Disability Related Expenditure (DRE) Consultation Findings

Decision to be taken by: Assistant City Mayor, Adult Social Care and Wellbeing

Decision to be taken on: 20 December 2018

Lead director: Ruth Lake

Useful information

- Ward(s) affected: All Wards
- Report author: Ruth Lake
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- Report version number: 4.0

1. Purpose of report

1.1 The purpose of this report is to:

- seek a decision on whether to introduce proposed changes to the current treatment of DRE within the financial means test, as part of a person's financial assessment

2. Summary

2.1 The City Mayor gave approval for officers to consult on proposals to change the way in which Disability Related Expenditure (DRE) is treated within the means test for Adult Social Care support, on 12 June 2018.

2.2 DRE is the extra cost that a person experiences as a result of their illness or disability, which would not be required if a person did not have a disability.

2.3 Currently, the Council allows people to keep £20 of their income to cover these costs (or £15 if one of a couple). If a person can evidence that their disability expenditure is in excess of the standard amounts, the Council allows them to keep more income to cover the costs in full.

2.4 A statutory consultation was held from 3 July 2018 to 28 September 2018, on proposals to reduce Disability Related Expenditure (DRE) from £20 to £10 per week for an individual (or from £15 to £10, if one of a couple).

3. Report/Supporting information including options considered:

3.1 Some non-residential social care service users pay a charge towards the cost of their services, based on a means test which assesses how much they can afford to pay. A part of this means test considers Disability Related Expenditure (DRE), which is the extra cost of living that a person faces as a result of their disability.

3.2 DRE is the extra cost that a person experiences as a result of their disability or illness. These are costs which would not have been incurred if a person did not have a disability. This may include:

- the cost of an emergency alarm to alert a family member in a crisis;
- paying for a gardener if a person's disability means that they are unable to manage their garden;

- the additional cost of heating bills to keep a home warm, if a person's disability means that they have to stay at home for most or all of the day.

3.3 Within the financial assessment, service users are currently left with a minimum £20 per week to cover the additional cost of living resulting from their disability (or £15 if they are one of a couple). Where a person can evidence that their costs are higher than this then the higher amount is used, and the service user's charge is reduced accordingly.

3.4 This ensures the Council exercises discretion and is compliant with the Care Act and statutory guidance in ensuring that a person keeps enough benefit to pay for necessary disability-related expenditure to meet any needs which are not being met by the Council.

3.5 The assessment of a person's charge towards their care is based on a comparison between their total income and an allowable amount that they should be left with in order to meet their allowable expenditure. This is known as 'Protected Income' or 'Minimum Income Guarantee (MIG)'[1]. Simplified examples of how DRE is treated within the financial means test is shown in Appendix A.

Consultation Proposals

3.6 A single proposal was consulted on:

1) To reduce the amount allowed for disability related expenditure to a minimum of £10 per week (whether single or one of a couple).

3.7 If the proposals were to be approved, the maximum additional amount that a person would have to contribute would be £10 per week. Therefore, people were also asked how they would be impacted by an increase of £10 to their weekly charge.

Consultation Approach

3.8 A comprehensive approach was taken to ensure that all stakeholders had an opportunity to provide their views. Stakeholders and members of the public were engaged through the following means:

- Surveys were sent by post to the approximately 3,200 service users (or their carers or representatives) in receipt of non-residential care, which included a letter outlining the consultation process and a pre-paid return envelope
- The survey was made available on the Council's consultation Hub (Citizen Portal);

[1] 'Protected Income' or MIG is the amount that the Department of Health guidance states should remain free from charges and is calculated by adding 25% to a service-user's Income Support allowances and premiums (excluding Severe Disability Premium) according to age, level of disability and family status or the appropriate Pension Guarantee Credit or Pension Credit (excluding Severe Disability Premium).

- Public Meetings were held in three locations across the city (City Centre, Belgrave and Braunstone), where people were provide with an opportunity to express their views and discuss the proposals in more detail;
- A dedicated telephone helpline was set up to assist people with the completion of surveys and to note any comments or concerns raised;
- A generic e-mail was set up to provide a supplementary route of contact for those who wanted to write in electronically;
- E-mails (or letter) were sent to 51 providers and organisations that represent the interests of people in recipe of adult social care services.

3.9 Detailed correspondence was sent to all city Councillors, the Adult Social Care Scrutiny Commission and local MP's, to ensure they were fully informed about the proposals, particularly to provide support to any constituent enquiries.

Consultation Findings

3.10 In total, 788 surveys were completed and returned, which represents a response rate of 24.7% (of original cohort). Given the complexity of the issues raised, this is considered to be a very good response rate. This helps to provide greater assurance that the responses received are representative of the wider views of the full population of service users.

