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Report of: *John Macilwraith, Executive Director, People Services*

Report to: *Cllr George Lindars-Hammond, Cabinet Member for Health and Social Care*

Date of Decision: *2 March 2021*

Subject: Changes to the Fairer Contributions Policy to uplift the cost-of-living allowance for people in receipt of non-residential care

Is this a Key Decision? If Yes, reason Key Decision:-	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
- Expenditure and/or savings over £500,000	<input checked="" type="checkbox"/>	
- Affects 2 or more Wards	<input checked="" type="checkbox"/>	
Which Cabinet Member Portfolio does this relate to? Health and Social Care		
Which Scrutiny and Policy Development Committee does this relate to? Healthier Communities and Adult Social Care Scrutiny Committee		
Has an Equality Impact Assessment (EIA) been undertaken?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If YES, what EIA reference number has it been given? 881		
Does the report contain confidential or exempt information?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-		

Purpose of Report:

To amend the Council's Fairer Contributions policy so that the Government's statutory Minimum Income Guarantee is replaced by a Sheffield Cost of Living allowance which can be increased each year starting in April 2021.

Recommendations:

To apply a flat rate increase to the cost-of-living allowance of everyone currently impacted by the Minimum Income Guarantee in 2021/22 as set out in this report.

To uplift the cost of living each year, using the same methodology, but with a review after either three uplifts or when the Government uplifts the Minimum Income Guarantee, whichever is first.

To make specific changes to the Council's Fairer Contributions Policy as follows:

- a. All references of 'Minimum Income Guarantee' to be replaced with 'cost of living allowance'.
- b. Paragraph 6.12.1 to be deleted and replaced with the following:
People will retain an allowance to cover the cost of living independently and this will be no less than the statutory Minimum Income Guarantee. This cost-of-living allowance will be uplifted each year with a budget for increases linked to pension and benefit increases. Where additional amounts for the cost of living are required (for example as a result of the service user being a carer, disabled, or having dependent children) additional allowances will be given as per the Care Act and accompanying regulations.

To delegate to the Executive Director of People Services, in consultation with the Cabinet Member for Health and Social Care, the final amount of the uplift each year based on the methodology set out in this report.

Background Papers:

[Fairer Contributions Policy 2015](#)

Lead Officer to complete:-	
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.
	Finance: Liz Gough
	Legal: Steve Eccleston
	Equalities: Ed Sexton
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>	

2	EMT member who approved submission:	John MacIlwraith
3	Cabinet Members consulted:	George Lindars- Hammond and Jackie Drayton
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: <i>Liam Duggan</i>	Job Title: Head of Service, Strategy and Commissioning
	Date: 19 th February 2021	

1. PROPOSAL

- 1.1 Guidance for Local Authorities on charging for Care and Support is set out in the Care Act, regulations and statutory guidance.
- 1.2 The Care Act describes how people receiving local authority-arranged care and support, other than in a care home, need to retain a minimum level of income to cover their living costs. This is a weekly amount and is known in the Guidance and Regulations as the Minimum Income Guarantee.
- 1.3 The actual amount of the statutory Minimum Income Guarantee depends on the individual's age and other circumstances. The Minimum Income Guarantee for single people is as follows:
 - £72.40 for 18- 25 year olds
 - £91.40 for 25 year olds to pension age;
 - £189.00 for people of pension age
- 1.4 Sheffield City Council's Fairer Contributions Policy came into effect in April 2015 and sets out how Adult Social Care and Support provided outside of care homes will be charged for in Sheffield in line with the Care Act and associated regulations.
- 1.5 The Fairer Contributions Policy makes provision for people to retain the statutory Minimum Income Guarantee (MIG) to cover their living costs.
- 1.6 In recent years the Government has frozen the Minimum Income Guarantee rates with no uplift each year. This means that whilst the actual cost of living has increased, the weekly allowance that people retain to pay for their living costs has not. In early February it was announced by Government that there will be no increase in the rate for 2021/22.
- 1.7 Sheffield City Council is proposing to amend its Fairer Contributions policy so as to establish a Sheffield cost of living allowance and allow a move away from the Government's Minimum Income Guarantee. This will mean that the allowance in Sheffield can be increased each year starting in April 2021.
- 1.8 The proposal for 2021/22 is to apply a flat rate increase to the cost-of-living allowance. The budget which will be redistributed to fund the increase will be determined by applying the same proportional uplift to the current total cost of the MIG in Sheffield as has been applied by Government this year to the pensions and benefits income of those people affected by the MIG in Sheffield. This additional budget will then be divided evenly by the number of people affected to provide the flat rate increase.
- 1.9 It is proposed that this approach to uplifting the cost of living will

continue in each subsequent year, but will be subject to review after three uplifts, or when the Government uplifts the Minimum Income Guarantee, whichever is first.

