

Wiltshire Council

Cabinet

19 July 2016

Subject: Adult Care Charging Policy

Cabinet Member: Councillor Jerry Wickham Cabinet Member for Health (including public health) and Social Care

Key Decision: Yes

Executive Summary

This paper builds on the report presented to Cabinet in January 2016, in which it was agreed that the proposal for a new Adult Care Charging Policy should be the subject of consultation. A period has been concluded, and this paper reports on the findings and enables the Cabinet to consider implementation of this new policy.

The document should be read in conjunction with the equalities impact assessment and the report from Healthwatch Wiltshire which summarises the responses to the consultation including feedback gathered at public meetings, and through the survey.

Proposal(s)

1. To adopt the proposed adult care charging policy.
2. To note the resolution of the Health Select Committee as detailed at Para. 10.
3. To take into account 100% of an adult's eligible disposable income when assessing for contributions for care and support at home (Currently 80%)
4. To take into account the full rate of attendance allowance received (Currently only take into account the lower amount regardless of rate received)
5. To update the list of Disability Related Expenses (DRE) (Appendix A) items in accordance with The Care Act (2014). The most significant proposed change is to remove allowances for continence products¹ where these are provided by the NHS continence service.

¹ This reflects the Guidance at Annex C paragraph 40(13)

Reason for Proposal(s)

The proposals have been drafted so as to ensure the Council's charging policy is compliant with the Care Act (2014) and all relevant legislation.

To align the discretionary elements in Wiltshire Council's policy to those of local authorities across the South West.

So that everyone in receipt of care and support who is required to pay contributes what they can afford to pay in accordance with the Care Act guidance.²

Carloyn Godfrey
Corporate Director

² Care Act statutory guidance paragraph 8.2

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Purpose of Report

1. This report has been produced to build on the paper presented in January 2016; the paper can be accessed in the reports pack via the following link [January Report](#)
2. In order that the Cabinet can consider implementing and adopting the proposed charging policy for adult care.
3. The report provides details of the feedback received during the consultation process and how this feedback has been considered in the proposed policies. This feedback is supplemented by the report provided by Healthwatch Wiltshire which is included at Appendix B.

Main Considerations for the Council

4. To consider implementing and adopting the proposed charging policy to align Wiltshire's approach to that of other local authorities by.
 - a. Taking into account one hundred percent of an adult's disposable income when calculating contributions for care and support.;
 - b. Taking into account the full amount of any attendance allowance received.
 - c. Assessing contributions for respite in the same way as other non residential services; and.
 - d. Updating the list of allowable Disability Related Expenses in accordance with the Care Act.

Background

5. The Care Act 2014 came into force in April 2015 and contained regulations on charging contributions for care and support. The Act was supplemented by guidance produced by the National Association of Finance Officers (NAFO) which set out best practise for collecting contributions in the context of the statutory framework.
6. Based on the Act and the NAFO guidance, commissioners and finance officers have drafted an updated version of the Council's charging policy for

care and support. No changes are proposed to the way contributions for care and support in residential settings are assessed however a number of changes have been made, that if agreed will impact upon adults who receive care and support at home.

7. The Equalities Impact Assessment (EIA) that supplements this paper provides detailed analysis of the number of people who may be impacted by any changes. The numbers of people impacted, will vary based on the number receiving services at home, for which a contribution is applicable. No changes will come into effect for any adults until after a re-assessment of their finances has been completed.
8. The proposal has been developed with extensive support from legal representatives and is compliant with all relevant legislation.
9. A period of public consultation was completed between the 8th March and 6th June 2016 involving public meetings, a survey and feedback from key stakeholders. This consultation was conducted to assess the impact these proposals could have on people in Wiltshire.

Overview and Scrutiny Engagement

10. The Health Select Committee (HSC) has been engaged throughout the consultation process. The HSC were informed of the proposals to consult on the new policy, received an update during the consultation and have had the opportunity to comment on this paper.
11. Having considered this, the HSC resolved (see Appendix E)
 - To express concern at the reported level of response to the consultation and ask Cabinet to consider whether it provides a sufficient basis from which to implement changes.
 - If Cabinet implement changes to the charges, to receive an update on their impact, six months after implementation.

Safeguarding Implications

12. There are no new immediate safeguarding implications associated with the implementation of this policy. Adult care visiting officers are aware of safeguarding procedures and will continue to raise any concerns with the safeguarding adult's team.
13. The Council will mitigate the risk of people contributing more than they can afford by regularly re assessing people who contribute towards the cost of their care and support.

Public Health Implications

14. If this policy is agreed it is possible adults will have a reduced disposable income due to increased contributions for care and support. In some

instances this may impact on an adult's ability to continue activities that promote wellbeing. This risk will be mitigated by through regular reassessments as set out in paragraph 13, reviews of care and support plans.

15. Adult care commissioners are working closely with public health so as to ensure there are a range of services that will prevent, reduce and delay needs available to people within their local communities. This work is driven by the Better Care Plans Prevention Board. Effective prevention services will reduce the need for people to purchase care and support services.

Procurement Implications

16. There are no immediate procurement considerations. If these policies are agreed future commissioning/procurement activity will consider and take account of this policy.

Equalities Impact of the Proposal

17. A comprehensive equalities impact assessment has been completed as part of this piece of work. (Please see EIA in supporting documents for more information)
18. The consultation was primarily intended to understand if the new policy would impact upon any adults disproportionately. It was also completed to determine if the proposals would have any impact on the people of Wiltshire that differed in comparison with other areas who have already adopted similar policies. A range of views, responses and feedback regarding the possible impact of these proposals were generated. Feedback ranged from full support to concern that any increase in contribution would have a significant impact on wellbeing and in some instances people would cancel or reduce their care package. The impact of the proposed changes will primarily be mitigated through regular re-assessment, which will be of an annual basis or when significant changes in circumstances occur, in order to ensure people are only required to pay what they can afford.
19. Generally people are concerned that having to contribute more for care and support could result in having less funds to do the things that ensure they live the life that they choose to do. This could include attending interest groups, going on short breaks or holidays or attending social events. However, there was no evidence to suggest that any one group would be affected disproportionately to any others. Likewise, there was no evidence to suggest that people in Wiltshire would adversely impacted to persons elsewhere, where this policy had been adopted.
20. Some people felt that proposals, to take all of the attendance allowance, was unfair and should not be taken into account. It has been explained that this benefit is specifically to pay for care and support and that when the Council was exercising its duty to meet needs it was felt the full rate should be taken into account. Other people supported this proposal particularly as people on the lower rate already have the full benefit they receive taken into account.

