Norfolk County Council

Adult Social Care Committee

Date: **Monday 9 March 2015**

Time: **10am**

Venue: **Edwards Room, County Hall, Norwich**

Persons attending the meeting are requested to turn off mobile phones.

Membership

Ms S Whitaker (Chair)

Mr B Borrett
Ms J Brociek-Coulton
Mr M Chenery of Horsbrugh
Mr D Crawford
Mr J Dobson
Mr T East
Mr T Garrod
Ms D Gihawi
Mr C Jordan
Ms E Morgan (Vice Chair)
Mr R Parkinson-Hare
Mr J Perkins
Mr A Proctor
Mrs A Thomas
Mrs M Somerville
Mr B Watkins

For further details and general enquiries about this Agenda please contact the Committee Officer:
Nicola LeDain on 01603 223053
or email committees@norfolk.gov.uk

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A g e n d a

1. To receive apologies and details of any substitute members attending

2. Minutes **(Page 5)**
To agree the minutes from the meeting held on 12 January 2015.

3. Members to Declare any Interests

If you have a Disclosable Pecuniary Interest in a matter to be considered at the meeting and that interest is on your Register of Interests you must not speak or vote on the matter.

If you have a Disclosable Pecuniary Interest in a matter to be considered at the meeting and that interest is not on your Register of Interests you must declare that interest at the meeting and not speak or vote on the matter.

In either case you may remain in the room where the meeting is taking place. If you consider that it would be inappropriate in the circumstances to remain in the room, you may leave the room while the matter is dealt with.

If you do not have a Disclosable Pecuniary Interest you may nevertheless have an Other Interest in a matter to be discussed if it affects

- your well being or financial position
- that of your family or close friends
- that of a club or society in which you have a management role
- that of another public body of which you are a member to a greater extent than others in your ward.

If that is the case then you must declare an interest but can speak and vote on the matter.

4. To receive any items of business which the Chairman decides should be considered as a matter of urgency

5. Local Member Issues

Fifteen minutes for local members to raise issues of concern of which due notice has been given.
Please note that all questions must be received by the Committee Team (committees@norfolk.gov.uk or 01603 223053) by **5pm on Wednesday 4 March 2015.**

6. Norfolk Adult Safeguarding Adults Board Strategic Plan 2015 to 2018 **(Page 17)**
Report by Executive Director of Adult Social Services

7. Update from Members of the Committee regarding any internal and external bodies that they sit on

8. Director's Update
Oral update by Executive Director of Adult Social Services

9. Performance Monitoring Report **(Page 38)**
Report by Executive Director of Adult Social Services

10. Adult Social Care Finance Monitoring Report Period Nine (December) 2014-15 **(Page 137)**
Report by Executive Director of Adult Social Services

11. The Care Act 2014 **(Page 147)**
Report by Executive Director of Adult Social Services

12. Better Care Fund Pooled Fund Arrangements **(Page 176)**
Report by Executive Director of Adult Social Services

13. Cost of Care and Developing the Market with the Independent Care Sector **(Page 184)**
Report by Executive Director of Adult Social Services

14. Review of the Residential and Non-Residential Charging Policy Associated with War Veterans **(Page 191)**
Report by Executive Director of Adult Social Services

15. Exclusion of Public

The committee is asked to consider excluding the public from the meeting under section 100A of the Local Government Act 1972 for consideration of the items below on the grounds that they involve the likely disclosure of exempt information as defined by paragraph 3 of Part 1 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The committee will be presented with the conclusions of the public interest tests carried out by the report author and is recommended to confirm the exclusion.

16. Amendment to NorseCare Contract **To follow**
Report by Executive Director of Adult Social Services

17. Great Yarmouth and Waveney Integrated Home Care **(Page 271)**
Report by Executive Director of Adult Social Services

Group Meetings

Conservative	9:00am	Conservative Group Room
UK Independence Party	9:00am	UKIP Group Room

Labour	9:00am	Labour Group Room
Liberal Democrats	9:00am	Liberal Democrat Group Room

Chris Walton
Head of Democratic Services
County Hall
Martineau Lane
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Date Agenda Published: 27 February 2015

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Norfolk County Council

Adult Social Care Committee
Minutes of the Meeting Held on 12 January 2015
10:00am Edwards Room, County Hall, Norwich

Present:

Ms S Whitaker (Chair)

Mr B Borrett
Ms J Brociek –Coulton
Mr D Crawford
Mr J Dobson
Mr T Fitz-Patrick
Ms D Gihawi
Mrs S Gurney
Mr C Jordan
Ms E Morgan
Mr R Parkinson-Hare
Mr J Perkins
Mr A Proctor
Mr E Seward
Mrs M Somerville
Mrs A Thomas
Mr B Watkins

The Chair thanked Cllr Alexandra Kemp for her contributions during her period as a member of the Adult Social Care Committee.

It was agreed to take Item 10 on the agenda (Adult Social Care Finance Monitoring Report Period Eight (November) 2014-15) before Item 9 (Service and Budget Planning 2015-18).

1. Apologies

1.1 Apologies for absence were received from Tim East and Tom Garrod (substituted by Eric Seward and Tom Fitz-Patrick respectively).

2. Minutes

2.1 The minutes of the meeting held on 17th November 2014 were agreed by the Committee and signed by the Chair.

3. Declarations of Interest

3.1 Mrs Thomas declared an ‘other’ interest in respect of item 7 as a member of the border hopper plus project board, which is supporting the border hopper project going forwards.

3.2 Mr Parkinson-Hare declared an ‘other’ interest as he had a daughter with learning difficulties.

3.3 Mr Seward declared an ‘other’ interest as he had a daughter with learning difficulties.

3.4 Ms Whitaker declared an 'other' interest in respect of item 14 as she was formerly a trustee of Norwich and West Norfolk Citizens Advice Bureau.

4 Items of Urgent Business

4.1 There were no items of urgent business received.

5 Local Member Questions

5.1 There were no local Member questions.

6. Update from Members of the Committee regarding any internal and external bodies that they sit on

6.1 The Chair reported that she had attended two meetings of the Mental Health Trust, one of which was in an observing role of the Directors meeting, and the other was of the Governors meeting. She had also attended an efficiency group meeting where the majority of the discussion held had been regarding car parking at County Hall.

6.2 There had also been two meetings of the Chairs of the service Committees which the Chair had attended. Savings and the forthcoming budget discussion had been the main topics of conversation. The Chair confirmed that nothing had been raised in these meetings regarding additional savings had appeared and needed to be made. She had expressed the Committee wish for a corporate approach to be implemented and she had explained the situation that Adult Social Services was in. However there was no spare money in the budget.

6.3 Elizabeth Morgan reported that she had attended two meetings of the Norfolk Community Health and Care NHS Trust.

6.4 John Dobson reported that he had received his induction at Queen Elizabeth Hospital. There would be a meeting later in the month which he would be attending.

6.5 Alison Thomas reported that she had met with the Chairman of South Norfolk forum in order to create an initial link.

7 Director's Update

7.1 The Executive Director of Adult Social Services reported that recently the department had been concentrating on the setting of the County Council budget, and Adult Social Services department's role in that. A consequence of this was the monitoring of placements; those which were being made and those which were ending. It was reported that there needed to be a radical change in the provision of adult care and consultant John Bolton was spending some time with the department analysing how to improve the way of working. There would also be a session with Mr Bolton which Members would be able to attend, and this would take place on 25th February 2015.

7.2 It was reported by the Executive Director of Adult Social Services that there

appeared to be a national crisis with Accident and Emergency departments. In Norfolk, the Henderson Ward on the Julian Hospital site had to be closed for Christmas Day due to staff shortage, and patients had to be taken to the Norfolk and Norwich University Hospital.

7.3 Although concern was expressed by members of the Committee at the temporary closing of the Henderson Ward on Christmas day, the Director confirmed that it was a temporary closure and the ward had re-opened and working effectively.

7.4 The implementation of the Care Act was being prepared for which would mean significant changes in the way the department operated.

8 Adults Safeguarding Board Peer Review Update

8.1 The annexed report (8) by the Executive Director of Adult Social Services was received. The reports et out the key findings and the progress made on the recommendations. The Safeguarding responsibilities of Local Authorities would become statutory under the Care Act from April 2015.

8.2 It was reported that the Safeguarding Board would become a statutory body from April, and therefore would be subject to external review. Although the timetable to put everything in place for April was challenging, good foundations had already been built and it seemed everything was now in place for the re-fresh of the Board from April.

8.3 The Committee were informed that training would be taking place in the next month, and it was suggested that the training should be available to all Members not just members of the Committee.

8.4 A cross committee group between Adult Social Care Committee and Children's Services Committee was being created, with a provisional terms of reference having been agreed.

8.5 The Committee were informed that there was now a working budget for the first time, as a significant rise in income had been secured rising to £20k per year from £3-£4k per year.

8.6 The Safeguarding Board would be ratifying the new business plan and strategic plan in January, and from this the constitution would be created. This would be provided to the Committee at a future meeting for information.

8.7 The Committee were assured that the practices of the Safeguarding Board, although were deemed as sufficient, were being reviewed. Resources were being reviewed to ensure they were being used as effectively as possible.

8.8 Member of the Committee expressed concern that only one member of the Committee was appointed to the Norfolk Safeguarding Adults Board, and as the report highlighted the need to reorganise, it was felt that one member could not be enough.

8.9 The Committee RESOLVED that;

- All Members note the progress on the recommendations of the Peer Review as set out in Appendix 1 of the report.
- All Members should undertake the training in Basic Awareness of Adult Safeguarding in order to support the profile of the work of NSAB.

9. Adult Social Care Finance Monitoring Report Period Eight (November) 2014-15

9.1 The annexed report (10) by the Executive Director of Adult Social Services was received. The report provided the Committee with financial monitoring information, based on information to the end of November 2014. It provided a forecast for the full year, analysis of variations from the revised budget, with recovery actions to reduce the overspend and the forecast use of Adult Social Care (ASC) reserves.

9.2 Members asked if the executive summary of the reports could be made easier to understand, as the figures in the report seemed confusing.

9.3 The Committee heard that there would hopefully be an improvement in the financial situation of the department by the end of the financial year.

9.4 Concern was expressed about the proposed budget and if it realistically achievable. It was noted that to be in the current situation, the budget could not have been set realistically last year and it was not achieved. The Executive Director of Adult Social services replied that there was nationally a rise in funding requirements along with the amount of grants being reduced from central Government. All Local Authorities were in a similar situation.

9.5 After an explanation of the whole Council budget to the Committee and the effect of the overspend, the Committee noted that it was useful to have received this, and maybe it would be useful to have a whole Council picture for future budget discussions. Nevertheless, the Committee felt that radical change was needed to prevent substantial overspend in the future. The Executive Director of Adult Social services confirmed that John Bolton who had carried out some work in the way the department worked, made the department think about different work and scenarios.

9.6 The Committee received assurance that none of the proposed savings would alter the fundamental task of safeguarding vulnerable people. However it would restrict some of the choice that those people receive as NCC would provide cost-effective choices.

9.7 The Committee expressed concern about the proposal to use earmarked reserves to prevent the overspend. The Committee were assured that although they were earmarked reserves at one point, there were no longer needed to for that requirements and therefore could be used.

9.8 The Committee noted that the provision of housing with care beds from Norse Care were not cheaper than a private provider, but they were block purchased which

made them more cost effective.

9.9 The Committee RESOLVED to note:

- The forecast revenue outturn position for 2014-15 as at Period Eight of an overspend of £6.094m.
- The recovery actions being taken to reduce the overspend.
- The current forecast for use of reserves.
- The forecast capital outturn positon for the 2014-15 capital programme.

The Committee had a short break for 35 minutes at 12.30pm and returned at 1.05pm.

10. Service and Budget Planning 2015-18

10.1 The annexed report (9) by the Executive Director of Adult Social Services was received. The report contained proposals which would contribute towards the County Council setting a legal budget for 2015/16 which would see its total resources of £1.4billion focused on meeting the needs of residents.

10.2 Concern was expressed by the Committee about the use of earmarked reserves to fill the shortfall in the budget, and it was thought that general reserves should be used over earmarked reserves. It was confirmed by the Interim Director of Finance that Norfolk County Council were holding general reserves of approximately £19million and the use of earmarked reserves was part of normal financial planning. The budget book was approved at County Council, and part of that stated how earmarked reserves would be used over the next three years.