- 1.10 The specific wording change in the policy will be as follows:
- c. All references of 'Minimum Income Guarantee' to be replaced with 'cost of living allowance'.
 - d. Paragraph 6.12.1 to be deleted and replaced with the following:
People will retain an allowance to cover the cost of living independently and this will be no less than the statutory Minimum Income Guarantee. This cost-of-living allowance will be uplifted each year with a budget for increases linked to pension and benefit increases.

2. HOW DOES THIS DECISION CONTRIBUTE ?

- 2.1 There are currently 3007 people affected by the Minimum Income Guarantee. This is a smaller number than would be expected based on the current number of people in receipt of care because of temporary national funding and charging arrangements linked to the pandemic.
- 2.2 People affected by the Minimum Income Guarantee are people in receipt of care and support who can afford to make a contribution to the costs of their care but who do not have enough money to pay the full cost. This group of people all have less than £23,250k savings and are in receipt of state benefits and/ or pension.
- 2.3 Increasing the cost-of-living allowance in 2021/22 will ensure that these people will have more than the Minimum Income Guarantee to cover the cost of living independently.
- 2.4 Building in an annual uplift to the cost of living will mean that fewer people in the city are left in financial hardship and are therefore better able to live independent lives in the future.
- 2.5 Increasing the allowance for the cost of living will mean that people are paying proportionately less for the cost of their care and this will support people adversely affected by other factors such as welfare reform.
- 2.6 Providing for an increase to the cost of living, and providing proportionately more to those on the lowest allowances will reducing inequality and support financial inclusion.
- 2.7 By increasing the costs of living allowance people will have more money to spend in Sheffield therefore supporting the local economy.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 A public consultation process was launched on 21st January and ran until the 16th February seeking feedback on the best way to effectively introduce a cost of living allowance over and above the Government's

Minimum Income Guarantee. The consultation set out the Council’s preferred option for increasing the Minimum Income Guarantee as well as the other options considered as described in section 5 of this report.

- 3.2 The consultation was hosted on the Council’s Citizen Space website with respondents able to provide feedback online, by email, by Zoom (online meeting), by post and by phone.
- 3.3 The consultation was shared with interested service users, family members, advocates, third sector organisations and other stakeholders via the Council’s standard network.
- 3.4 The Council met twice with representatives of its strategic partners to discuss and review the options and took feedback on how the description of the options might be improved to support the engagement process.
- 3.5 Responses received were as follows:
 - 13 online responses
 - 5 via Zoom (online meeting)
 - 1 via email
 - 3 written responses from partner organisations
- 3.6 The relatively low level of feedback from this consultation is likely to be due to the inherently complex and technical nature of the proposals, the relatively short timescales and the impact of Covid as well as the fact that all options considered are more positive than the status quo so are unlikely to provoke strong reactions.
- 3.7 A summary of the feedback on the consultation is set out below

- 3.8 1. Do you agree that uplifting the cost of living allowance as a flat rate increase to everyone would help to increase fairness in the way the cost of living allowance is applied?

- Yes completely agree	10
- Yes mostly agree	7
- No mostly disagree	
- No completely disagree	
- No opinion given	5

- 3.9 2. Observations on the feedback received about the Council’s preferred option for increasing the cost of living allowance:
 - 17 out 22 respondents either ‘completely’ or ‘mostly’ agreed that this option would help to increase fairness.
 - Overall, where comments were made about this option, these tended to be favourable.
 - A query was raised as to whether £2.50 would make much difference – however, the consultation made clear that the figures given for each option were for illustrative purposes only and were designed to help with a relative comparison between the options.

- One question, prompted by a discussion on Zoom, helped to identify that option 5, unlike other options, would potentially help to remove people from contributions altogether.
- In summary, the feedback tended towards the positive for option 5 but was not conclusive.

3.10 3. Do you believe there is a fairer or better option, or options, for applying the of living allowance?

- Yes	5
- No	9
- No opinion given	8

3.11 4. If yes please tell us the options here

- Just consider Universal Basic Income and then base any cost-of-living decisions upon that.
- Possibly a scheme that could take into account people's expenditure - particularly in the pandemic
- Has consideration been given to increasing the allowance more for those that receive lowest total payments? I do not know enough to understand whether this would increase the equity of the system or not.