21. The Council is taking into account relevant Disability Related Benefits (“DRB”) when assessing income and the policy will continue to ensure all applicable Disability Related Expenses (“DRE”) are considered.
22. The proposal to remove continence products from the DRE generated discussion at a number of the consultation meetings. Concerns were also raised about the quality and quantity of these products people could receive. It has been reiterated that the proposals would not impact on the quantity or quality of these products received from the NHS. Wiltshire Council will meet with commissioners at the CCG to discuss this particular issue. The Council will continue to allow DRE items as set out in the Care Act and will consider additional items based on an adult’s circumstances and evidence that DRE expenses are incurred.³
23. Taking into account 100% of income will have an impact on all adults with eligible needs. No one will be affected disproportionately, and no one will be expected to pay more than they can afford to pay, regular and proportionate reassessments will ensure nobody pays more than they can afford and contributions are adjusted to reflect an adult’s circumstances. Making this change to Wiltshire’s policy is in accordance (with) the Care Act and reflects common practice across the South West
24. The proposal to take the full rate of attendance allowance is in accordance with the statutory Guidance. However the Council will need to ensure that in accordance with the Care Act, the Council is meeting all eligible care and support needs, including any needs for night care that people may be using the attendance allowance to fund. The Council must also ensure all relevant DRE items are considered.
25. It is proposed that the changes to the DRE items are accepted. However, in response to consultation, it is important that information and advice about how to request an assessment for continence products or request additional products is widely publicised through the Your Care Your Support website and other means⁴. The list of DRE items annexed to the Policy will reflect the statutory Guidance but will not be considered a ‘cap’ as all relevant DRE items must be considered and it is important the service area raises awareness amongst care managers and FAB officers.
26. It is recognised that for adults already receiving a service, higher contributions may have an impact on disposable income which will make a difference to their ability to spend on other things to support general health and wellbeing. Information, advice and support services will be made aware of the changes so that they can work with adults who may be affected to ensure they are accessing the information and community services available that will maintain wellbeing.
27. The Council are also implementing a Preventing, Reducing and Delaying Eligible Needs policy, which will see a renewed focus on the needs of people across Wiltshire’s communities. The Council is committed to maintaining

Comment [01]:

³ Care Act Statutory guidance Annex C paragraph 40

⁴ <https://www.yourcareyoursupportwiltshire.org.uk/home/>

independent living for people, for as long as possible, which will reduce the likelihood people will need to access means tested services.

The Healthwatch Report and other consultation reports

28. Healthwatch Wiltshire facilitated a series of public meetings held during the consultation process and based on these events have produced a summary report (Appendix B)
29. The report highlights what people said about how the proposed changes might impact on them and proposes a number of actions that it is need to be are taken. These are:
 - a. Working with Healthwatch to monitor the impact of these changes on adults and communicate this to community commissioners.
 - b. Ensuring the list of DRE items is well publicised and available to adults via the information portal.
 - c. Work with Healthwatch and the CCG to discuss the issues relating to continence highlighted during this consultation
 - d. Work to ensure information relating to charging for care and DRE items is available in easy read formats.
30. Wiltshire People First is a user led organisation for people with a disability. As part of the consultation they held a 'speaking up' session so that people with learning disabilities could give their views about the proposed changes. This report is included in the documents supporting this paper and a summary of what people said has been included at Appendix D.
31. The report demonstrates that this group of people had mixed responses regarding the proposed changes with some agreeing it is fair people should contribute towards their care and support while others feared that if people were expected to contribute more they would have less money for social activities, travel and other interests.
32. Taking this report into consideration it is clear Adult care staff working with adults with a learning disability must explore creative care and support options that enable people to make the best use of community resources while ensuring people are claiming any benefits they are entitled to.
33. The report recommends that the Council should consider reviewing the list of adults who receive easy read documentation as a number of adults with a disability have stated they received the standard version of the letter that was challenging to understand.

Environmental and Climate Change Considerations

34. None

Risk Assessment

Risks that may arise if the proposed decision and related work is not taken

35. As set out in the financial implications section below the proposed changes will increase the revenue collected by the Council and will be directly used towards the provision of care and support across the county
36. If this policy is not implemented adult social care will face an additional budget pressure of at least £300k for 2016-17.
37. Wiltshire Council will continue to operate a charging policy based on outdated legislation increasing the risk of legal challenge.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

38. If the proposals are agreed it will increase the numbers of adults who pay the full cost of their care package. Some adults may choose not to fund the care and support they need, increasing the risk of the need for more acute services at the point of crisis. Adult Care is also introducing a Preventing, Reducing and Delaying Eligible Needs policy, which will see a focus on prevention interventions across communities. Prevention is available to all and it is expected a renewed approach will ensure adults are able to access the support and information they need before a crisis develops.
39. Adults, through regular and proportionate re-assessment will not be required to pay more than they can afford. A range of mechanisms will be explored to facilitate appropriate and proportionate reassessments.
40. By requesting people pay the maximum they can afford to pay some adults may not have sufficient funds to pay for activities that maintain wellbeing including social clubs and events. Over time this may lead to adults who require more intensive health and care services. This risk will be mitigated by the focus on interventions that will prevent, reduce and delay, and will be achieved by regular re-assessments.

Financial Implications

41. The Council already has a charging policy in place and charges for care and support services in accordance with this policy and relevant legislation. The Council does not charge for carers' services or any services prohibited in legislation. Because the Council is exercising the discretionary power to charge for care and support, it will continue to financially assess people so as to ensure people are only asked to pay what they can afford.
42. The proposal will increase the amount some adults, receiving care and support, contribute based on the principle that all adults should contribute an amount that they can afford.

43. The financial assessment team have looked at a sample of recent assessments to apply the new policy and gauge what impact the changes would make. It is important to point out that the impact will be different for each person. Therefore at this point in time, only average increases can be determined resulting from applying the proposed policy.
- a. The change to 100% disposable income could result in a £12-£16 per week increase in what a person would contribute.
 - b. The change in attendance allowance could result in an additional £27 per week being taken into account.
 - c. The impact of changes to DRE could not be established as every person was affected differently.
44. The total potential increase for a person could be between £0 and £43 per week. This assumption is based on limited modelling work completed by the team. The impact on adults will vary based on an individual adult's circumstances and the DRE items being taken into account as income.
45. The actual amount a person would need to pay under the proposed policy will depend on
- a. how much they are already paying
 - b. what the value of their care and support is (nobody will be asked to contribute more than the cost of their care)
46. The full year impact will depend on
- a. the number of new people requiring care and support in the community who are assessed as having to make a contribution
 - b. the number of people currently making a contribution who stop making a contribution
 - c. the number of people currently making a contribution who can be financially re-assessed during the year.
47. Each year the financial assessment team assesses 1340 new people who require support in the community. Typically approximately 50% of those people need to make a contribution towards the cost of their care
48. The estimated minimum full year impact of the proposed policy would lead to an increase in income of £300k- £350k based on applying the proposed changes to assessments. If this policy is adopted and implemented as of the 1st of August 2016, the additional contributions will be in excess of £260k.
49. Adults receiving a service will be re assessed before any changes to the way their contribution is calculated come into effect. Re-assessments are likely to generate additional income based on the application of this new policy however these will be based on individual adult's circumstances. The costs of re-assessing people on a regular basis will need to be considered in the context of developing a program of regular and proportionate re assessment.