10.3 Members were concerned that although it appeared that there was no longer a need for the earmarked reserves for what they were intended, this decision had not been reported to the Committee, and there did not appear to be a process in place for bringing this financial information to the Committee. It was clarified to Members that there had traditionally not been many earmarked reserves for Adult Social Services, and if the Committee wished so, it could recommend to Policy and Resources that they were not prepared to accept the recommended budget.

10.4 The Committee was made aware that the use of the reserves for the budget shortfall would result in limited funds being available for the use of the transformation programme from April 2016.

Norfolk County Council had created a reserve to deal with the potential liabilities associated with the funding of aftercare under section 117 of the Mental Health Act. This is used to fund these costs through the purchase of care budget, and it is forecast that all of the reserve will have been used by the end of this financial year (2014-15).

10.5 In response to Members' questions which related to the realistic savings targets which had been set, the Executive Director of Adult Social services responded that the savings targets which had been set as part of the proposals had been scrutinised and were realistic yet challenging savings. It was the intention of the department to use the forthcoming financial year to understand the impact of the reduced transport budget and once this was known, the transport budget could be reviewed.

10.6 Members expressed an interest in the details of where the increased revenue from the Council tax base had been used. The Committee heard that the increase of the Council tax base had resulted in an extra £7 million for Norfolk County Council. This extra funding had been used to balance the overall budget for the Council but it meant that departments still had savings to realise. The figure received from the Council tax base had changed throughout the process of setting the budget and there had been no expectation from the Council that this would be the final figure.

10.7 As the increased funds had been used overall for the budget, it would had been more helpful for the Committee to have received information on the whole NCC budget rather than just for the individual Committee.

10.8 Although the Equality Impact Assessment had revealed that the proposal for the reduction of transport for service users would impact on the older and rural based service users, some Members claimed that it would not be possible for those affected to use the hopper bus service in conjunction with bus passes. The Executive Director for Adult Social Services clarified that service users would not be forced to use public transport where they were unable and would work alongside service users to find alternatives.

10.9 Members noted there was a risk of relying upon the money the Council would receive in conjunction with the Better Care Fund. This in turn relied on achieving a reduction of planned admissions into acute services, which carried a potential risk of not being met. The Executive Director of Adult Social Services confirmed that the £13 million agreed funding from the Clinical Commissioning Groups for the Better Care Fund settlement was secured aside from the performance element and was part of the legal transfer. If the target was not met, Norfolk County Council would not bear the risk of the loss of funding.

10.10 Members asked that future reports were made easier for Members to understand, as they needed to relay the information to their residents and parishes.

10.11 The following additional recommendation was moved by Cllr Andrew Proctor and was duly seconded;
"Adult Social Services reserves should not be used to support the 2015/16 budget shortfall because of the adverse impact on the ability to make future savings and changes but instead Policy and Resources Committee should consider a 'whole Council' approach to the use of reserves to fund budget shortfalls."

After a recorded vote, which is attached at appendix A, the motion was **CARRIED**.

10.12 The following amendment to recommendation 3 was moved by Cllr John Dobson

and duly seconded;
"Agree and recommend a budget as set out in Appendix A of the report and any associated risks or issues and with the exception of the proposed use of reserves contained in Appendix C of the report to Policy & Resources Committee for consideration on 26 January 2015, to enable Policy& Resources Committee to recommend a sound, whole-Council budget to Full Council on 16 February 2015."

On a show of hands, the Committee **AGREED** the amendment and it became the substantive recommendation.

10.13 Upon being put to the vote, with 8 votes in favour and 9 votes against the recommendation was **LOST**.

10.14 The Committee **RESOLVED** to:

- Consider and agree the findings of public consultation.
- Consider and agree the findings of equality and rural assessment, and in doing so, note the Council's duty under the Equality Act 2010 to have due regard to the need to:
    - Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
    - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
    - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- Recommend to Policy and Resources that Adult Social Services reserves should not be used to support the 2015/16 budget shortfall because of the adverse impact on the ability to make future savings and changes but instead Policy and Resources Committee should consider a 'whole Council' approach to the use of reserves to fund budget shortfalls.

11. Better Care Fund (BCF)

11.1 The annexed report (11) by the Executive Director of Adult Social Services was received. The report provided information with regards to the Better Care Fund. It explained that the BCF required local authorities with responsibility for social services and clinical commissioning groups (CCG's) to create a pooled commissioning fund for the provision of integrated health and community care services, with a priority purpose of reducing unplanned admissions to hospitals. It forms part of a wider programme of integration with health services.

11.2 The Committee asked for a breakdown of the funds mentioned in 5.3 of the report which related to the total amount made up of a variety of measures to protect social care, support carers, invest in reablement and implement the Care Act. The Executive Director of Adult Social Services clarified that approximately £4.3m was for reablement, £2.204m for the Care Act implementation, £2.015m to support carers and £7.1m for the protection of social care.

11.3 The Committee were informed how funds were devolved from the Clinical Commissioning Groups (CCG's) to the Local Authority. Funding was given to CCG's to add to the BCF and NCC entered into a legal section 75 agreement with them to provide the funds.

11.4 It was confirmed to the Committee that the systems of NCC and NHS were fit for data sharing and this had begun to take place.

11.5 The Committee RESOLVED to;

- Endorse the proposed approach to preparing for the Better Care Fund pooled fund under section 75 of the NHS Act.
- Agree the final proposal for a pooled fund was brought to Committee In March for final approval.

12. The Care Act 2014

12.1 The annexed report (12) by the Executive Director of Adult Social Services was received. The Care Act consolidates existing legislation for adult social care in England into a single framework and introduces reforms to the way care and support will be accessed and funded in future. The Care Act is the biggest change in social care legislation since 1948. It became law on 15 May 2014.

12.2 . Norfolk's 'new' charging policy for residential and non-residential care comes into effect on 1 April 2015 and is based on the Care and Support (Charging and Assessment of Resources) Regulations 2014. The proposed charging policies for residential and non-residential care are very similar to the existing NCC policies As part of these new charging policies, it was recommended that the Council started charging an arrangement fee for self-funders receiving non-residential care when they ask NCC to arrange their care for them It was confirmed that it would be implemented on a flat fee basis as no profit was allowed to be made, and reviewed on an annual basis.

12.3 The Committee heard that the department was confident that all work in preparation for the implementation for the aspects of the Care Act in April 2015 would be achieved in the timescales.

12.4 Members of the Committee were concerned that ICT were unable to provide a project manager to oversee the IT resources being implemented for the Care Act. The Committee felt that the project manager should not be paid for out of the already stretched budget of Adult Social Services. The Committee agreed that an approach should be made to ICT for the cost of the project manager which was being paid for by Adult Social services, to be paid back to the department.

12.5 The Committee heard that there could potentially be an increased risk of deferred payments but the administrative charge of this could be covered by the Council being able to charge interest during the life of the agreement to cover the costs under the Care Act.

12.6 The Committee AGREED to;

- Continue to not charge for support to carers.
- Continue with the current policy that the person making the 'top-up' payments pays the 'top-up' amount to the local authority.
- Continue with the current policy of charging for respite based on the Residential Charging Policy.
- Charge an arrangement fee to those people who pay for their own care when Norfolk County Council arranged their care for them and to set a fixed price which would be reviewed annually.
- Offer deferred payments to those receiving Housing with Care and supported Living as well as those living in residential care.
- Assess all new cases from April 2015 in line with the non-residential policy, i.e. on an individual basis, leave the existing couples' assessments as is and review them in 2016.
- For people in prisons who need social care - keep social care and assessments in house and commission the provision of services, building on what already exists, e.g. NRS contract for equipment, existing prison healthcare contract.

13. Care and Support Services Quality Framework

13.1 The annexed report (13) from the Executive Director of Adult Social Services was received. The report explained that the Care Act 2014 would place new statutory duties on councils with adult social care responsibilities to promote an effective and efficient market in high quality social care and support services focused on promoting independence and individual wellbeing. The council currently invests over £260m a year in the market and it was imperative that the investment secures the quality of services that people actually need to support their independence, meet core care needs and represents good use of, and value for, public money. A new quality assurance framework is proposed that will enable the Council to ensure that it is only investing at the scale it needs to and that the investment is buying high quality, effective value for money services.

13.2 The emphasis initially would be on providers who were not CQC regulated. These were primarily day services.

13.3 Due to the implementation of the Care Act, the redesign of the Council's services would be initiated such as Independence Matters. This would change the way it worked and develop a different model of social work.

13.4 The introduction of the Quality Framework would mean there would be a large

number of contracts with various condition attached which would ensure that NCC would not be liable for services which didn't fit the specified criteria. The financial investment into the support of the new quality assurance framework would be offset by the savings achieved in the purchase of care budget.

13.5 The Committee were reassured by the Executive Director of Adult Social Services that providers were excited by the launch of the new quality framework as it would identify those who were not providing the highest standards.

13.6 There was a close link between procurement and the quality framework in terms of achieving value for money and contract monitoring.

13.7 The Committee AGREED;

- To adopt the proposed care and support quality framework to secure high quality, effective value for money social care services in Norfolk.
- To the proposed initial investment

14. Review of Citizens Advice Bureau Funding

14.1 The annexed report (14) by the Executive Director of Adult Social Services was received. The proposals identified in the report would enable the Council to retain valued information and advice services and in addition to address statutory duties placed on local authorities by the Care Act 2014.

14.2 It was noted that the Citizens Advice Bureau (CAB) was a hugely valued service and the County Council should support a strategic review to ensure that resources were being maximised. The CAB was invaluable in other ways such as outreach work.

14.3 It was evident that the CAB were experiencing challenges and the Committee heard that North Norfolk branches had limited volunteers. It was suggested that more should be done for CAB to work alongside parish and town councils in terms of fundraising.

14.4 The Committee heard that North Norfolk District Council (NNDC) gave grants to the Norfolk and Dereham branches of the CAB. Issues had been reported to NNDC, and a review of the needs of the CAB had been agreed with NNDC on the same timescales of the review with NCC.

14.5 The Committee RESOLVED to;

- Approve the extension of CAB grant funding at the current levels for an additional six months to 30/09/15 with the following conditions;
    - That CAB engages with the Council to support the strategic review of information, advice and advocacy services.

- That CAB implements an effective plan within the resources they have to manage unanswered calls to the countywide CAB Adviceline.

- Requires commissioners to complete a strategic review of information, advice and advocacy services and to bring a commissioning proposal to Committee for implementation from October 2015. This will address Care Act duties, seek a Norfolk-wide approach with district councils and will identify any efficiency savings.

15. Transfer of Mental Health Social Care from Norfolk and Suffolk NHS Foundation Trust to Norfolk County Council

15.1 The annexed report (15) by the Executive Director of Adult Social Services was received by the Committee. The report highlighted that the Adult Mental Health social care teams moved to NCC from Norfolk and Suffolk Foundation Trust (NSFT) on 1 October 2014.

15.2 The Committee heard that there had been a positive response from staff affected by the transfer.

15.3 Synopsis of why transfer didn't happen

15.4 Transfer of caseload

15.5 The Committee heard that there was now clear boundaries in the roles of the staff such as assistant practitioners and team managers. There were 12 nurse approved mental health professionals (AMPS) on a rota with 25 amps altogether. Although there had to be changes in the structure made, adding team managers and assistant practitioners added to the robust arrangements.

15.6 The Committee RESOLVED to;

- Note the report.

16. Exclusion of the Public

16.1 The committee is asked to consider excluding the public from the meeting under section 100A of the Local Government Act 1972 for consideration of the items below on the grounds that they involve the likely disclosure of exempt information as defined by paragraph 3 of Part 1 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

16.2 The committee was presented with the conclusions of the public interest tests carried out by the report author and resolved to confirm the exclusion.

17. Exemption to Contract for Ashcroft Residential Care Home

17.1 The annexed report (16) by the Executive Director of Adult Social Services was received by the Committee.

17.2 **The Committee RESOLVED to;**

- Approve the extension to the existing contract with Julian Support for Ashcroft Residential Care Home as detailed in the report.

