resolved, at its meeting in March 2024 to recommend that the sub-committee be disbanded, on the basis that it had maintained oversight during the development and embedding of the Accelerated Progress Plan (APP) but that the specific scrutiny activity of the sub-committee was no longer required. The intended role of the SEND Sub-Committee was to maintain oversight of and provide constructive challenge to the Executive in terms of how it was responding to the Ofsted and CQC findings via the APP.

- 3) Since the April 2024 meeting of Scrutiny Committee, the Chairman has engaged with Officers from CYPE and Democratic Services to explore possible approaches for ongoing scrutiny on SEND provision in a meaningful, proportionate and sustainable manner. A key principle of this work has been to identify ways to embed and regularise the scrutiny of SEND within KCC's statutory Scrutiny function. There has historically been a pattern of important and necessary but reactive consideration of significant SEND issues when they have arisen. The desire now is to agree a more long-term, co-ordinated, overarching oversight approach to scrutiny consideration of SEND.
- 4) The Scrutiny Committee has an important role to play in scrutinising SEND provision, using the evidence and findings to develop meaningful recommendations to improve SEND provision when possible and to continue to hold the responsible persons to account for the performance and delivery of SEND provision.
- 5) The following proposal has been developed, in consultation with the Chairman of the Committee, to support the Committee in determining an approach that provides for a robust scrutiny focus on SEND on a deliverable scale by making best use of available Council resources.

Proposed approach

- 6) The Scrutiny Committee will receive a quarterly report from the Children, Young People and Education (CYPE) Directorate on SEND Provision and arrangements in Kent.
- 7) This will include relevant key performance indicators for the Committee to scrutinise and appropriate progress updates. In addition to the routine information, the quarterly report will also focus on and explore a particular issue or service area within the SEND space. Selection of this issue, in reasonable time to allow for required information to be collated and prepared, will be managed through the existing Scrutiny agenda planning process set out in the Constitution involving the Chairman, Vice-Chair and Group Spokespeople.
- 8) Consideration of the quarterly report would provide the Committee with the necessary opportunity to interrogate the data, seek clarity or assurances, challenge the strategic approach where relevant and raise concerns should they be identified.
- 9) The quarterly report approach would be without prejudice to the statutory rights of and constitutional arrangements for individual Members making specific scrutiny item Member requests. This means that where relevant SEND related items are requested through that process, these will be placed on appropriate Scrutiny agendas from time to time. These item requests can and should wherever possible, be built into the quarterly reporting timetable to help ensure aligned and efficient scrutiny consideration of the relevant matters.

- 10) In addition to the quarterly reporting, topic / issue specific deeper dives within the quarterly reports and any individual Member requests for items, there will also be the ability for Members to collect further information from stakeholders (parents and schools for example) outside of the normal Scrutiny Committee schedule, through flexible evidence gathering sessions and stakeholder engagement activity. This approach helps maintain the focus of the formal public sessions on the holding to account, critical friend and scrutiny challenge functions of the Committee.
- 11) The proposed approach will allow for a focused and targeted work programme that provides a strategic overview alongside reviewing aspects within the SEND Transformation Plan and wider provision arrangements, which will contribute to supporting and scrutinising the SEND function at KCC for pupils, parents and schools in Kent.
- 12) As set out in previous reports to this committee, the remit of undertaking standard pre-decision consideration of Executive Decisions remains with the Cabinet Committee. This does not preclude the potential for Scrutiny Committee to consider key issues relating to future decisions, particularly large-scale strategic shifts or policy updates.
- 13) The call-in process continues to apply to all non-urgent decisions and any Executive Decisions are viable for consideration as part of the normal Scrutiny agenda through the item request process outside of the call-in mechanic.

Conclusion:

- 14) The Scrutiny Committee and Members more generally across other meetings, have made it clear that there is a continued requirement for focused, transparent and public scrutiny activity in relation to SEND. The SEND Sub-Committee provided a short, time-limited immediate response to a specific concern. The work of the SEND Improvement Assurance Board, as has been discussed previously by the Committee, has demonstrated significant progress and positive development in the SEND arena within Kent. Areas warranting further review and scrutiny do remain but as the Accelerated Progress Plan and associated activity is well established, the ongoing work of Scrutiny may now shift toward ensuring ongoing public transparency, robust performance monitoring and constructive challenge alongside holding the Executive to account for its delivery of SEND service development, improvement and transformation. All this activity supports the Committee in identifying further opportunities for improvement and making relevant recommendations.
- 15) To support this objective, it is advisable to put in place a confirmed workplan and item schedule to ensure the Committee, the Executive and Directorate are clear on the expectations and planned approach to undertaking regular scrutiny activity across the extensive range of SEND related KCC business. Related item requests in relation to SEND can be incorporated within the suggested approach through sensible item scheduling and consideration of the most appropriate forums for scrutiny or information sharing.

Recommendation:

Scrutiny Committee is asked to:

AGREE to adopt the following as the approach to SEND Scrutiny by the main committee:

- Scrutiny Committee to receive, as part of its existing meeting schedule, quarterly overview reports on SEND provision, including performance information such as KPIs.
- Each quarterly report to include a service or issue specific section providing further information, allowing for more detailed scrutiny on key areas.
- Separate, informal information gathering sessions will be organised in consultation with the Chair and Spokespeople to secure input from parents, carers and other relevant stakeholders.
- Ad hoc SEND related item requests will be managed in the context of this agreed protocol, without prejudice to Members' statutory rights to require that items be considered by the Scrutiny Committee.

Background Documents

- Scrutiny Committee – 24 April 2024
[SEND Sub-Committee review](#)
[SEND Sub-Committee Annual Report](#)

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