50. The team will continue to ensure that people being assessed for contributions are receiving all the benefits they are entitled to.
51. The ability to charge for arranging care will not have a financial impact as the Council will only charge on a cost recovery basis in accordance with the regulations. Based on the demand for this service it may become viable to fund additional resources to meet this need.
52. Once the proposed changes are in effect, the team will monitor the actual impact of this policy on a case by case basis. This analysis will be monitored which will provide robust estimates relating to the full year impact of the proposed policy in the context of any costs associated with additional assessment activity.

Legal Implications

53. The draft policy was developed in consultation with legal representatives from Wiltshire Council. It was published as part of the consultation and was reviewed by legal counsel and changes were made based on their recommendations.
54. The draft policy is compliant with the Care Act and all relevant legislation.

Options Considered

55. A number of alternative options have been considered including taking into account:
- less than 100% of disposable income,
 - considering attendance allowance at the higher rate for those with night care needs
 - adding or removing aspects from the list of allowable DRE items.
56. However the proposals put to the Cabinet have been framed in the context of the guidance of the Care Act. It is recognised that the proposed changes have the potential to impact on individual adults' wellbeing but the Council is committed to meeting the duties set out in the Act. It will ensure commissioned services and the voluntary sector, strive to promote wellbeing and personal resilience through an increased focus on preventing needs, information and early intervention.
57. Through regular and proportionate re-assessments, which will be at least on an annual basis or following significant changes in circumstances, the Council will ensure the overarching principle of this policy is applied in that people should only be required to pay what they can afford. By choosing to take into account DRBs, the Council must ensure it considers all relevant DRE items and that information about financial assessments is widely and readily available to people in receipt of care and support.

James Cawley (Associate Director, Adult Care Commissioning and Housing)

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July 2016

List of appendices

Appendix A- List of Disability Related Expenses (DRE) items.

Appendix B- Consultation Summary Report Produced by Healthwatch

Appendix C- Summary of Survey Responses

Appendix D- Summary of responses from Wiltshire People First

Appendix E- Health Select Committee meeting minutes (21st June 2016)

Appendix A

Appendix A- Disability Related Expenditure (DRE)

The following items may be disregarded from an adults' income based on the provision of the required evidence. This list is not exhaustive and any reasonable costs directly related to a person's disability will be considered as part of a financial assessment. This list will form staff guidance that will be updated from time to time based on the relevant legislation and best practice.

People will be given information and advice about DRE items on a proactive basis and will be required to provide evidence of any relevant expense before it is disregarded as income for the financial assessment.

Re assessments will be completed in order to ensure DRE items are considered based on an adult's individual circumstances.

The Council will produce guidance for officers or organisations completing financial assessments based on the National Association of Finance Officers guidance as updated from time to time. This guidance will include the amounts the Council would normally expect to consider. The actual rate that will be considered shall be based on adult's individual circumstances.

Item(s)	Evidence Requirements	Notes
Payment for any community alarm system	Social worker confirms requirement as part of care plan, supported Care is reduced accordingly	
costs of any privately arranged care services required, including respite care	Evidence of privately arranged care	
costs of any specialist items needed to meet the person's disability needs, for example:	Evidence of Purchase	Items of specialist equipment are listed below, but if agreed other items can be considered
Day or night care which is not being arranged by the local authority	Evidence that the requirement for day or night care support, included in the costs of supported living accommodation, is required to address eligible needs	
specialist washing powders or laundry	Care plan will have identified incontinence problem. Identify more than four loads per week	
additional costs of special dietary needs due to illness or disability (the person may be	Shopping receipts	

Item(s)	Evidence Requirements	Notes
asked for permission to approach their GP)		
special clothing or footwear, for example, where this needs to be specially made; or additional wear and tear to clothing and footwear caused by disability	Receipt of purchase	
additional costs of bedding, for example, because of incontinence	Evidence of Purchase	Reasonable household expenses related to additional costs incurred due support being provided due to a Person's disability, illness
any heating costs, or metered costs of water, above the average levels for the area and housing type	Evidence of annual heating and water costs	
reasonable costs of basic garden maintenance, cleaning, or domestic help, if necessitated by the individual's disability and not met by social services	Evidence of additional costs including receipts	When not being met as an eligible need, Only included if in support of an assessed eligible need and replaces need for funded support
purchase, maintenance, and repair of disability-related equipment, including equipment or transport needed to enter or remain in work; this may include IT costs, where necessitated by the disability; reasonable hire costs of equipment may be included, if due to waiting for supply of equipment from the local	Evidence and receipts required	

Item(s)	Evidence Requirements	Notes
council		
personal assistance costs, including any household or other necessary costs arising for the person	Evidence of purchase	
internet access for example for blind and partially sighted people	Evidence of purchase	Only when requirement for internet access an expense related to disability or illness
other transport costs necessitated by illness or disability, including costs of transport to day centres, over and above the mobility component of DLA or PIP, if in payment and available for these costs.	Evidence of transport costs for eg fuel receipts	
Medication	Evidence from relevant Medical Professional	

Appendix B

Please click the Icon below to open up the Healthwatch report. The Document is also included in the supporting documents.