Meeting finished at 5.10pm.

CHAIR

Adult Social Care Committee

Item No. 6

Report title:	**Norfolk Adult Safeguarding Adults Board Strategic Plan 2015 to 2018**
Date of meeting:	**9 March 2015**
Responsible Chief Officer:	**Harold Bodmer, Executive Director of Adult Social Services**

Strategic impact

This report outlines the Norfolk Safeguarding Adults Board Strategic Plan 2015-2018 and the Norfolk Safeguarding Board Business Plan 2015/16. Safeguarding responsibilities of Local Authorities become statutory under the Care Act from April 2015.

Executive summary

Members received a report from the Chair of the Safeguarding Adults Board in January 2015 outlining progress on the recommendations following the Safeguarding Adults Peer Review and setting out the areas the Board would be focussing on. This included the development of a three year Strategic Plan and Business Plan for 2015/16.

In November 2014 Safeguarding Adults Board members participated in a development day where they considered the requirements of the Care Act 2014, the 'Making Safeguarding Personal' approach and the learning from the Peer Review. The strategy and business plan have resulted from this work.

The Business Plan sets out the actions to deliver the strategy. The work will be directed by the Safeguarding Adults Board and delivered by various sub groups and through Locality Safeguarding Adults partnerships and sub groups.

Both the Strategic Plan and Business Plan were ratified at the Safeguarding Adults Board meeting on 21st January 2015.

Recommendations:

Members are asked to note and endorse the content of the Strategy and Business Plan.

1. Background

1.1 From April 2015 Safeguarding Adults Boards will be a statutory requirement. The Norfolk Safeguarding Adults Board is a formal arrangement of statutory and non-statutory organisations that works together to encourage effective working relationships between different organisations and professional groups and promote awareness and good practice in Norfolk. It has been in existence since 2008 and will have statutory status from April 2015 under section 42 of the Care Act 2014.

1.2 In 2014 Norfolk asked for a Peer Review of Safeguarding and this was

undertaken by an independent team led by the Local Government Association. The Peer Review made some recommendations to help us improve and be ready for the implementation of the Care Act. This included the development of a three to five year strategy that Board members own and deliver through the annual business plan. The delivery of the strategy is through local safeguarding partnerships and sub groups.

1.3 In addition the Care Act 2014 requires Safeguarding Adults Boards to publish a strategic plan for each financial year that sets out how it will meet its main objective. (Appendix A)

1.4 The "Making Safeguarding Personal" approach is about ensuring people have choice and control by keeping them fully informed and seek their views and wishes throughout all aspects of safeguarding.

2. Safeguarding Adults Board Strategy

2.1 In November 2014 Safeguarding Adults Board members participated in a development day where they considered the requirements of the Care Act, Making Safeguarding Personal and the outcomes of the Peer Review. The strategy and business plan have resulted from this work.

2.2 The strategy adopts the Local Government Association Vision for Safeguarding Boards:

People are able to live a life free from harm, where communities:

a) Have a culture that does not tolerate abuse
b) Work together to prevent harm
c) Know what to do when abuse happens

2.3 The vision embraces the 6 key principles outlined in the Care Act 2014 and the Business Plan actions are linked to each of these principles:

Empowerment – a presumption of person-led decision and informed consent
Prevention – It is better to take action before harm occurs
Proportionality – proportionate and least intrusive response appropriate to the risk presented
Protection – support and representation for those in greatest need
Partnerships – local solutions through services working with their communities
Accountability – accountability and transparency in delivering safeguarding

2.4 The Safeguarding Adults Board ratified the Strategy and Business Plan at its meeting on 21st January 2015 and these are appended to this report. (Appendix B)

2.5 The Safeguarding Adults Board will keep the strategy and business plan under review, will ensure membership of the board is appropriate for delivery and will hold its members to account for delivery of the strategy.

Officer Contact

If you have any questions about matters contained in this paper or want to see copies of any assessments, eg equality impact assessment, please get in touch with:

Officer Name:	**Tel No:**	**Email address**:
Joan Maughan Independent chair NSAB	01379 788468	joanmaughan@hotmail.com
Helen Thacker NSAB Business manager	01603 729110	helen.thacker@norfolk.gov.uk

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Norfolk Safeguarding Adults Board
Strategic Plan 2015 to 2018

Norfolk learns and improves as part of its processes and is happy to adopt the Local Government Association vision for Safeguarding Boards:

People are able to live a life free from harm, where communities:

have a culture that does not tolerate abuse

work together to prevent harm

know what to do when abuse happens

This document is the strategy to support the vision for safeguarding adults in Norfolk over the next 3 years 2015 to 2018, and embraces the 6 key principles set out in the Care Act 2014. These 6 principles hold equal importance and are the foundation of good and effective safeguarding.

The purpose of the Safeguarding Adults Board in Norfolk is to hold all agency members to account if this vision is not realised.

Empowerment – presumption of person-led decisions and informed consent.

Making Safeguarding Personal will be at the centre of all interventions. Adults in need of services views will be sought, or that of their advocates, at every level of the safeguarding process.

The Board will engage people in conversations about how best to respond to their safeguarding situation in a way that enhances involvement, choice and control as well as improving quality of life, wellbeing and safety:

> "*What good is it making someone safer if it merely makes them miserable?*"
>
> Lord Justice Munby

Our strategic intention is that the board can clearly demonstrate that it is influenced and advised by the experience of people who have been or may be at risk of harm. The Board will seek assurances from its partner organisations that citizen involvement is central to its wellbeing and safeguarding activities.

The Board will ensure that citizens are aware of their right to justice at all levels of intervention and require agencies to demonstrate that justice has been achieved.

The Board and its partners will make every effort to communicate with the citizens of Norfolk in language and presentation that is accessible.

The Board will empower people through the methods and content of training provided.

Board will support and monitor activities that enable adults to achieve resolution or recovery.

Prevention – It is better to take action before harm occurs.

The Board will have a communication strategy that empowers all citizens, to enable them to identify harm and know what actions to take.

The Board will require all agencies to intervene to prevent harm by supplying relevant advice and information at the earliest opportunity.

The Board will call for all agencies to share relevant information to reduce the risk of harm occurring or persisting.

The Board will be linked in with and exploit opportunities to support national campaigns with the aim of ensuring that the risk of harm is reduced at every opportunity.

The Board will know its populations and look for opportunities to encourage personal responsibility, harnessing the potential of the community to protect itself from harm.

Proportionality – proportionate and least intrusive response appropriate to the risk presented.

Life is not risk free. The Board will support activities across partner organisations that identify risks, mitigate against them, but are not risk averse. Partner agencies to take the least restrictive option to support, when intervention is required to mitigate risk.

"*Anyone who believes that the work is simple and the right decision's always obvious is mistaken*"

Mr Justice Peter Jackson

The Board will apply opportunities to learn lessons and improve practices, at the relevant level when concerns have been raised.

The Board will exercise a power to challenge when safeguarding needs are identified and not met.

The Board and its partners will have a framework that gathers and builds evidence to demonstrate a response that is proportionate to circumstances of the incident and the wishes of the adult.

Protection – support and representation for those in greatest need.

The NSAB partners will use whatever means they have at their disposal to address domestic violence, sexual abuse, psychological abuse, financial or material abuse, modern slavery, discriminatory abuse, organisational abuse, neglect and acts of omission and self neglect. The Board coordinates partnership activities that will include:

major public awareness

targeted awareness to particularly vulnerable groups

raising the profile of the Board

identifying and managing risk

Norfolk partners employ a large workforce that requires a consistent and coordinated approach to training. Comprehensive training to be developed and delivered to a minimum standard, endorsing accountability for work practices, promoting a culture of openness and transparency without fear of retribution.

The Board will support the partner organisations to practice in a manner that does not diminish their safeguarding functions.

Abusive behaviour in any environment is never accepted.

Safeguarding activities demonstrate the diverse communities within Norfolk.

The NSAB will promote a positive approach to information-sharing because it believes this is an important protective measure.

Partnerships – local solutions through services working with their communities.

Board respects individual confidentiality while requiring the sharing of relevant and appropriate information necessary to prevent abuse occurring or continuing or to support adults to achieve resolution and recovery.

The Board will actively promote collaborative opportunities, developing partnerships that expand the capacity of the Board to ensure the citizens of Norfolk remain safe and the Board achieves its outcomes.

The Board will create opportunities for adult who have been or may be at risk of harm, to influence the activities of the safeguarding board and its partners.

In order to value and respect the vigilance of referrers, the Board will expect partners to demonstrate that appropriate feedback has been given.

Accountability – accountability and transparency in delivering safeguarding.

The Board will be confident that people who use safeguarding services will understand the role of those services in relation to their safety, health and wellbeing.

The Board will implement the requirements of the Care Act, including the publication of an annual report which will include details of its members' activity to deliver the objectives of its strategic plan.

The Board will publish any Safeguarding Adults Reviews carried out each year and learning to come from these, in accordance with the requirements of the Care Act 2014.

Partner agencies will understand their own role and the limits to their authority.

The Board will develop a constitution that is accessible to all members of the public.

The Board will establish a reporting structure that monitors and scrutinises its activity.

The Board will continually review its membership and structure to deliver its workplans which include the Locality Safeguarding Adults Partnerships (LSAPs) and subgroups. The Terms of Reference will give direction from the Board to the subgroups including LSAPs and that their end of year summary to the annual report will evidence this.

Terms of Reference will be produced by NSAB giving direction to the subgroups and LSAPs. The subgroups will be required to evidence how they have met the Board's strategic priorities through their contribution to the annual report.

The Board will investigate options for income generation.

Training will achieve an agreed minimum standard so staff are aware that abuse is not tolerated, responses are appropriate and all concerns are recorded and heard.

NSAB Business Plan - Jan 2015 - March 2016

The purpose of this Business Plan is to ensure that people in Norfolk are able to live a life free from harm and where communities:

Have a culture that does not tolerate abuse
Work together to prevent harm
Know what to do when abuse happens.

1	**Strategic Intention** **EMPOWERMENT**	**Actions**	**Lead role and accountability**	**Timeframe for delivery**	**How we will know NSAB has made difference**	**Status**
1.1	The Strategic Plan, and the annual report will be produced in accessible language.	Plans and reports in accessible format placed on the website and circulated to interested parties.	Chair NSAB Business Manager Communications subgroup	From January 2015 and ongoing	Feedback from recipients and through Citizen Consultancy group.	
1.2	The website will be able to offer language translation.	Expert assistance required.	Business Manager Communications subgroup	April 2015	Test run on website. Feedback where possible.	Completed January 2015
1.3	NSAB will use its influence to ensure that operational services are 'Make Safeguarding Personal' central to all its activities.	Ensure that staff have the training they require. Gather current data on how MSP is being	Business Manager. Risk and Performance sub group Safeguarding Adults Team Manager	6 months to gather current data Survey of people using the service by April 2016	Case work evidence that application of MSP has increased, and link to feedback from people using the service.	

		applied.				
1.4	NSAB will seek assurances from partner organisations that citizen involvement is central to well being and safeguarding activities.	Request to partners for information to be shared at a future Board meeting. Highlight given to obstacles for partners and seek solutions.	Business Manager Executive Business group. Chair	April 2016	That all partner organisations will have evidenced robust plans in place by March 2015.	
1.5	All staff training will focus on people being central to decision making about their own lives.	Review validation criteria. Review current training provision.	Learning, Improvement and Policy sub group	Jan 2016	Validation criteria amended. Current training content amended. Report to NSAB.	
1.6	SAB will support and monitor activities that enable adults to achieve resolution and/or recovery.	Develop Personal Safety Plans. Map resources to support people into recovery.	Safeguarding Adults team manager Quality assurance within LA Risk and Performance group	Ongoing	Case studies that evidence outcomes.	