3.12 In addition to this individual feedback the Council received four responses from partner organisations. Feedback from these organisations generally welcomed the review but included calls for a longer consultation period and a wider discussion exploring other aspects of charging, particularly the treatment of Disability Related Expenditure.

3.13 One organisation expressed support for the Council's preferred option for the cost-of-living increase whilst the feedback from two of the other organisations provided a view on each of the options but stopped short of expressing a preference for a single option. The feedback generally invited a clearer comparison to be made between the Council's preferred option and the option to set a maximum level of assessable income (option d). Efforts have been made in section 5.5 of this report to provide that.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality of Opportunity Implications

4.1.1 An Equality Impact Assessment (EIA) has been undertaken to understand the implications of this proposal for different people. The analysis underpinning this assessment was undertaken on a historic sample of people in receipt of care in 2019 prior to the pandemic. A historic sample was used in order to provide a more representative sample of impacts as current numbers are significantly impacted by a range of temporary factors associated with the Covid pandemic including temporary national charging arrangements linked to hospital discharge.

4.1.2 At that time, in 2019, there were 3,486 people affected by the Minimum

Income Guarantee in Sheffield.

4.1.3 Around 60% people impacted by the MIG were pension age:

Working age 18-25	148
Working age 25+	1,305
Pension age	2,033

4.1.4 Of those people of working age the majority of people are in receipt of benefits indicating that they are severely disabled (high rate of PIP (Care component) or DLA).

Working age people	1,453
Of whom severely disabled	935 (64%)

4.1.5 54% of people impacted by the MIG are female:

Female 1896
Male 1590

4.1.6 There is no disproportionate impact on grounds of race and on BAME communities. Around 91% people affected by the MIG are, where recorded, White British.

4.1.7 A detailed analysis has been undertaken on the relative impacts of the different options considered and set out in Section 5 of this report on people of different ages and severity of disability. This analysis compared the amount of money that each person might pay under each option. The amount of money that each person might pay was considered as an absolute sum (£), as a % of that person's total income and as a % of that person's assessable income (income which can be taken into account in their financial assessment).

4.1.8 The analysis shows that under no option is any group worse off than they are currently and in all options (except c, discretionary payments) everyone gets some financial benefit even if it is slight.

4.1.9 Due to differences in the national benefits legislation and the national MIG the most significant factor affecting the proportion of total income and assessable income people contribute is age. Severity of disability is also a significant factor in determining the percentage of assessable income that people pay. Both age and disability are explicitly identified and considered in the options outlined below.

4.1.10 In general, people subject to the MIG aged 25 and under have a lower income in absolute terms. This makes any differences inherently more marked in percentage terms. The reverse is true for the people of pensionable age.

4.1.11 In all options people with severe disability pay a lower proportion of their *total* income than less disabled people and also retain more money in

absolute terms. However in all options people with severe disability pay a higher proportion of their *assessable* income than less disabled people. This is largely because of national benefit rates relative to current statutory MIG rates and rules around disregards. This is also in part due to the Council's analysis which assumed a standard allowance across all groups for housing costs and Disability Related Expenditure (DRE) when in reality it is likely that severely disabled people may have higher protected income than other people because of higher housing and DRE costs. Ultimately the differences are small such that disability on its own is unlikely to be the dominant influencing factor and individual circumstances are likely to have a far greater effect.

- 4.1.12 Due to the way the benefits system is set out it is very likely that a policy which is fair under one of these measures (% income, % assessable income) is unfair under another. It is therefore important for decision making to focus on the primary objective of the change.
- 4.1.13 Given the overall low levels of the MIG and the duration of time that the rates have remained unchanged it seems reasonable to put the balance of resources into increasing the MIG in absolute terms. This maximises the real terms benefits for the most people and shares the available money equally between the whole cohort of vulnerable adults.
- 4.1.14 It should be noted that the requirement in the Care Act to disregard paid earnings from a financial assessment produces a significant difference in the contribution between people in work and people out of work. People with significant levels of earnings from paid employment are very likely to be nil fee payers based on income. However the earnings exemption is a statutory provision and no remedy other than a total cessation in charging is likely to resolve this while still complying with the statutory provisions. The purpose of the Statutory disregard is to explicitly encourage and support disabled people into work as a matter of national policy.
- 4.1.15 The EIA undertaken is attached as an appendix to this report. It has been used to inform the analysis and recommendation and in particular the analysis of different options considered

4.2 Financial and Commercial Implications

- 4.2.1 Each year the Council budgets for an increase to the MIG at the same rate as the annual increase in pensions and benefits. The budget to fund the flat rate cost of living increase for 2021/22 will be determined by applying the same percentage uplift to the current cost of the MIG in Sheffield as the Government has applied to pensions and benefits. This will ensure the proposal remains affordable to the Council and within budget.
- 4.2.2 The financial cost of an annual uplift to the cost of living is expected to

be approximately £500k per year. This can be contained within existing budgets.