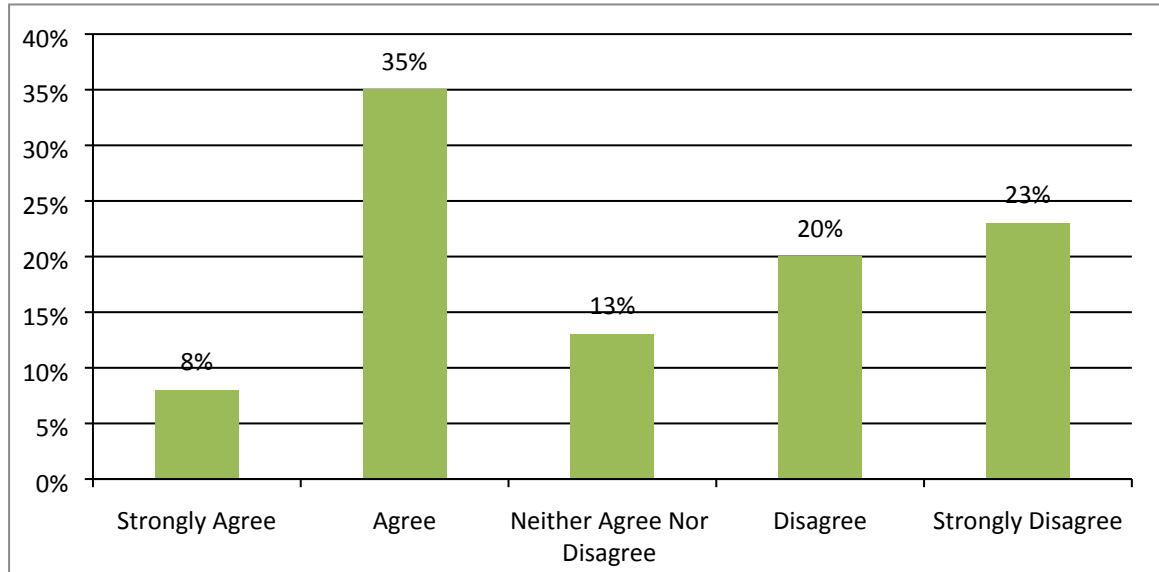
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Appendix C- Summary of survey responses

Question 1

Do you think it is reasonable that those who can afford to pay and who are supported by the Council should make the maximum reasonable contribution for care and support services?

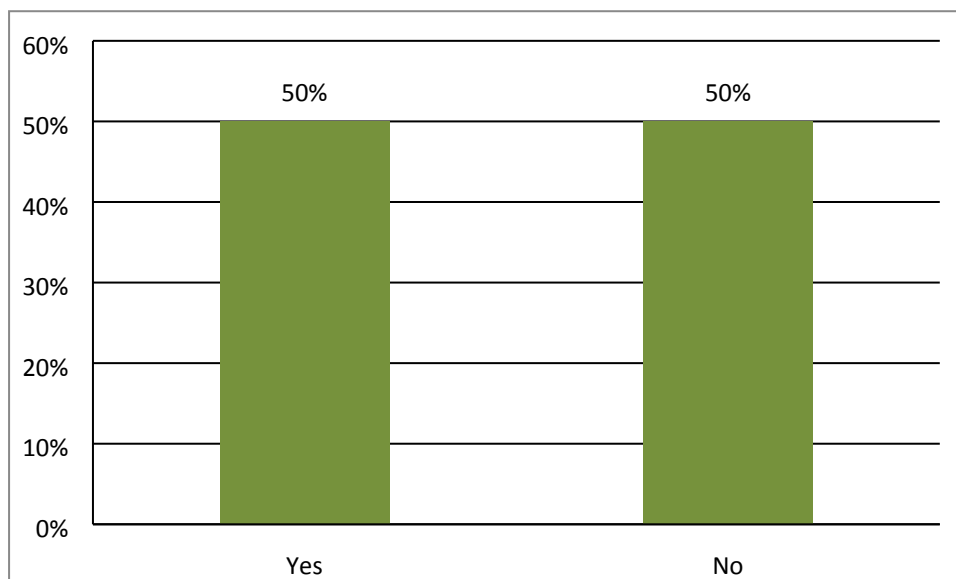
Total Responses 60



Question 2

Is there anything else the Council should consider adding to the list of Disability Related Expense items?

Total Responses 56



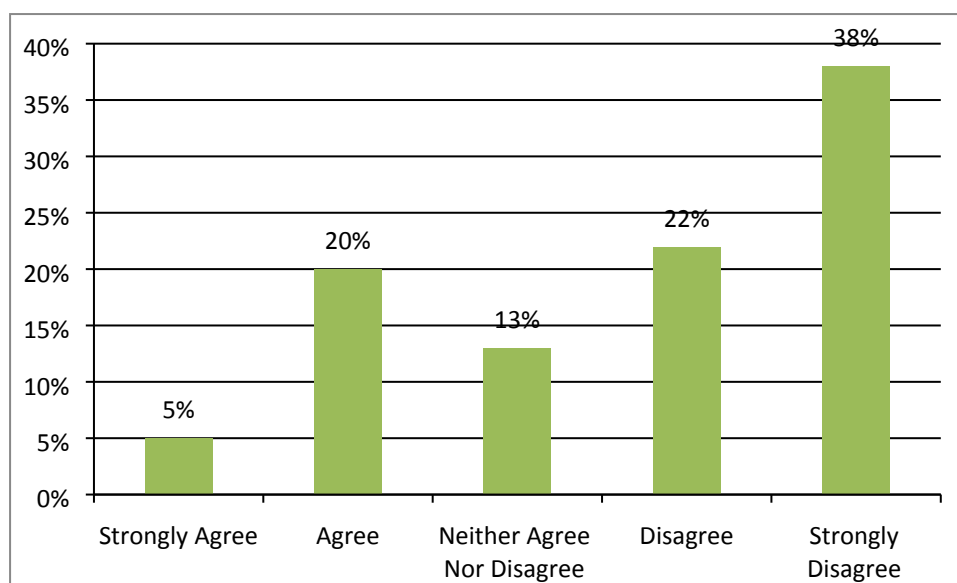
Suggestions for what else should be included

Item	
Mobility car/ vehicles/ Travel costs	5
Telephone	1
Clubs and activities	1
Aids and equipment for eating	1
Television licence	1
Incontinence pads	4
Housework	1
Alternative therapies	2
Window cleaning	1
Supplements and non prescribed medication	1

Question 3

Do you agree it is reasonable that the full level of benefits a person receives should be used to calculate how much income they have, to ensure they pay the maximum amount they can afford?