2	Strategic Intention PREVENTION	Actions	Lead role and accountability	Timeframe for delivery	How we know that NSAB has made a difference	Status
2.1	NSAB will have a Communication Strategy that enables all citizens to identify harm and know what actions to take.	Communication group already established and preparing a plan. The plan will include strategies that maximise the use of technology and identify preferred ways of making contact with those who may be considered to be hard to reach. NSAB will mount a Safeguarding Adults Awareness week to raise the profile of NSAB and give citizens the information they need to report concerns.	Communications subgroup. Business Manager Chair Business Manager LSAPs	April 2015 W/c 7 Sept 2015	Plan agreed. Target groups identified and communication methodology agreed. Feedback from groups. Evidence of outcomes from LSAPs.	
2.2	Explore opportunities for a	Initial discussion at Chairs meeting.	Chair	Feb 2015		

	unified Communications Strategy for all groups concerned with Safeguarding as recommended by the Blue Marble review of Children's services.					
2.3	NSAB will lift the profile with other relevant groups and seek their support, thereby maximising the opportunity afforded by the Safeguarding Week.	Liaison with: • District Councils • The media • The business community • Community councils and meetings. • GPs	Chair Business Manager Communications subgroup	Over next 6 months	That other groups are prepared to contribute to the week in cash or kind. LSAPs to collate data from local events demonstrating outcomes.	
2.4	Work with prison governors to identify best ways to ensure that prisoners are aware of their right to be protected from harm.	Some work in progress. Business Manager to link with current work and advise Board	Business Manager	Sept 2015	Report to Board.	

	Strategic Intention	**Actions**	**Lead role and**	**Timeframe for**	**How we know that**	**Status**

3	**PROPORTIONALITY**		**accountability**	**delivery**	**NSAB has made a difference**	
3.1	Ensure that the concept of proportionality is understood through inclusion in staff training.	Review training materials to ensure inclusion. Include as requirement in current validation.	Learning, Improvement and Policy sub group	Sept 2015	Sample review of case studies and discussion with clients.	
3.2	Support practice across partner agencies that takes the least restrictive option when intervention is required to mitigate risk.	Sample current of practice and record level of risk against level of intervention.	Business Manager Risk and Performance subgroup	April 2015		
3.3	NSAB will develop a framework that gathers and builds evidence to demonstrate a response that is proportionate to the circumstances of the incident and the wishes of the adult.	Design an audit tool.	Business Manager Quality Assurance team	Ongoing	From measurable evidence involving client feedback at intervals agreed by the Board. Case file audit.	
3.4	NSAB will exercise its power to challenge when	Action to be agreed subject to MSP data gathering on	Allocated as appropriate to action required	Ongoing	Evidence of change in responses.	

	safeguarding needs are identified and not met.	outcomes achieved or not.				
3.5	NSAB will apply opportunities to learn and disseminate lessons to improve practice, including those derived from SARs.	Establish a Learning, Improvement and Policy subgroup to link with the SAR panel.	Business Manager. subgroup chair plus rep of SAR panel	Ongoing	Report to Board and action agreed.	

4	**Strategic intention** **PROTECTION**	**Actions**	**Lead role and accountability**	**Timeframe for delivery**	**How we will know that NSAB has made a difference**	**Status**
4.1	The Board will promote partnership activities that protect, support and represent those in greatest need.	Major public awareness through Safeguarding Week and other communication pathways. Identify particularly vulnerable groups and develop meaningful ways of connecting.	Communications Sub group LSAPs Business Manager	Sept 2015	Survey and evaluation of outcomes.	
4.2	Raising the profile of the Board.	Establish reporting into the Health and	Business Manager	12 months and ongoing	Survey.	

		Wellbeing Board. Present at Adult Social Care Committee. Engage CCGs	All Board members			
4.3	A consistent and coordinated approach to staff training agreed by all members.	Review current training across partner agencies. Record and disseminate current training practice. Challenge where training is not consistent and coordinated.	Chair Learning, Improvement and Policy subgroup. Business Manager		Record positive changes in training practice.	
4.4	All Safeguarding activities will demonstrate the diverse communities within Norfolk.	Ensure website is translation friendly. Seek an equality and diversity advisor to the Board.	Business Manager	March 2015 April 2015		
4.5	Communicate zero tolerance of abusive behaviour in all environments.	Within all future publicity material. Review current material and	Comms sub group Business Manager	Ongoing	Feedback from Citizen consultancy group.	

		include. Engage with media. Agree and implement suitable strategies within the prison service.				
4.6	Promote a positive approach to information sharing in order to protect.	Discussion and strategy development with other interested parties, through Chairs Strategic Group to ensure a unified approach.	Chair Business Manager	Ongoing	Report back on progress via Chair.	
4.7	Identifying and managing risk.	Risks raised and recorded as per current procedure. Risks identified via SARs added to risk register as required.	All partners Risk and Performance Subgroup SAR Advisory Panels	Ongoing	Risk register is up to date. Risks are mitigated as far as possible and escalated as appropriate.	

5	**Strategic Intention** **PARTNERSHIPS**	**Actions**	**Lead role and accountability**	**Timeframe for delivery**	**How we will know NSAB has made a difference**	**Status**

5.1	That all partners are signatories to the Strategic Plan.	Chair to agree and circulate for signature.	Chair	1 Feb 2015	Signatures secured.	
5.2	Respecting confidentiality but sharing relevant information to prevent abuse occurring or continuing.	Developing and agreeing a protocol for positive sharing of information.	Chair - work with Chairs meeting will advise.			
5.3	Promoting collaborative opportunities with other groups that expand the Boards capacity to protect.	Strengthen the LSAPs with clear Terms of Reference that mirror the requirements of the Strategic Plan and the Business Plan. Expand NSAB connections with District and Parish Councils to promote local engagement.	Business Manager Chair LSAP Chairs	April 2015 and ongoing		
5.4	Citizen influence on Board decisions and those of its partners.	Establish a Citizen Consultancy group.	Communications Subgroup			

5.5	Feedback to referrers.	Ensure that practice is required to give appropriate feedback to referrers and develop a sample 'testing' mechanism to assure this.	Safeguarding Adults Team Manager Business Manager	Establish April 2015	Comparative sample with agreed timeline.	
5.6	Develop a partnership Prevention of Neglect strategy - a prominent area of concern for the Housing sub group.	Take to Chairs meeting in the first instance to secure partnership commitment.	Chair Housing Sub group	December 2015	To be determined by the strategy.	

6	**Strategic Intention** **ACCOUNTABILITY**	**Actions**	**Lead role and accountability**	**Timeframe for delivery/Cost**	**How we will know that NSAB has made a difference**	**Status**
6.1	Understanding the role of NSAB.	Ensuring that all publicity raises the profile.	Communications Subgroup Business Manager		On line survey of provider and partner orgs. Including Citizen Consultancy Group.	
6.2	Restructuring of the Board to ensure its	Proposal to the Board meeting in	Chair	Jan 2015	Restructure in place.	

	strategic role.	January.				
6.3	Developing a Constitution.	Work in progress for ratification at the Jan meeting. Accessible version produced. Website able to accommodate different language requirements.	Chair Business Manager In house expertise	Feb 2015 £500	Constitution agreed. Accessible version produced. Website amended.	
6.4	Monitoring and scrutiny of Board functions though annual report and audited accounts.	Produce report and accounts for Health and Wellbeing Board	Chair Business Manager	May 2015	Report and accounts accepted.	
6.5	Current sub groups reviewed and Terms of Reference agreed.	Task and finish group established to review sub groups and revise Terms of Reference.	Business Manager	31st March 2015	Contribution of groups to the Annual Report.	
6.6	Income generation.	Develop a plan for charging for some areas of training. Explore	Learning, Improvement and Policy subgroup Chair	Target for at least 15% budget increase by March 2016	Targets achieved.	

		contributions from District Councils with a particular emphasis on locality issues. Grants.	Business manager LSAPs Business Manager Chair		Grant outcomes achieved.	
6.7	Development of a Safeguarding Dashboard.	Agree indicators in dashboard. Liaise with Suffolk re their dashboard. Collate and present data. Distribute dashboard to Board partners.	Risk and Performance Subgroup Business Manager Norfolk County Council Business Intelligence and Performance Service.	July 2015	Content of dashboard influences Board's activity and service development.	
6.8	Implement the requirements of the Care Act.	Development of new Multi-agency Policy and Procedure. Publication of Annual Report. Publication of strategic plan for each financial	Learning, Improvement and Policy Subgroup Chair Business Manager Chair Business Manager	December 2015 May 2015 January 2015 and April 2016	Multi-agency policy/procedure published and used by Board partners. Annual report and strategic plans published.	

		year. Conduct any Safeguarding Adults Reviews in accordance with s44 of the Care Act.	SAR Panel	As and when required.	SARs are completed as necessary. Learning from SARs is disseminated and implemented.	

Adult Social Care Committee

Item No. 9.

Report title:	**Performance Monitoring Report**
Date of meeting:	**9 March 2015**
Responsible Chief Officer:	**Harold Bodmer, Executive Director of Adult Social Services**

Strategic impact

Performance monitoring and management information helps committees undertake some of their key responsibilities – informing Committee Plans and providing contextual information to many of the decisions that are taken.

Executive summary

This paper reports Quarter 3 performance results for Adult Social Care.

Overall the paper reports:

- 17 indicators are 'on target' with a green alert
- Seven have an 'amber' alert –most of these are judgements about progress in change projects
- Six indicators are significantly "off target" with a red alert (sickness absence, business mileage, carers' assessments/reviews, carers self-directed support and residential care permanent admissions)
- Four indicators have got worse compared to the last period or the same time last year

The paper and accompanying dashboard focuses particularly on areas of below-target performance in indicators around residential care admissions, support to carers, and staff sickness. In particular the paper reflects on the implications of developing a new strategy for Adult Social Care on the council's approach to residential care.

The paper includes final benchmarking data in Appendix E. This shows that Norfolk has good performance in the following areas: service user experiences and choice, reablement and delayed discharges caused by social care. Our performance for self-directed support and people with learning disabilities in employment is average. We have poor performance around permanent admissions to residential care and people with mental health problems that are in employment.

The Adult Social Services risk register is included within this report in Appendix D.
The paper acknowledges performance levels are reported within the context of significant short and long-term budget pressures.

Recommendations:
The committee is asked to:

1. **Review and comment on the performance information**
2. **Consider any areas of performance that require a more in-depth analysis**
3. **Continue to review whether the performance indicators that form the basis of this report enable a robust assessment of performance across the service areas covered by this Committee**

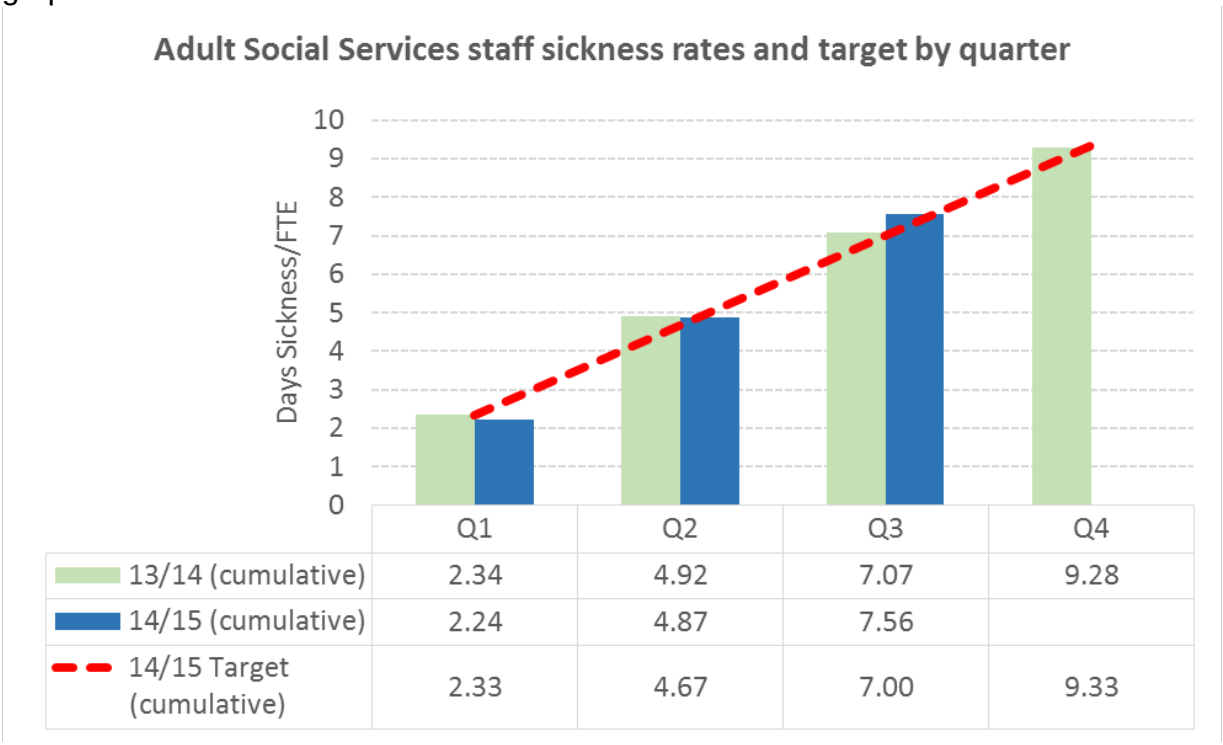
1. Adult Social Care Performance

Overall performance compared to targets is similar to Quarter 2. In total:

- 17 indicators are on target with a green alert
- Seven have an amber alert – most of these are judgements about progress in change projects
- Six indicators are significantly off target with a red alert (sickness absence, business mileage, carers' assessments/reviews, carers self-directed support and residential care permanent admissions)
- Four indicators have got worse compared to the last period or the same time last year

1.1 **Red measure: staff sickness levels**.