4.3 Legal Implications

4.3.1 Local authorities have a legal duty to arrange care and support for those with eligible needs, and a power to meet both eligible and non-eligible needs. In all cases, a local authority has the discretion to choose whether or not to charge under section 14 of the Care Act 2014 following a person's needs assessment. Where it decides to charge, it must follow the Care and Support (Charging and Assessment of Resources) Regulations 2014 and have regard to Statutory Guidance issued pursuant to S78 The Care Act 2014 (which the Local Authority is obliged to act in accordance with). Section 8 of the Guidance is applicable to this decision

4.3.2 Paragraph 8.46 of The Guidance requires that the Local Authority should consult with persons affected by decisions regarding the MIG. This report evidences how that consultation has been undertaken in section 3.

4.3.3 S149 Equality Act 2010 applies (The Public Sector Equality Duty) and requires that the Local Authority, in the exercise of its functions, has due regard to the need to

(a) eliminate discrimination, harassment, victimisation

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

4.3.4 An Equality Impact Assessment has been undertaken and is attached as an appendix to this report in order to evidence how the Local Authority has taken account of these obligations (together with any others in the Act) in making this decision.

4.3.5 Paragraph 8.47 of the Guidance requires Local authorities to consider whether it is appropriate to set a maximum percentage of disposable income (over and above the guaranteed minimum income) which may be taken into account in charges. Section 5 of this report evidences how that option has been considered and why the proposed decision is preferred

5. **ALTERNATIVE OPTIONS CONSIDERED**

5.1 A number of alternative options have been considered for providing people with more than the Minimum Income Guarantee to cover the cost of living independently. These options are set out below.

5.2 a. Uplift the rate for younger people more to offset the unfairness in the existing Government MIG

- Younger adults (aged 25 and under) receive a lower cost of living allowance under the statutory MIG than other working age adults. This option would help us make this seem fairer by introducing allowances at different age bands (i.e. providing bigger increases to people with the lowest allowances).
 - However, most people affected by the MIG are older people and so we feel the option would only help a relatively small number of people and most people would see little positive change.
- 5.3 b. Uplift by the same percentage as the annual benefit uplift
- This option would have the advantage of linking cost of living allowance increases directly to increases in benefit rates: as benefit rates go up, so would the amount of the individual's protected income.
 - However, the most positive impact would be seen by people whose benefits increase the most. People with less income and whose benefits do not increase as much would see least positive change.
- 5.4 c. Retain the Minimum Income Guarantee and provide discretionary payments instead
- Under this option, we would redistribute income from financial contributions so that it was available for people who see least positive impact from the statutory MIG.
 - However, we are concerned that the administration of this option would mean that there is a risk of low take-up and allocation of the payments.
 - Whilst some consultation feedback indicated that this could be a more flexible approach there were concerns that it could present a barrier to people getting the money they needed and also there were risks around transparency and the potential for unintentional and/or indirect discrimination
- 5.5 d. Retain the Minimum Income Guarantee but take account a maximum percentage of income instead
- This option would mean we would only take into account a percentage of an individual's disposable income (not the full amount of their disposable income). Paragraph 8.47 of the Government's Statutory Guidance requires Local authorities to consider whether it is appropriate to set a maximum percentage of disposable income (over and above the guaranteed minimum income).
 - This approach is not preferred as it would generally mean that people with higher income (e.g. pensioners) would see the most positive impact and people with the lowest incomes would see the least.
 - Because this option sees a maximum percentage applied to disposable income this option sees people with less exempt income retain proportionally more for living costs compared with people with more exempt income. It therefore favours high income pensioners compared with other pensioners, and less

disabled people compared with more disabled people.

- This option, as well as option C, are also the only options which don't have the effect of removing some people (very low payers) from charging altogether.

6. REASONS FOR RECOMMENDATIONS

6.1 Applying a flat rate increase to all groups is fair and transparent and is easy for people to understand

6.2 Applying a flat rate increase provides everyone with a meaningful increase but provides those people with a smaller allowance proportionally more than those with a higher allowance