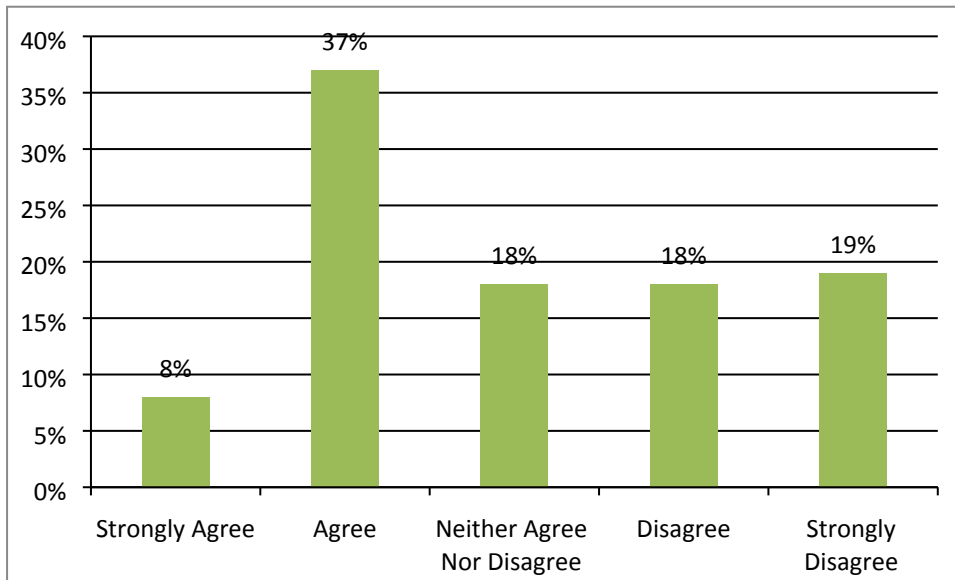
Total Responses 60



Question 4

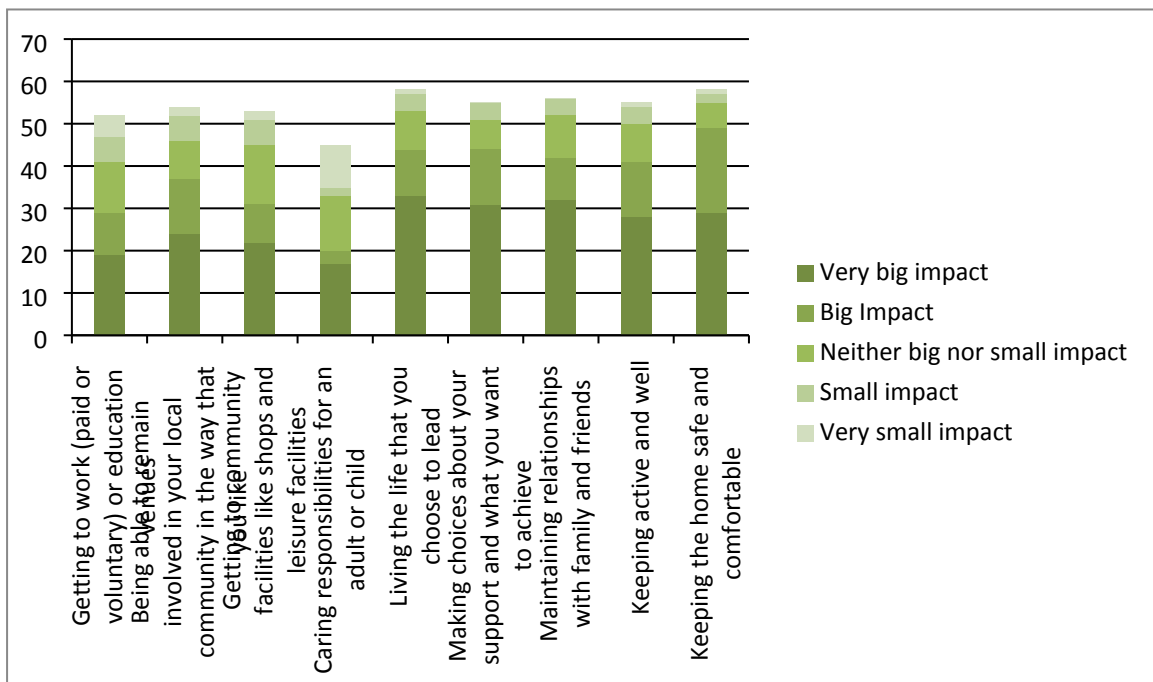
Do you agree it is reasonable to treat respite care in the same way as other forms of care and support, to ensure people pay what they can reasonably afford to pay?

Total Responses 62



Question 5

If the proposed policy was agreed and you had to pay the maximum amount you could afford to pay based on your disposable income how do you think that would impact on you?



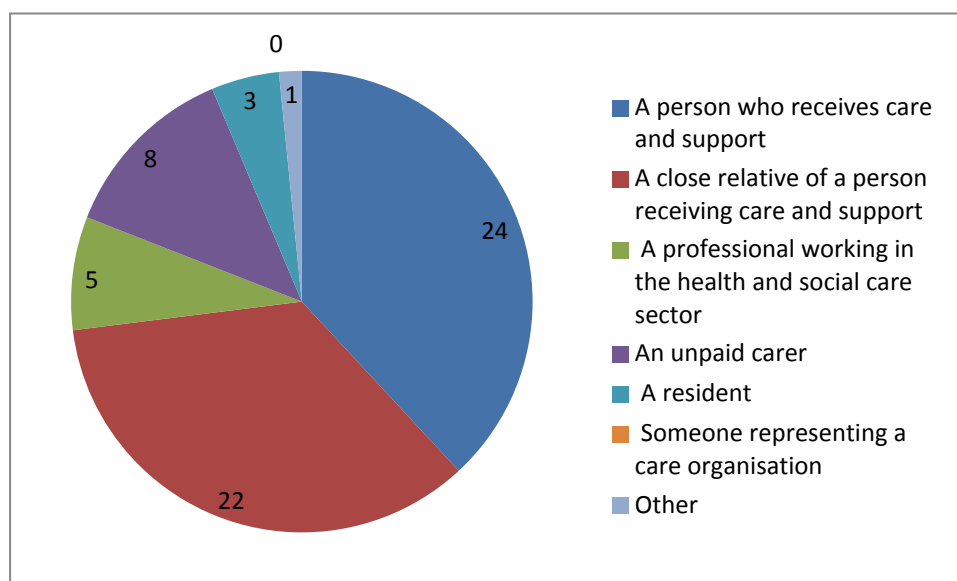
Impact Areas

Getting to work (paid or voluntary) or education venues
Being able to remain involved in your local community in the way that you like

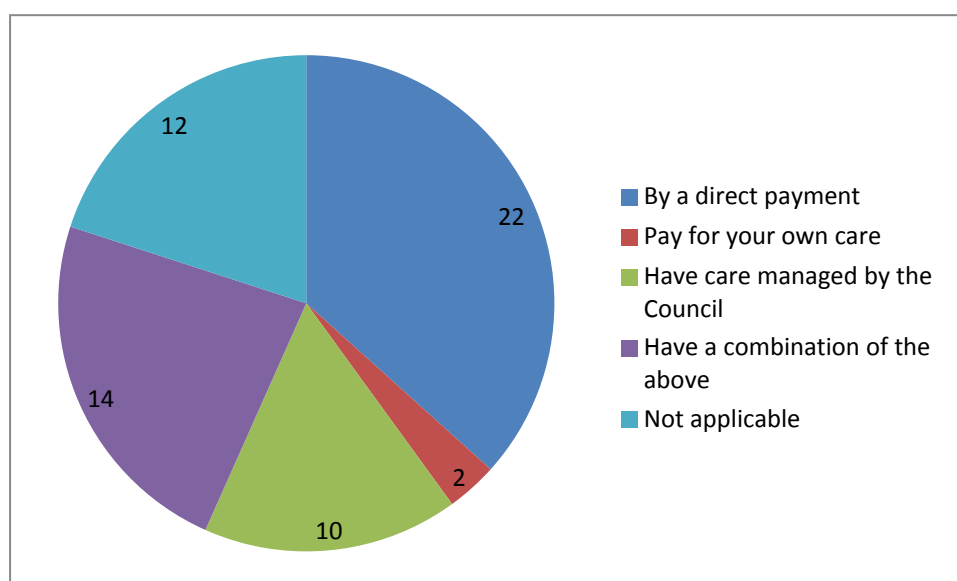
Getting to community facilities like shops and leisure facilities
Caring responsibilities for an adult or child
Living the life that you choose to lead
Making choices about your support and what you want to achieve
Maintaining relationships with family and friends
Keeping active and well
Keeping the home safe and comfortable