1.1.2 The rate of staff sickness is higher than we would like. In Quarter 1 (April – June 2014) sickness absence was better than target and so was green rated. In Quarters 2 and Quarter 3 (July – December 2014) sickness absence has increased and is worse than the target so is now rated red. The target for this indicator 'builds up' over time, and performance is affected by seasonal variations – see graph below.

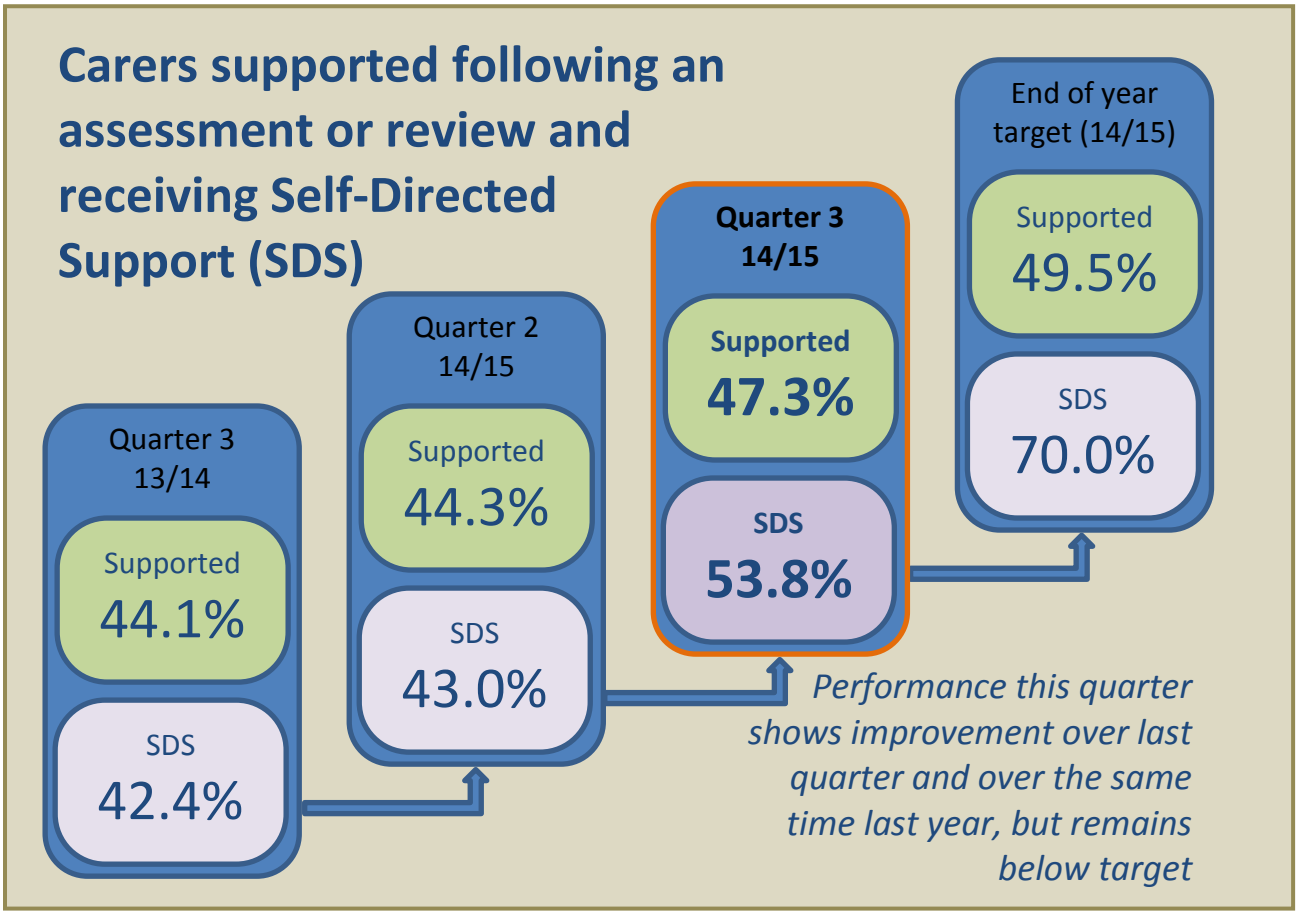


	Q1	Q2	Q3	Q4
13/14 (cumulative)	2.34	4.92	7.07	9.28
14/15 (cumulative)	2.24	4.87	7.56	
14/15 Target (cumulative)	2.33	4.67	7.00	9.33

1.1.3 Historically staff sickness rates are higher during the winter months usually as a result of seasonal illnesses. It may be that these have had a greater impact this year – but it is not possible to make an informed judgement on this until Quarter 4. Irrespective of such external factors, we will continue to closely monitor levels of staff sickness. Sustained increases can indicate worsening staff morale and emerging issues within the workforce, and we will continue to report any outstanding issues, and any remedial action, to the committee.

1.2 **Red measures: rate of carers supported following an assessment or review, and carers using self-directed support during the year**

1.2.1 This section looks at two indicators about support for carers together because the performance issues and remedial actions are similar. The rate of carers supported and the rate of carers receiving Self-Directed-Support has improved as follows:



1.2.2 Despite both indicators being rated as red, our performance has improved as a result of the actions we described in the November 2014 Committee report. We have:

- Changed the way we talk to carers to explain how we will assess their needs. We made changes to the script used in the Social Care Centre of Expertise (SCCE) so that carers understand what the assessment is and are more likely to agree to have one
- Introduced dedicated Carer Assessors across all localities
- Improved how we record assessments to make sure that self-directed support is captured correctly

1.2.3 Building on the above actions, we will roll out the new script (successfully trialled in SCCE) to all localities. This is likely to increase the number of carers we support following an assessment. With the new script in place we should achieve the target for 'carers supported' by the end of Quarter 4. With an eye to the future this should enable us to deal with the expected increase in the number of people seeking a carer's assessment as a result of the Care Act.

1.2.4 It is less likely, however, that we will achieve the nationally-set self-directed support target of 70% by the end of quarter 4. In Norfolk carers are either supported through an assessment (and subsequent reviews), a direct payment or respite support, signposting to the voluntary sector; or by the Carer's Agency Partnership, which are commissioned services that we refer carers on to, and which provide a range of support services (for examples breaks, a helpline, advocacy services, carer's cafes and befriending services).

1.2.5 At the end of Quarter 3 we had provided support to 3,787 carers, of which 2,913 had received an assessment or review, with the remainder referred to the Carer's Agency Partnership. We currently include carers going through both routes in our figures but we are in discussions with the Department of Health about our

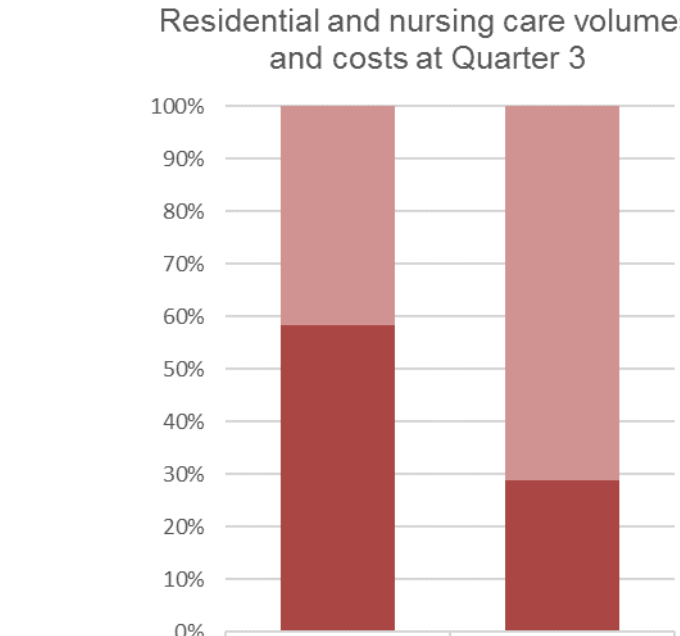
approach to carers' services and the way we calculate our results so this may change in the future. Although this measure is red, the rate of carers supported directly by the authority receiving SDS is higher than the indicator suggests. Whilst we wait, we will continue to use the current calculation method – which means we will miss the target.

1.3 **Red measure: Permanent admissions to residential care**

1.3.1 We have moved from a position of hitting our targets in Quarters 1 and 2, to missing them in Quarter 3.

1.3.2 Permanent admissions targets are vitally important to understanding both the service performance and financial performance of the department. Residential and nursing care are usually the most expensive care settings, and high admissions account for some of the budget pressures that we currently face. The graph below outlines the amount we spend on residential and nursing care compared to other settings, alongside the number of people in the respective settings.

1.3.3



	Purchase of Care Budget	No. Service users
Other' (community based) services	£109,147,340	11,343
Residential and nursing care	£152,229,730	4,609

1.3.4 At current service cost levels a home care package of 28 hours per week is equivalent to a weeks residential care for an older person. For someone who need help from two carers, the equivalent of two hours of care delivered each day and this demonstrates the complexity of some of these care decisions.

1.3.5 Assessing the performance issues and implications of residential and nursing home admissions is particularly complicated. There are no obvious seasonal patterns to admissions and they are quite unpredictable. There will always be a significant number of people, and in particular older people, whose health, wellbeing and personal circumstances mean that they can longer live in their current home.

1.3.6 Until recently we had assumed that Norfolk's ageing population was the only factor driving rising admissions. However we are increasingly aware that the following factors might also be contributing to increasing admissions:

- A lack of available home care and other community-based care options, meaning that people are not able to stay at home. This may be a particular problem in remote rural areas
- Pressure on social care services to provide fast hospital discharges in response to rising unplanned hospital/accident & emergency admissions - This may be a particular issue in light of Norfolk's very good performance in this area – we have some of the lowest levels of social care related delayed discharges in the region
- Increased referrals into residential care settings from Continuing Health Care assessments, that go on to become permanent admissions that the council then has to fund
- An increasing number of older people that have previously funded their own care becoming eligible for council-funded care because their savings have fallen below the set threshold

1.3.7 It is important to emphasise that these are hypotheses, and that we need to test the extent to which they explain Norfolk's current position, alongside well-understood demographic factors such as an ageing population and rising dementia rates.

1.3.8 By comparing ourselves to other local authorities (see our benchmarking report at Appendix E) we are revising our assumptions. Other councils with similar demographic and economic conditions to us have reduced residential care admissions significantly.