3.11 The survey responses and comments received have been considered below, with specific attention to the additional comments provided by respondents. In addition to the survey, the findings also consider the content from the three public meetings and a letter received from one organisation.

Proposal to Reduce the Standard Amount of DRE

3.12 Currently, the Council allows people to keep at least £20 of their weekly income to cover the additional costs they face as a result of their disability (or £15 if one of a couple). Where a person can show that they face costs of more than these standard amounts, the Council allows them to keep enough to cover the costs in full. This question was asked to gauge views towards the proposal to reduce the standard amounts to £10 per person (whether single or one of a couple).

3.13 57% of those who responded to this question disagreed with the proposal. A fifth (20%) agreed with the proposals, whilst almost a quarter (23%) did not have a view. Whilst 57% of respondents stated they disagreed with the proposal, 43% of respondents either agreed with the proposal or did not have a negative view to express.

3.14 Those who responded in favour of the proposal frequently referred to its equitable and fair approach. Respondents also mentioned that this would help the Council to support greater numbers of people with social care needs.

3.15 Respondents that were against the proposals provided comments that covered the following themes:

- The most frequent comment was in relation to the potential to have negative effects on people's finances, and the risk of causing financial

hardship. In most cases, this was a reference to their own situation, in other cases it was a reference made to disabled or elderly people in general.

- The second most frequent comment reflected a desire to leave the standard DRE amounts as they are to increase funding or support in general.

- A common comment made was that £10 is not enough to cover the additional costs a person incurs as a result of their disability. However, the consultation materials clearly stated that if a person had eligible DRE costs in excess of £10, the Council would allow the actual (higher) costs to be allowed; the proposed reduction in standard rate would only apply to those people with costs of less than or equal to £10.

- A significant number of comments refer to the need to protect disabled people from the impact of cuts. There was the view among some that disabled people are on the receiving end of a number of cuts. Others were more general in stating that the proposals are unfair.

- Respondents referred to the importance of treating people as individuals by reflecting the specific circumstances and costs that people incur. Under the proposals, anyone with DRE costs in excess of £10 per week would undergo an individual assessment, achieving the objective of reflecting the actual costs a person incurs.

Impact of a £10 Increase to the weekly charge

3.16 If the proposals were introduced, the maximum additional amount a person would have to pay would be £10 per week. This question was asked to assess what the impact would be for service users if their contribution increased by the maximum amount of £10 per week.

3.17 Just over half of all the respondents (53%) reported that an increase of £10 to their weekly charge would affect them (or someone they represent) a lot, including how much they have for essentials. A quarter (25%) of respondents indicated that they would be affected a little, including how much they have for extras or treats. The remaining 20% noted that they would either be able to manage the increased charge (12%) or they would consider stopping the Adult Social Care services they receive (8%). 2% of respondents did not answer this question.

3.18 Although 53% of respondents considered the changes would affect them a lot if the proposals were introduced, analysis of current caseload suggests that 53% of existing service users would not be affected by the proposed changes. Whilst it is not possible to individually identify which of the respondents would or would not be affected by the changes, not all of these people would in reality be affected by the proposals.

4. Options

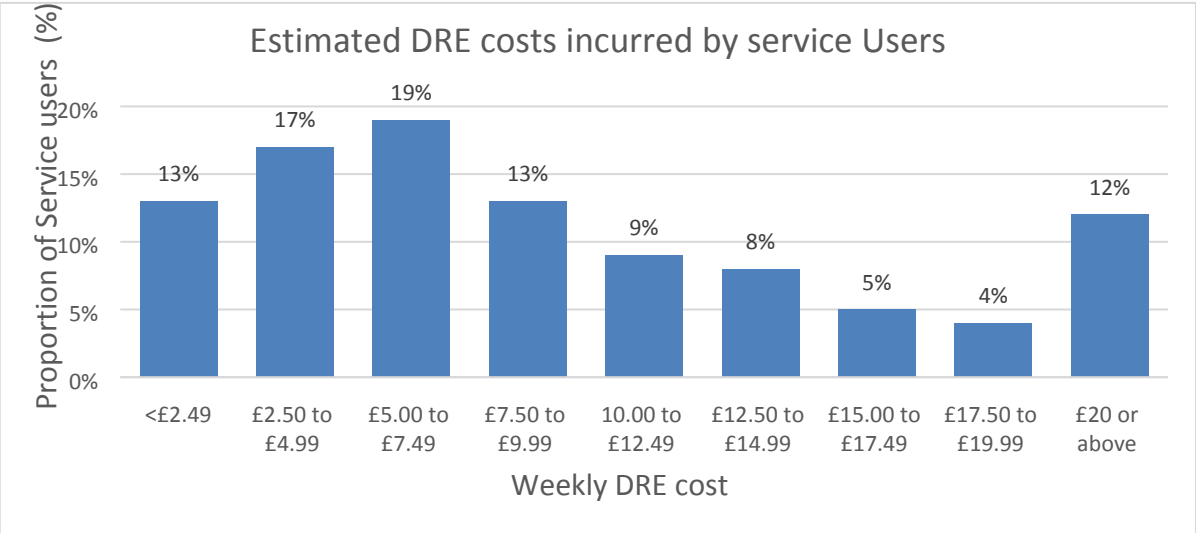
4.1 The following options were identified for consideration, in relation to the standard levels of DRE:

1) To leave the standard rates of DRE unchanged at £20 per week (or £15 per week if one of a couple)

2) To remove all standard rates of DRE and undertake individual DRE assessments for all service users

3) To reduce the standard rates of DRE from £20 to £10 (and from £15 to £10 if one of a couple)

4.2 The actual disability related expenditure costs incurred by a sample of 600 service users were individually assessed. This identified that in 88% of cases, the actual DRE incurred was less than the standard £20. 63% of people had DRE of less than £10 and the average DRE being assessed was £7.50. This indicates that the current level of disregard within the means test continues to leave service users with more than is needed to cover actual costs associated with their disability. This is summarised in the below chart:



4.3 The standard DRE of £20 per week in Leicester within the current means test is generous when compared with other authorities. From a sample of authorities for which information was available (as at June 2018), there appears to be quite a variation in approach. Some authorities either operate a banding system or they do not have a set minimum level of DRE and an individual assessment is undertaken to establish the actual DRE costs for each service user. Of the sample, only Nottinghamshire continues to set a current standard rate of £20 within the financial assessment. Details of the sample are as follows:

- Nottinghamshire - £20 per week
- Northamptonshire - £18 per week
- Leicestershire - 4 bands: nil, £7, £14, £20 per week
- Lincolnshire - 3 bands: £10, £15, £25
- Peterborough - 3 bands: £10, £15, £25
- Newcastle - £5 per week
- Nottingham City – Actual costs

- Derby City – Actual costs
- Derbyshire County – Actual costs (but capped at £42.97pw)

Option 1: To leave the minimum levels of DRE unchanged

4.4 Consultation findings appear to show that service users would prefer to leave DRE unchanged in its current form. This would leave the Council providing a more generous DRE allowance than our analysis of existing service user DRE costs would indicate is required, and it would also remain at a higher level than most other authorities. By retaining the current approach, service users would benefit from not having to contribute more to charges, but conversely, the Council would face additional financial pressure by having to find savings through alternative measures.

Option 2: To remove standard levels & undertake individual DRE assessments

4.5 The complete removal of the standard DRE, in line with many authorities, would generate the most additional income. Arguably, it results in the fairest treatment of service users, since individual circumstances are reflected in all cases. However, it would also mean that the actual level of DRE for each and every service user would need to be assessed, increasing the administrative cost and pressure on the finance team. The estimated financial administrative costs of this option are £358k per annum, of which £131k per annum is related solely to the additional burden of individual DRE calculations in every case. There would also be additional social work time required in these cases. Experience of other authorities suggests that this will also significantly increase the workload associated with resolving appeals against the assessment outcome. The Council should be looking to reduce the bureaucratic cost where possible, and this option runs counter to this objective.

Option 3: To reduce the standard level of DRE from £20 to £10

4.6 It is estimated that by reducing the standard minimum DRE levels to £10 per week, in line with the original proposals that were consulted upon, an additional income of approx. £690k per year could be generated. 62% of service users have DRE costs of less than £10 per week. If the standard DRE levels were reduced to £10, this would mean that they would still be left with more than enough income to cover the costs they are facing. The remaining 38% with DRE costs in excess of more than £10 per week, would be left with income exactly equal to the assessed DRE costs they incur.

4.7 The Equalities Impact Assessment (Appendix B) shows the impact of a change to standard DRE rates of £10 per week, on service users. Overall, 47% of non-residential service users in receipt of chargeable services would likely be affected, with an average increase of £4.04, per week. 53% of people would likely not be affected because either:

- Their actual DRE is more than £20 per week
- They already pay the full cost of their services
- They are working age adults whose income is so low that they do not pay a contribution, with the proposals not changing this

4.8 Some people may already be affected by other welfare changes and benefit cuts. Most of the changes brought in by central government affect people of working age, with those aged over 65 being largely protected. As per the EIA, a much smaller proportion of working age adults are likely to be affected by these proposals, reflecting the fact that working age adults in receipt of the most basic level of benefits are unlikely to be affected.