Demographic Information

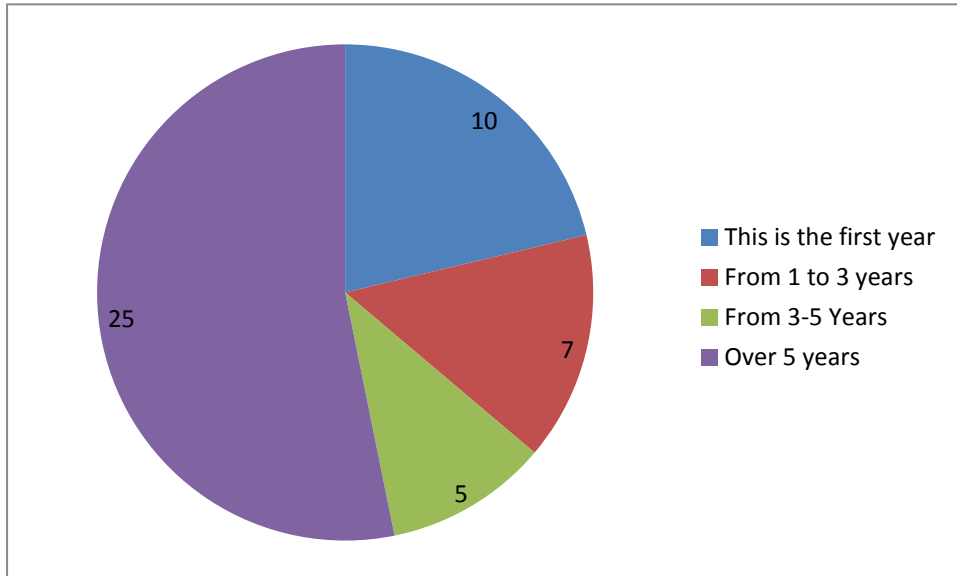
You are answering this survey as



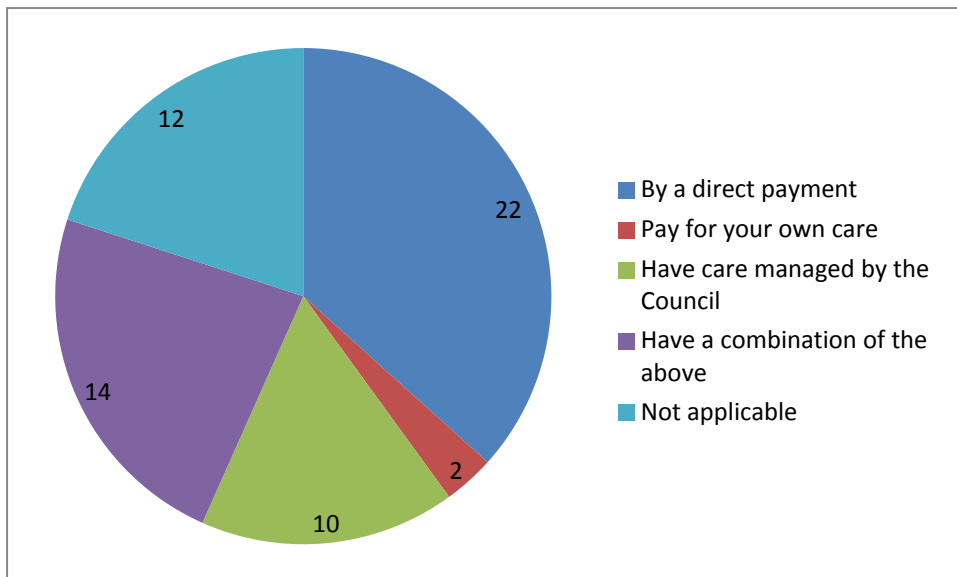
If you receive care services how is this done;



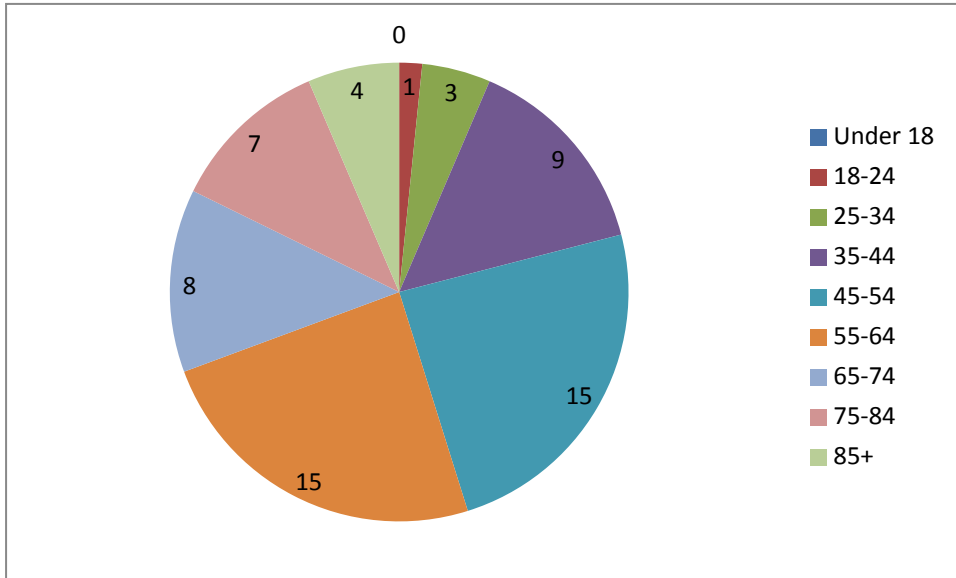
If you receive care services how long have you been in receipt of these services