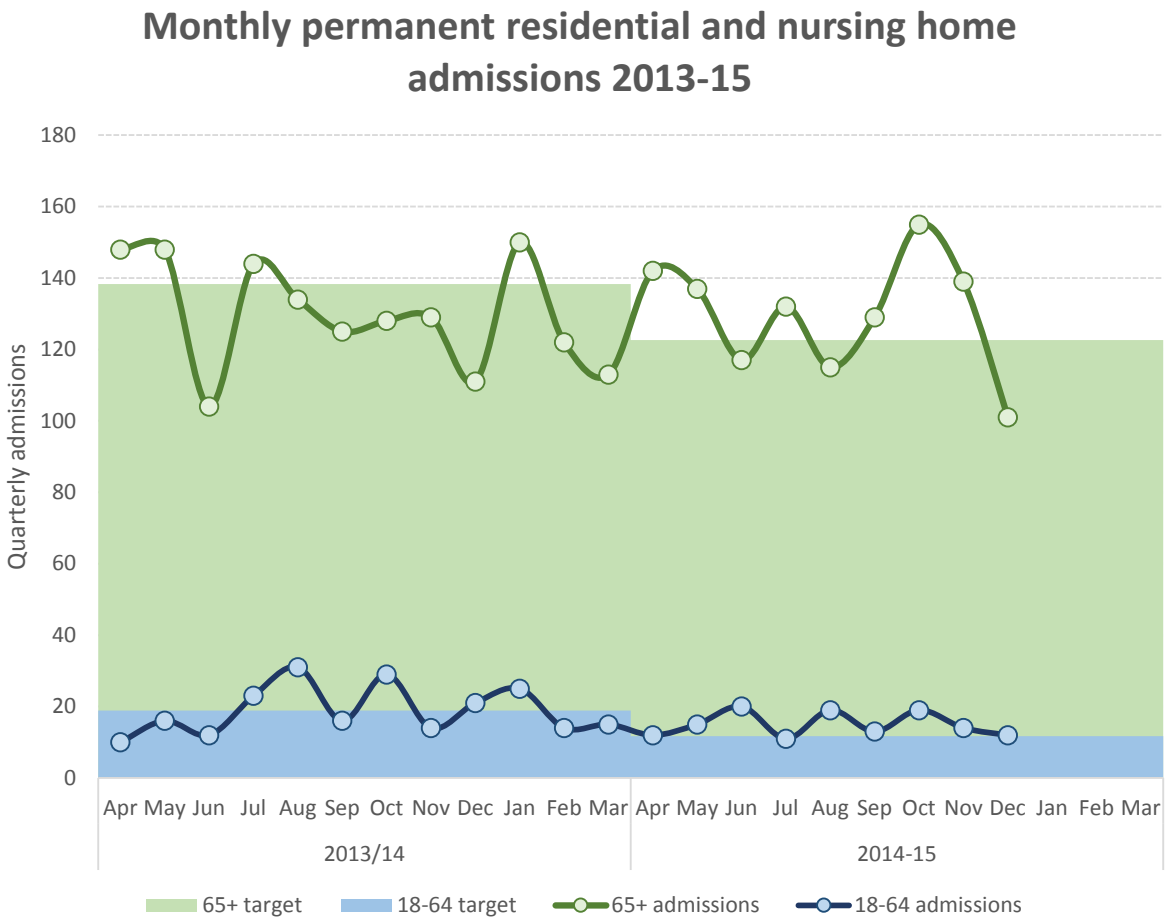
1.3.9 Good practice suggests there may be opportunities for reducing admissions by:

- Applying a policy that requires, with some stated exceptions, that no one aged 18-64 should be placed in residential or nursing care. Other areas have adopted the same approach with no, or very few, younger adults with physical disabilities or learning disabilities being placed in 'traditional' residential care placements – with better alternatives such as communal living settings being used instead to maximise people's independence
- Extending reablement services beyond current time limits in cases where additional time-limited help would reduce the likelihood of residential care admissions
- Working with health services to deliver targeted preventative interventions within communities, supporting people with specific conditions (for example urinary tract infections, or with people at risk of falls). It may be that by investing in specific integrated health and social care interventions that more people can be supported to live at home for longer
- Changes to the way we assess, review and support people and their carers so that short-term residential care placements don't become permanent placements because of a lack of alternative support

1.3.10 Financial pressures have brought into strong focus the need to reduce unnecessary admissions as much as possible in the short term. We have:

- emphasised to social care staff the need to ensure we only recommend residential and nursing care to people for whom it is the best option
- asked staff to prioritise these cases
- started reporting residential care admissions to all Adult Social Care operational managers on a weekly basis
- developed locality targets for residential care admissions linked to financial information

1.3.11



The graph above shows residential and nursing home admissions and targets for the last two years. In November and December 2014 there was a reduction in admissions, however given the unpredictable nature of admissions it is too soon to judge if our actions have led to a sustained reduction.

1.3.12 We are clear that changing long term patterns of need, and challenging long-held assumptions requires a more radical approach to our planning, and to the evidence we use to inform it. These investigations will set the context for the development of Adult Social Care's strategy 'Supporting Independence' in the coming months.

1.4 Managing change

1.4.1 The full list of projects under the Transformation Programme for Adult Social Care is in the Dashboard in Appendix A.

1.4.2 The Care Arranging Service review is amber because, whilst improvements have been made to the systems and processes used in the service, and as such it is providing a better experience to service users, it is not likely to achieve the savings initially expected.

1.4.3 The project to review packages of care for people with learning disabilities and physical disabilities remains amber. This is because of concerns around the timescale for the project. In short the project would involve improving accommodation arrangements for a vulnerable client group – something that would take a longer time than anticipated, and might cause anxiety for those affected.

1.4.4 Both the Care Act and Better Care Fund projects remain amber. In both cases no specific issues have been highlighted from NCC's perspective, but both are complex, time constrained and multi-agency projects, and as such will remain

under close review through their duration.

1.4.5 The Home Support project was rated amber at Quarter 3 because of anticipated delays in the publication of tender documents. However these have since been published and we anticipate reporting an on-target position in Quarter 4.

1.5 Managing our resources

1.5.1 The risk register and accompanying report is included in Appendix D.
Two risks relating to this committee are on the Corporate Risk Register:

- RM14079 "Failure to meet the longer term needs of older people"
- RM0207 "Failure to meet the needs of older people"

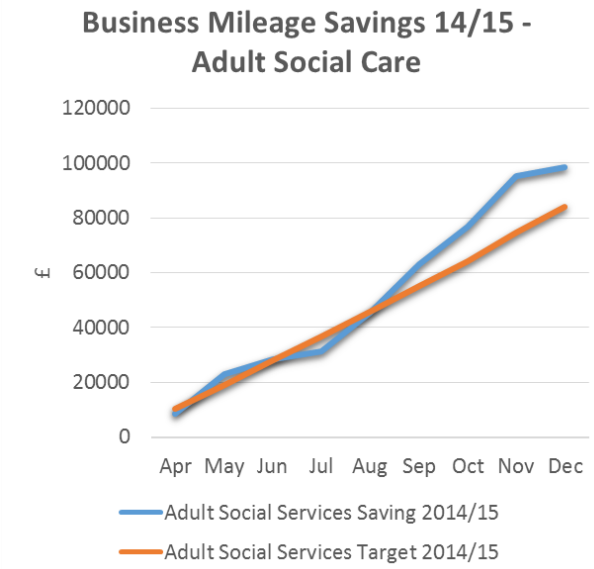
1.5.2 The background to these risks and descriptions of the actions in place were presented in the Quarter 2 paper – there are no further significant updates.

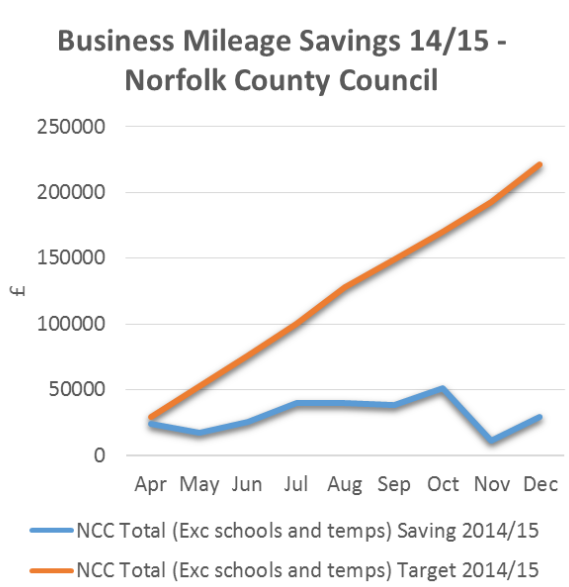
1.5.3 Details of the specific departmental risks are outlined in Appendix D. Currently only one departmental risk, 'Failure to meet budget savings', is rated red for 'prospects of meeting target score by target date'.

1.6 The cost of business mileage

1.6.1 The County Council has a target to spend 20% less on business mileage when compared to 2013/14. This was one of the targets for savings in the budget. The aim is to reduce the amount of private business mileage as this generally costs the authority more than alternative modes of travel. All departments are required to measure and monitor the indicator, and it is being reported to all committees. Importantly the vital role of personal transport for social work staff is recognised in the targets so that department isn't asked to make changes that would compromise the flexibility and quality of services.

1.6.2 Adult Social Care is exceeding the departmental target for business mileage savings at the end of Quarter 3, although overall the Council is set to miss the target.





This area of performance is highlighted here because committee members asked for more details during discussion around the Quarter 2 report.

1.6.3 Staff sickness levels are reported in section 1.1

1.7 **Service performance**

1.7.1 Comments explaining off-target performance in measures relating to support for carers are covered in section 1.4

1.7.2 Continued improvements are reported in the take-up of self-directed support and in the proportion of self-directed support received as cash payments. As previously reported, the definition for the self-directed support indicator changed recently and as such we are significantly ahead of the Government's 70% target.

1.8 **Outcomes for Norfolk**

1.8.1 Comments explaining off-target performance in residential care admissions are covered in section 1.10

1.8.2 The proportion of older people still at home 91 days after discharge shows an amber rating as it is slightly off-target. In addition it is nearly 2% lower than at the same time last year. A possible explanation for the drop is that we have made sure that more people are eligible for free reablement now, including people with more complex needs. These service users may previously have moved straight to home care or residential care so a slightly higher 'failure rate' might be expected.

1.8.3 The indicators reporting the results of the annual Service User survey remain unchanged since Quarter 1.

1.9 **Statutory and benchmarking data**

1.9.1 The completed benchmarking report is included in Appendix E. Much of this information was provisionally presented in the Quarter 2 meeting. In addition the findings have informed explanations around residential care admissions, user satisfaction levels and carers services in this and previous papers. Norfolk's position will inform our target setting discussions as part of the Quarter 4 report. This full report is shared in this light as a further prompt for scrutiny, and as a reference document for this and future discussions.

2 Evidence

2.1 The appendices of this report outline the contextual evidence for this report, specifically:

Appendix A: Performance Dashboard. This outlines the indicators, targets and performance alerts for each indicator
Appendix B: Background Information. This outlines the description, rationale and approach to target setting for each indicator in the dashboard
Appendix C: End of Year Statutory Results. This shows our end-of-year position for the statutory indicators that we report to the Government, including any available benchmarking data
Appendix D: Adult Social Care Risk Register. This shows the department's full risk register. Specifically

- Appendix D(i) Provides an explanation of the risk register and explains current risk management activity
- Appendix D(ii) Presents the full risk register
- Appendix D(iii) Risk exceptions report – a summary of the risks that have a score of 12 or more, with a 'red' or 'amber' alert for prospects of mitigation within timescale.

Appendix E: Adult Social Services Benchmarking Report 2013/14

3. Financial Implications

3.1 The Performance information presented in this report supports, and should be viewed alongside, finance monitoring reports to gain a full picture of the performance of services.

There are, however, no specific financial implications arising from the performance figures and commentary presented in this report.

4. Issues, risks and innovation

4.1 Performance reporting brings together complex information in order to assist members with decision making and understanding of issues facing the organisation. Over time these will develop, alongside Committee plans to drive a number of complex issues. They will help to monitor and manage issues and risks to the services we deliver.

5. Background

5.1 At the September Committee, and at other Committees receiving Quarter 1 Performance Reports, members fed-back about the content and format of the reports. As such some further changes have been made, specifically:

- All red or off-target areas are highlighted at the beginning of the report
- The risk register is included as an Appendix (D) with highlights summarised within the report

In addition, following feedback from the Committee meeting, new benchmarking data is included.

5.2 The content and format of the report will be kept under review. Further feedback is welcome and we will continue to improve this report, and accompanying data and information, over time.