Implementation of Changes

4.9 Subject to the decisions made by the Executive, further work would be required to implement the necessary changes. The main pieces of work are anticipated to be:

- Advising service users in writing of any decisions made;
- Obtaining details of change of circumstances for all non-residential service users;
- Reviewing the financial assessments for all affected service users.

4.10 If there was to be a reduction in the minimum DRE threshold then all service users would need to have a review of their financial reassessment. This process entails updating all of the income and benefit levels for each person as well as identifying the actual DRE costs that a person incurs. This is a resource intense process, but one that has the benefit of ensuring that all service users are paying an accurate charge.

4.11 Initially, resources would be focused on undertaking reassessments for those service users whose charge would increase as a result of the changes. Additional resources have been identified at an approximate cost of £150k in year 1 to support the Financial Operations Team in undertaking this work, if necessary.

4.12 It is vital that the staff undertaking these assessments are adequately trained for the task. This work is not straightforward and cannot reliably be undertaken by agency staff. Therefore, although increases in income would accrue from the proposed changes, that actual savings achievable in year 1 will be offset by the cost of the additional resources required to implement the changes.

5. Recommendations

5.1 It is recommended that:

- Standard levels of DRE be reduced for people from £20 to £10 per week (or from £15 to £10 per week, if one of a couple)

6. Financial, legal and other implications

6.1 Financial implications

If the proposals in this report are implemented, then there will be a potential increase in charging income of approx. £690k per annum from April 2019 based on current service user caseload. Initial savings will be offset by the additional resources needed to implement the changes, estimated to be in the region of £150k.

The on-going savings will contribute to the SR4 programme.

Matt Cooper
CaAS Business Manager - Social Care & Commissioning. Ext 37 2145

6.2 Legal implications

This report summarises the outcome of the recent consultation and recommends that the proposal to reduce disability related expenditure disregard to £10 for single or one of a couple is the preferable option. When making a decision, the Council should have regard to section149 of the Equality Act 2010. It is noted that the Council remains open to considering individual cases, for example where hardship may result from this proposal, and therefore discretion should be exercised in appropriate cases.

Pretty Patel
Head of Law - Social Care & Safeguarding. Ext 37 1457

6.3 Climate Change and Carbon Reduction implications

There are no significant climate change implications associated with this report.

Aidan Davis
Sustainability Officer – Estates & Building Services. Ext 37 2284

6.4 Equalities Implications

When making decisions, the Council must comply with the Public Sector Equality Duty (PSED) (Equality Act 2010) by paying due regard, when carrying out their functions, to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between people who share a 'protected characteristic' and those who do not.

In doing so, the council must consider the possible impact on those who are likely to be affected by the recommendation and their protected characteristics. Protected groups under the Equality Act are age, disability, gender re-assignment, pregnancy/maternity, race, religion or belief, sex and sexual orientation.

This report summarises the outcome of the recent consultation and recommends that the proposal to reduce disability related expenditure disregard to £10 for single or one of a couple is the preferable option. In order to inform the development of the proposal an Equality Impact Assessment (EIA) has been undertaken and mitigating actions have been identified to reduce or remove disproportionate negative impacts where they have been identified. The findings of the EIA should be considered by decision makers in relation to the Council's PSED and should be taken into account in making the final decision.

The proposal notes that Council will consider individual cases where expenditure related to a disability is higher than the proposed minimum amount and that discretion should be exercised in appropriate cases which will support in mitigating disproportionate negative impact experienced by service users in relation to the protected characteristic of disability.

Hannah Watkins Equalities Manager - Delivery, Coms and Political Governance. Ext 37 5811

7. Background information and other papers:

- Leicester City Council Charging Policy
- The Care Act 2014

8. Summary of appendices:

- Appendix A – DRE Simplified Examples
- Appendix B – Equalities Impact Assessment

Further information on consultation findings can be found on the DRE page of the Council's consultation hub at: consultations.leicester.gov.uk

9. Is this a private report (If so, please indicated the reasons and state why it is not in the public interest to be dealt with publicly)?
No

10. Is this a "key decision"?
Yes

11. If a key decision please explain reason
This is a key decision as:

- It is likely to be significant in terms of its effects on communities living or working across all wards in the City
- the provision is not included in the approved revenue budget of reductions in recurrent revenue expenditure, and savings of over £0.5m p.a. would be achieved
- the decision is likely to result in substantial public interest