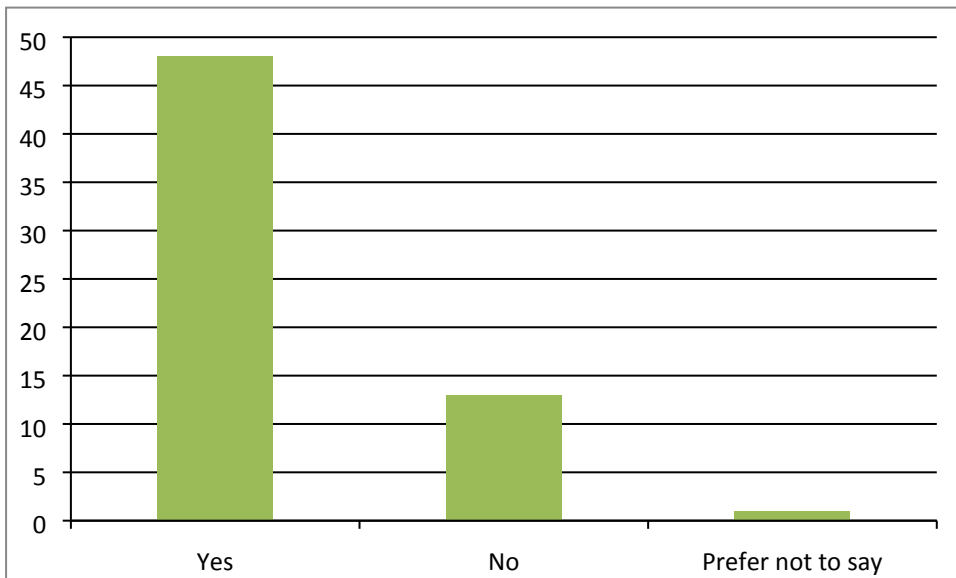
What type of care service do you receive?



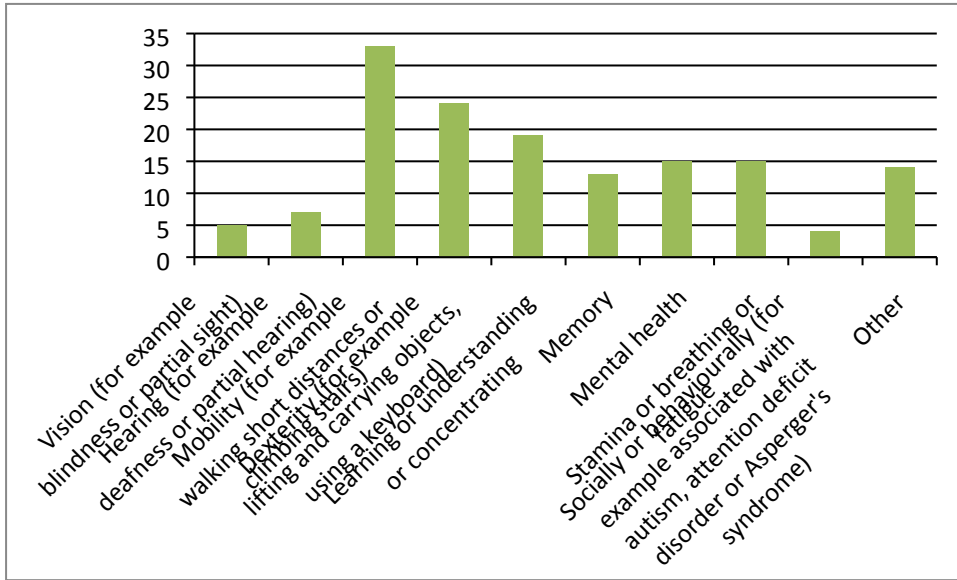
Age



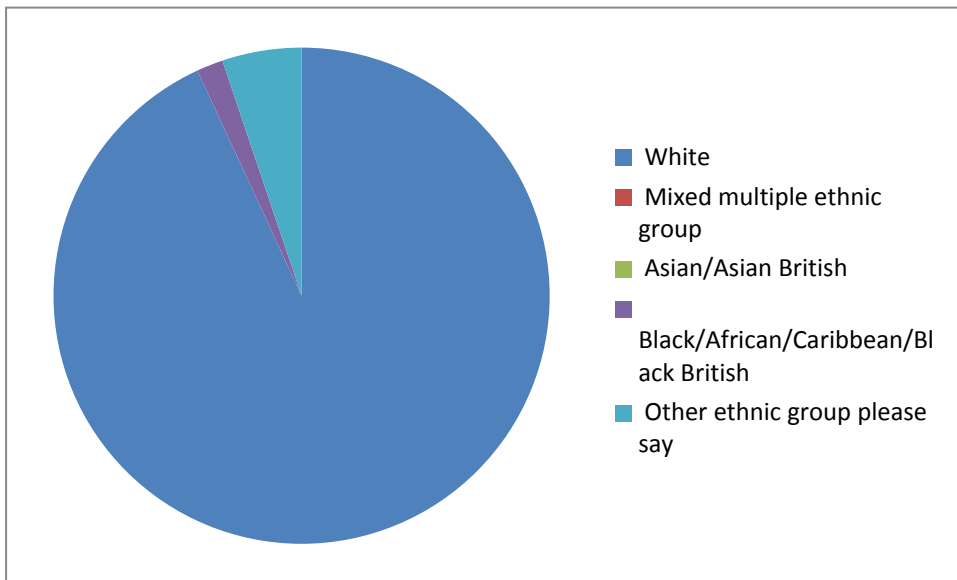
Do you consider yourself to have a disability?