Officer Contact

If you have any questions about matters contained in this paper or want to see copies of any assessments, eg equality impact assessment, please get in touch with:

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Jeremy Bone	01603 224215	jeremy.bone@norfolk.gov.uk

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APPENDIX A

Adult Social Services Performance Dashboard

Measure	Value	Date	Rating	2014/15 Target	Direction of Travel
Managing change					
Review Care Arranging Service	Amber	Dec 2014	●	-	→
Refocus Personal Budgets	Green	Dec 2014	★	-	→
Review packages of care for people with Learning Difficulties and people with Physical Disabilities	Amber	Dec 2014	●	-	→
Learning and Development	Green	Dec 2014	★	-	→
Transport Eligibility	Green	Dec 2014	★	-	→
Residential Care Direct Payments	Green	Dec 2014	★	-	→
Independent Living Fund	Green	Dec 2014	★	-	→
Implementation of Care Act	Amber	Dec 2014	●	-	→
Health & Social Care Integration	Green	Dec 2014	★	-	→
A2 Business Support Review	Green	Dec 2014	★	-	→
Better Care Fund	Amber	Dec 2014	●	-	→
Home Support	Amber	Dec 2014	●	-	·
Managing our resources					
Number of sickness absence days per FTE	7.56	Sep 2014	⑦	11.13	↑
Contacts closed in SCCE as Information and Advice only	30.2%	Dec 2014	-	TBA	↑
Work transferred by SCCE to localities where no service was provided	7.1%	Dec 2014	-	TBA	→
Cost of business mileage (cumulative)	£578,323	Nov 2014	⑦	£538,857 at this point in year	↓
Service Performance					
Service users using self-directed support at the end of the reporting period	84.9%	Dec 2014	★	70%	↑
Service users using self-directed support at the end of the reporting period who receive cash payments	35.2%	Dec 2014	★	25.5%	↑
Carers supported following an assessment or review	47.3%	Dec 2014	▲	49.5%	-
Carers using self-directed support during the year (year-end projection)	53.8%	Dec 2014	▲	70%	↑

Delayed transfers of care attributed jointly or solely to social care (per 100,000 population aged 18 and over)	1.5	Dec 2014	★	2.0	↓
Percentage of commissioned service providers that complied with CQC standards	84%	July 2014	-	TBA	↑
Percentage of commissioned service providers that required action to comply with CQC standards	12%	July 2014	-	TBA	↓
Service users whose needs have been reviewed in year	54.9%	Dec 2014	★	51% at this point in year	↓
Overall satisfaction of people who use services with their care and support	70.1%	May 2014	★	68.65%	↑
Adult safeguarding strategy discussions completed within 3 working days	92%	Dec 2014	★	90%	↑
Outcomes for Norfolk					
Permanent admissions to residential/nursing care aged 18-64 (per 100,000 population)	26.7	Dec 2014	▲	20.82	↓
Permanent admissions to residential/nursing care aged 65 and over (per 100,000 population)	568.3	Dec 2014	▲	537.27	↓
Older people (aged 65 and over) still at home 91 days after discharge from hospital into reablement/rehabilitation services	86.4%	Dec 2014	●	90%	↓
People who use services who feel safe	69.6%	May 2014	★	69.6%	↑
People who use services who say that those services have made them feel safe and secure	82.5%	May 2014	★	82.5%	↑
People who find it easy to find information about support	77.8%	May 2014	★	77.8%	↑
People who feel they have control over their daily life	82.5%	May 2014	★	82.5%	↑
People aged 18-64 in contact with secondary mental health services in paid employment	3.7%	Oct 2014	-	TBA	↑
People aged 18-64 in contact with secondary mental health services living independently, with or without support	63.9%	Oct 2014	-	TBA	↑

APPENDIX B

Indicator definitions and rationale for targets

Name of measure	Definition/ description	Target rationale	Good performance is?	2013/14 Target	2013/14 Performance	2014/15 Target	Frequency of updates
Managing change							
Refocus Personal Budgets	The project aims to redefine what it is reasonable for people and communities to do and pay for themselves as part of ordinary life and what social care funding should be spent on. The proposal is that social care funding should be used to pay for core social care needs (e.g. personal care, respite day care and residential care).	Green status represents a project that, when timescales, benefits, budget and resources are all taken into account is on track overall.	Green	-	-	Green	Monthly
Review packages of care for people with Learning Difficulties and people with Physical Disabilities	This project aims to develop more cost effective solutions for some of the existing packages for people with Learning Difficulties and people with Physical Disabilities. The department needs to review the Commissioning Model to ensure it is sustainable.	Green status represents a project that, when timescales, benefits, budget and resources are all taken into account is on track overall.	Green	-	-	Green	Monthly
Integration	The project aims to create a joint management structure for the management of co-located teams to deliver an integrated health and social care service.	Green status represents a project that, when timescales, benefits, budget and resources are all	Green	-	-	Green	Monthly

Name of measure	Definition/ description	Target rationale	Good performance is?	2013/14 Target	2013/14 Performance	2014/15 Target	Frequency of updates
		taken into account is on track overall.					
Learning and Development		Green status represents a project that, when timescales, benefits, budget and resources are all taken into account is on track overall.	Green	-	-	Green	Monthly
Transport Eligibility	This project will review options to evaluate whether any efficiency savings can be made in the medium term from the £7m spent on commissioned transport.	Green status represents a project that, when timescales, benefits, budget and resources are all taken into account is on track overall.	Green	-	-	Green	Monthly
Business Support Review		Green status represents a project that, when timescales, benefits, budget and resources are all taken into account is on track overall.	Green	-	-	Green	Monthly

Name of measure	Definition/ description	Target rationale	Good performance is?	2013/14 Target	2013/14 Performance	2014/15 Target	Frequency of updates
Mental Health Social Care	This project is to transfer the Mental Health Service staff back to work for Norfolk County Council as a result of ending the Section 75 agreement with Norfolk and Suffolk NHS Foundation Trust to provide community mental health services.	Green status represents a project that, when timescales, benefits, budget and resources are all taken into account is on track overall.	Green	-	-	Green	Monthly
Residential Care Direct Payments	This is a pilot giving people in residential care Direct Payments to pay for their care. Legislation has previously meant that people could not use Direct Payments to pay for residential care.	Green status represents a project that, when timescales, benefits, budget and resources are all taken into account is on track overall.	Green	-	-	Green	Monthly
Independent Living Fund	Funding and responsibility for the Independent Living Fund, which delivers financial support to disabled people so they can choose to live in their communities rather than in residential care, is due to transfer from Department for Work and Pensions (DWP) to local authorities in July 2015.	Green status represents a project that, when timescales, benefits, budget and resources are all taken into account is on track overall.	Green	-	-	Green	Monthly
Implementation of Care Act	Plan for the impact and implementation of the Care Act.	Green status represents a project that, when timescales, benefits, budget and resources are all	Green	-	-	Green	Monthly

Name of measure	Definition/ description	Target rationale	Good performance is?	2013/14 Target	2013/14 Performance	2014/15 Target	Frequency of updates
		taken into account is on track overall.					
Managing our resources							
Risk register: Failure to meet the long term needs of older people	Risks scores are calculated by taking an impact score (out of 5, with 5 being the highest) and multiplying it by a likelihood score (also out of 5, with 5 being the highest).	If the Council is unable to invest sufficiently to meet the increased demand for services arising from the increase in the population of older people in Norfolk it could result in worsening outcomes for service users, promote legal challenges and negatively impact on our reputation.	Green	-	-	Risk score 8	

Name of measure	Definition/ description	Target rationale	Good performance is?	2013/14 Target	2013/14 Performance	2014/15 Target	Frequency of updates
Risk register: Failure to meet the needs of older people	Risks scores are calculated by taking an impact score (out of 5, with 5 being the highest) and multiplying it by a likelihood score (also out of 5, with 5 being the highest).	If the Council is unable to invest sufficiently to meet the increased demand for services arising from the increase in the population of older people in Norfolk it could result in worsening outcomes for service users, promote legal challenges and negatively impact on our reputation.	Green	-	-	Risk score 8	
Number of sickness absence days per FTE			Smaller is better			11.13	Quarterly
Contacts closed in SCCE as Information and Advice only	The percentage of people contacting the council for support who were given advice and information about other organisations which could help them. This measure indicates how many people approach the council for help but are not eligible for council funded services.	Targets are under review as part of the service level agreement between SCCE and Adult Social Care	Bigger is better	-	-	TBA	Quarterly

Name of measure	Definition/ description	Target rationale	Good performance is?	2013/14 Target	2013/14 Performance	2014/15 Target	Frequency of updates
Work transferred by SCCE to localities where no service was provided	The percentage of referrals passed by SCCE to localities for assessment where the person did not meet FACs eligibility for a funded service or the assessment resulted in information and advice only being given. This measure indicates how effectively SCCE are managing requests for support from people who are not eligible or have straightforward needs, so that only people with complex needs are passed to locality teams for assessment.	Targets are under review as part of the service level agreement between SCCE and Adult Social Care	Smaller is better	-	-	TBA	Quarterly
Service Performance							
Service users using self-directed support on 31st March 2015	The percentage of people who need support in a community based setting who completed a personal budget questionnaire to determine an allocation of money to meet their needs and decide how those needs would be met, and who were receiving their personal budget at year end. This measure indicates that people are being given choice and control over how their care is provided.	The target is in line with national self directed support (SDS) objectives.	Bigger is better	70.0%	65.8% ▲	70.0%	Monthly

Name of measure	Definition/ description	Target rationale	Good performance is?	2013/14 Target	2013/14 Performance	2014/15 Target	Frequency of updates
Service users using self-directed support on 31st March 2015 who receive cash payments	The percentage of people who need support in a community based setting who completed a personal budget questionnaire to determine an allocation of money to meet their needs and decide how those needs would be met, and who were receiving their personal budget at year end, and who chose to take some or all of their allocation as a cash payment. This measure indicates that people are being given freedom to use their budget allocation to spend in ways that they really want to help them remain independent.	The target is in line with national self directed support (SDS) objectives.	Bigger is better	24.0%	25.5% ★	25.5%	Monthly
Carers supported following an assessment or review	The number of carers who received a council funded service, or advice and information about other organisations who can offer support, as a percentage of people receiving a community based service in the year. This measure indicates engagement with and support for carers to enable them to continue with their lives, families, work and contribution to their community.	Performance in 2013/14 was 3rd highest in the region and above average in our comparator group of local authorities. This target aims to maintain performance this year at the same high level.	Bigger is better	46.0%	46.8% ★	49.5%	Quarterly

Name of measure	Definition/ description	Target rationale	Good performance is?	2013/14 Target	2013/14 Performance	2014/15 Target	Frequency of updates
Carers using self-directed support during the year	The percentage of carers who completed a personal budget questionnaire to determine an allocation of money to meet their needs and decide how those needs would be met. This measure indicates whether carers are being given choice and control over how they are supported in their caring role.	The target is in line with national self directed support (SDS) objectives.	Bigger is better	70.0%	42.4% ▲	70.0%	Monthly
Delayed transfers of care attributed jointly or solely to social care (per 100,000 population aged 18 and over)	The average number of patients (aged 18 or over) in a year whose safe discharge from hospital was delayed because of social care or joint NHS and social care reasons, per 100,000 population. This measure indicates how well health and social care organisations work together to ensure patients are discharged home, or to another appropriate place, with the support they need to ensure they remain safe and well.	Performance in 2013/14 was above average in the region and 4th highest of our 16 comparator group of local authorities. This target aims to maintain performance this year at the same high level.	Smaller is better	-	2.0	2.0	Monthly

Name of measure	Definition/ description	Target rationale	Good performance is?	2013/14 Target	2013/14 Performance	2014/15 Target	Frequency of updates
Percentage of commissioned service providers that complied with CQC standards	The percentage of outcomes of all CQC reviews published within the last year (for regulated care homes, domiciliary care agencies, Housing with Care schemes and Supported Living services) that show compliance with the Care Quality Commission's (CQC) 16 most essential standards of quality and safety.		Bigger is better	-	83.4%	-	Quarterly
Percentage of commissioned service providers that required action to comply with CQC standards	The percentage of outcomes of all CQC reviews published within the last year (for regulated care homes, domiciliary care agencies, Housing with Care schemes and Supported Living services) that showed major concerns		Smaller is better	-	1.1%	-	Quarterly
Service users whose needs have been reviewed in year	The number of reviews completed in year as a percentage of people aged 18 and over who receive a service. This measure indicates how many people with ongoing support or a direct payment funded by the council are reassessed each year to ensure the support continues to meet their needs.	The rate of people being reviewed at least once each year reduced in 2013/14. This year's target is set at the result achieved in 2012/13 to bring it back up to previous levels.	Bigger is better	76.0%	71.8% ▲	76.0%	Monthly