If so what disability do you consider yourself as having

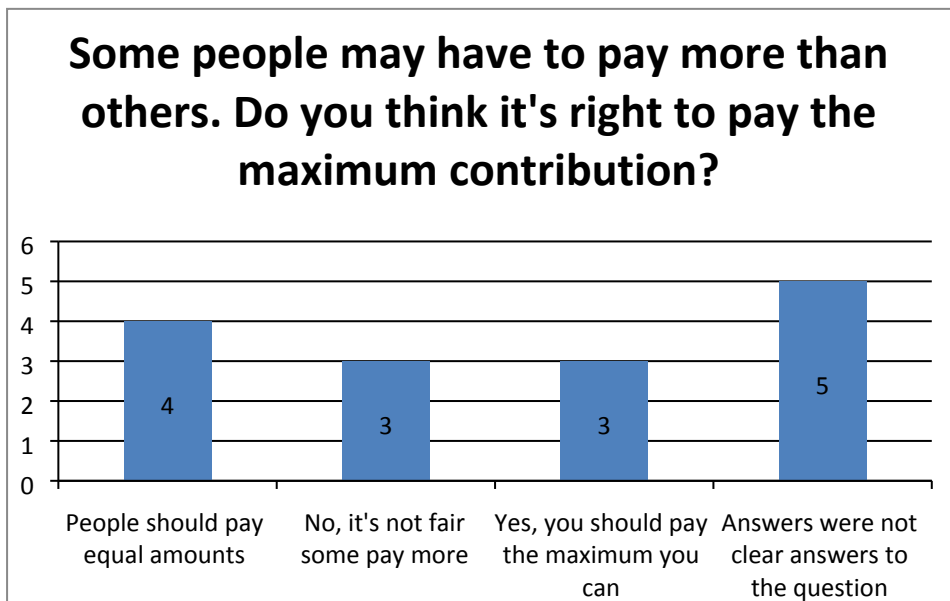
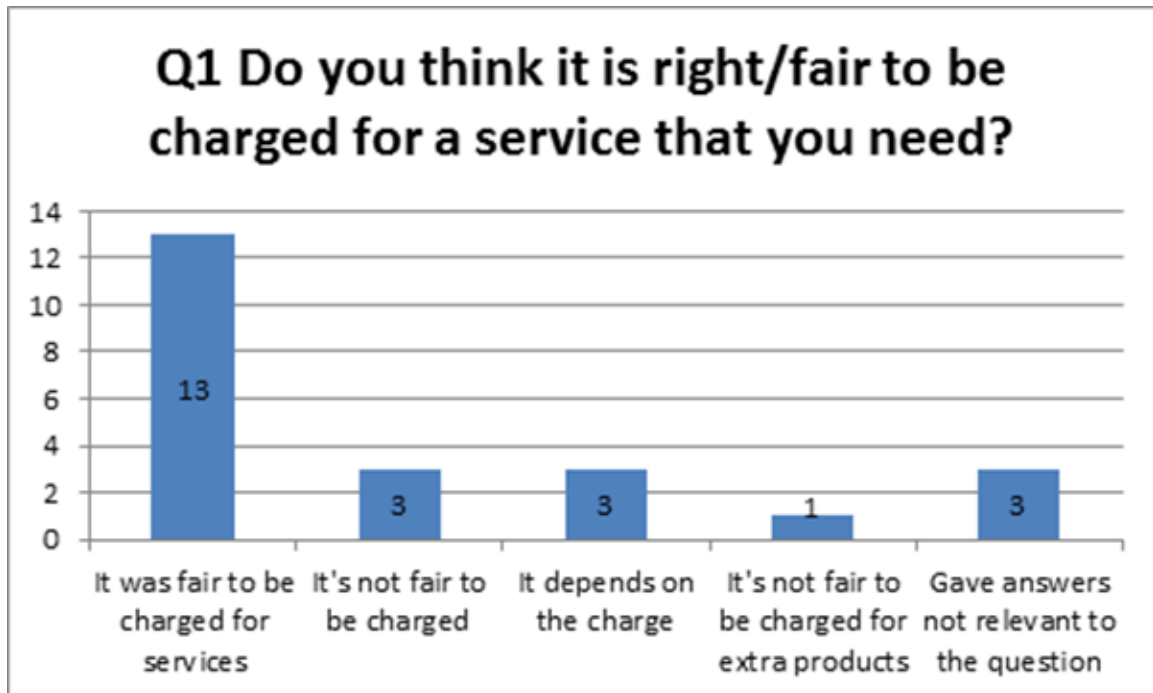


Ethnic Group

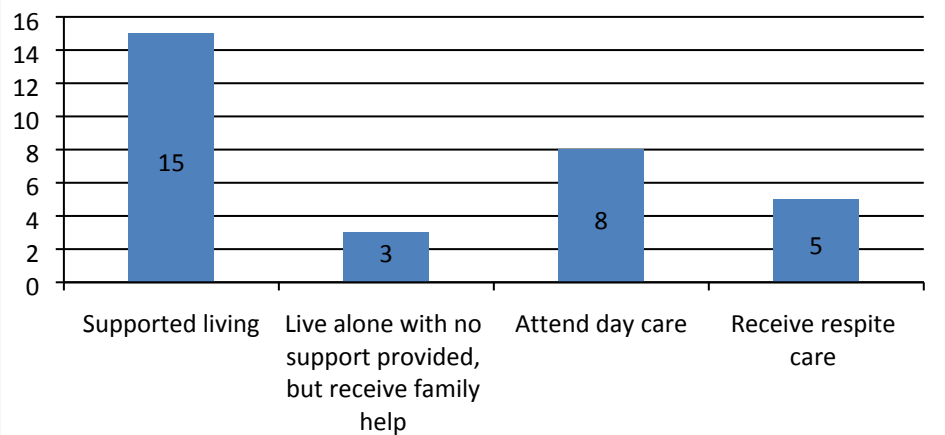


Appendix D

Summary of responses from Wiltshire People First



Q5 What kind of care and support do you have?



Appendix E

DRAFT minutes taken at the Health Select Committee meeting of the 21st June 2016.

The Chairman invited Sue Geary, Head of Commissioning, Community Services, Adult Care Strategy & Commissioning, to introduce the report. In presenting the report, she tendered the apologies of James Cawley, Associate Director, who was unable to attend due to a personal matter.

Issues highlighted in the course of the presentation included: that Health Select Committee received a report proposing changes to the council's care at home charging policy, pending consultation in April; that Cabinet will receive the results on 19 July and take the final decision; that the Committee had previously expressed some concerns about the number of consultation responses and asked for further details of the consultation responses received at its next meeting; this update included: a summary of the consultation responses received; the results of public engagement by Healthwatch Wiltshire regarding the proposed changes undertaken; and template letters sent to people affected.

In response to a question from Councillor Graham Wright, it was confirmed that around 60 responses had been made to the survey, and only one from a voluntary organisation; officers had hoped that a number of advocacy/voluntary groups would have responded, and that they would be contacting these groups to see why.

Councillor Caswill expressed concern that the letters were difficult to follow and did not outline clearly enough the potential impact on individuals. Furthermore, he questioned how much reliance could be given to the consultation data given the low response.

In response to a question from Councillor Mary Douglas, it was suggested that some people may not feel their benefits should be taken into account, as they felt that those benefits should be used to pay for items other than their social care.

Irene Kohler expressed some concern at the suggestion of further consultation after the implementation of the proposals, as respondents may be even less inclined to respond.

Following a debate, the meeting;

Resolved

- 1. To express concern at the reported level of response to the consultation and ask Cabinet to consider whether it provides a sufficient basis from which to implement changes.**
- 2. If Cabinet implement changes to the charges, to receive an update on their impact, six months after implementation.**

Background Papers

**Healthwatch Report
Wiltshire People First Report
Equalities Impact Assessment
Draft Charging Policy**