Name of measure	Definition/ description	Target rationale	Good performance is?	2013/14 Target	2013/14 Performance	2014/15 Target	Frequency of updates
Customer Satisfaction with work completed within CSC/SCCE	The percentage of people contacting SCCE (surveying approx. 60 per quarter) who gave a positive response to the question “Based on your experience when you were in contact with SCCE, would you speak highly of the Customer Service we delivered?”. This measure indicates the success of SCCE in engaging with customers and enhancing the reputation of the council.		Bigger is better	-	-	TBA	Quarterly
Overall satisfaction of people who use services with their care and support	The percentage of service users (of 390 who responded) who expressed strong satisfaction in response to the question “Overall, how satisfied or dissatisfied are you with the care and support services you receive?”	Performance in 2013/14 was above average in the region and the highest of our comparator group of local authorities. This target aims to maintain performance this year at the same high level.	Bigger is better	68.65%	70.1% ★	68.65%	Annually

Name of measure	Definition/ description	Target rationale	Good performance is?	2013/14 Target	2013/14 Performance	2014/15 Target	Frequency of updates
Adult safeguarding strategy discussions completed within 3 working days	The percentage of Adult Safeguarding strategy discussion meetings completed within 3 working days of referral. This measure indicates how well the council is able to respond quickly to concerns of abuse and engage with partners in the Multi Agency Safeguarding Hub (MASH) to assess and manage risk to vulnerable adults and plan strategies to address safeguarding concerns.	90% represents a high level of performance whilst recognising that not all discussions can be completed within 3 days, where key personnel are not available or family members are difficult to contact.	Bigger is better	90%	73% ▲	90%	Monthly
Outcomes for Norfolk							
Permanent admissions to residential/nursing care aged 18-64 (per 100,000 population)	The number of council-supported permanent admissions of people aged 18-64 to residential and nursing care during the year (excluding transfers between residential and nursing care), per 100,000 population. This measure indicates how well the council is supporting working age adults to live independently in their own homes.	Performance in 2013/14 was the worst in the region and of our comparator group of local authorities. This is a reduction of target over two years to align with the comparator group average of 19.0	Smaller is better	45.0	44.75 ★	28.5	Monthly

Name of measure	Definition/ description	Target rationale	Good performance is?	2013/14 Target	2013/14 Performance	2014/15 Target	Frequency of updates
Permanent admissions to residential/nursing care aged 65 and over (per 100,000 population)	The number of council-supported permanent admissions of people aged 65 and over to residential and nursing care during the year (excluding transfers between residential and nursing care), per 100,000 population. This measure indicates how well the council is supporting older people to live independently in their own homes.	The target has been set in line with achieving the Better Care Fund target by October 2014.	Smaller is better	825.0	799.3 ★	748.8	Monthly
Older people (aged 65 and over) still at home 91 days after discharge from hospital into reablement/rehabilitation services	The percentage of people aged 65 and over discharged from acute or community hospitals to their usual place of residence for rehabilitation who are at home (or in extra care housing or an adult placement scheme setting) 91 days after discharge from hospital. This measure indicates how well the Norfolk First Support rehabilitation service and community health organisations are working to give people the skills and confidence to regain their independence and prevent further admission to hospital or residential care.	The target has been set in line with achieving the Better Care Fund target by October 2014.	Bigger is better	85%	87% ★	90%	Monthly

Name of measure	Definition/ description	Target rationale	Good performance is?	2013/14 Target	2013/14 Performance	2014/15 Target	Frequency of updates
People who use services who feel safe	The percentage of service users (of 454 who responded) when asked “Which of the following best describes how safe you feel?” responded "I feel as safe as I want". This measure may be influenced by factors other than support with daily living, such as the area people live in and rates of crime or anti-social behaviour.	Performance in 2013/14 was the highest in the region and 4th highest of our 16 comparator group of local authorities. This target aims to maintain performance this year at the same high level.	Bigger is better	67.83%	69.6% ★	69.6%	Annually
People who use services who say that those services have made them feel safe and secure	The percentage of service users (of 449 who responded) who answered "Yes" to the question “Do care and support services help you in feeling safe?”. This is a measure of how well health and social care organisations are helping people to feel safe both inside and outside of their homes.	Performance in 2013/14 was 4th highest in the region and above average for our comparator group of local authorities. This target aims to maintain performance this year at the same high level.	Bigger is better	81.40%	82.5% ★	82.5%	Annually

Name of measure	Definition/ description	Target rationale	Good performance is?	2013/14 Target	2013/14 Performance	2014/15 Target	Frequency of updates
People who find it easy to find information about support	The percentage of service users (of 457 who responded) when asked “In the past year, have you generally found it easy or difficult to find information and advice about support, services or benefits?” responded “very easy to find” or “fairly easy to find”. This is a measure of how well the council, and other organisations, engage with people and promote their services.	Performance in 2013/14 was 3rd highest in the region and 4th highest of our 16 comparator group of local authorities. This target aims to maintain performance this year at the same high level.	Bigger is better	69.98%	77.8% ★	77.8%	Annually
People who feel they have control over their daily life	The percentage of service users (of 461 who responded) when asked “Which of the following statements best describes how much control you have over your daily life?” responded "I have as much control over my daily life as I want" or “I have adequate control over my daily life”. This measure indicates how well people feel supported to live their lives in the way they would like to.	Performance in 2013/14 was the highest of both region and our comparator group of local authorities. This target aims to maintain performance this year at the same high level.	Bigger is better	81.13%	82.5% ★	82.5%	Annually

Name of measure	Definition/ description	Target rationale	Good performance is?	2013/14 Target	2013/14 Performance	2014/15 Target	Frequency of updates
People aged 18-64 in contact with secondary mental health services in paid employment	The percentage of people aged 18 to 64 over the year receiving secondary mental health services and on the Care Programme Approach (CPA) who were in paid employment at the time of their most recent assessment, formal review or other multi-disciplinary care planning meeting. The measure indicates improved employment opportunities for adults with mental health problems, reducing their risk of social exclusion and discrimination.	The mental health service performance framework is under development as the service is transferred back under council control.	Bigger is better	7%	2.4% ▲	TBA	Monthly
People aged 18-64 in contact with secondary mental health services living independently, with or without support	The percentage of people aged 18 to 64 over the year receiving secondary mental health services and on the Care Programme Approach (CPA) who had security of tenure or stability of residence at the time of their most recent assessment, formal review or other multi-disciplinary care planning meeting. This measure indicates how many adults with mental health problems live in stable and appropriate accommodation, which is closely linked to	The mental health service performance framework is under development as the service is transferred back under council control.	Bigger is better	44%	46.0% ★	TBA	Monthly

Name of measure	Definition/ description	Target rationale	Good performance is?	2013/14 Target	2013/14 Performance	2014/15 Target	Frequency of updates
	improving their safety and reducing their risk of social exclusion.						

APPENDIX C

Adult Social Services End of Year Performance 2013/14

Indicators		Final		Benchmark	DoT	Targets	
Reference	Description	2012/13	2013/14	Family group average	YoY	2013/14	2014/15
ASCOF 2A(1)	Permanent admissions to residential/nursing care aged 18-64	52.5	**44.8**	19.0	↑	45	28.5
ASCOF 2A(2)	Permanent admissions to residential/nursing care aged 65 and over	822.7	**799.3**	706.0	↑	825	748.8
ASCOF 1C(1)	Service users and carers using self-directed support during the year	**53.8%**	**60.9%**	53.7%	↑	70%	70%
ASCOF 1C(2)	Service users using self-directed support during the year who received cash payments	**40.5%**	**25.5%**	16.9%	↓	24%	25.5%
ASCOF 1E	People with learning disabilities in employment	**6.9%**	**7.1%**	6.2%	↑	6.9%	7.2%
ASCOF 1G	People with learning disabilities in settled accommodation	**72.1%**	**73.4%**	74.5%	↑	72.0%	74.5%
NI135	Carers supported following an assessment or review	**49.5%**	**46.8%**	41.1%	↓	46.0%	49.5%
NI132	Waiting times: percentage of assessments completed within 28 days of initial contact	**78.1%**	**52.7%**	-	↓	76.0%	-
ASCOF 2B(1)	Older people still at home 91 days after discharge from hospital into reablement services	**88.7%**	**87.0%**	80.5%	↓	85%	90%
ETH2	Percentage of service users with ethnicity not recorded	**1.8%**	**1.6%**	-	↑	1.8%	1.6%
D40	Percentage of service users whose needs have been reviewed in year	**75.9%**	**71.8%**	66.8%	↓	76%	76%
ASCOF 4B	People who use services who say that those services have made them feel safe and secure	**81.40**	**82.5%**	79.9%	↑	81.4%	82.5%
ASCOF 4A	People who use services who feel safe	**67.83**	**69.6%**	66.6%	↑	67.8%	69.6%
ASCOF 3D	People who find it easy to find information about support	**69.98**	**77.8%**	74.8%	↑	70.0%	77.8%
ASCOF 3A	Overall satisfaction of people who use services with their care and support	**68.65**	**70.1%**	66.1%	↑	68.7%	68.7%
ASCOF 1B	People who feel they have control over their daily life	**81.20**	**85.2%**	77.1%	↑	81.1%	85.2%
ASCOF 1A	Social care related quality of life score	**19.39**	**19.6%**	19.0	↑	19.4%	19.6%
ASCOF 1F	People aged 18-64 in contact with secondary mental health services in paid employment	**2.9%**	**2.4%**	11.4%	↓	7.0%	
ASCOF 1H	People aged 18-64 in contact with secondary mental health services living independently	**38.4%**	**46.0%**	59.2%	↑	44.0%	

Indicators		Final		Benchmark	DoT	Targets	
Reference	**Description**	**2012/13**	**2013/14**	**Family group average**	**YoY**	**2013/14**	**2014/15**
ASCOF 2C(1)	Delayed Transfers of Care - whole system	11.3	12.5	11.3	↓		10.6
ASCOF 2C(2)	Delayed Transfers of Care - attributable to adult social care	1.9	2.0	3.4	↓		2.0

APPENDIX D(i)

Adult Social Care Committee 9 March 2015
Adult Social Care Departmental Risk Register Report

1. The Adult Social Care departmental risk register reflects those key business risks that need to be managed by the Senior Management Team and which if not managed appropriately, could result in the Service failing to achieve one or more of its key objectives and/or suffer a financial loss or reputational damage. The risk register is a dynamic document that is regularly reviewed and updated in accordance with the Council's "Well Managed Risk – Management of Risk Framework".

2. A copy of the departmental risk register, reviewed as of February 2015 is attached. The report focuses on risks that have a current risk score of 12 and above with prospects of meeting the target score by the target date of amber or red and are reported on an exceptions basis. The current risks are those identified against the departmental objectives for 2014/15. There are two risks that have a corporate significance and therefore appear on the corporate risk register. These are risks that are so significant that they would impact on corporate/strategic objectives, or are beyond the scope of individual departments to manage. This register is reviewed regularly by Chief Officers Group and reported to the Audit Committee.

3. The Corporate risks are as follows:

    - RM14079 "Failure to meet the longer term needs of older people". If the Council is unable to invest sufficiently to meet the increased demand for services arising from the increase in the population of older people in Norfolk it could result in worsening outcomes for service users, promote legal challenges and negatively impact on our reputation. With regard to the long term risk, bearing in mind the current demographic pressures and budgetary restraints, the Local Government Association modelling shows a projection suggesting local authorities may only have sufficient funding for Adult's and Children's care.

    - RM0207 "Failure to meet the needs of older people". A lack of capacity in IT systems and services to support Community Services delivery, in addition to the poor network capacity out into the County, could lead to a breakdown in services to the public or an inability of staff to process forms and financial information in for example Care First. This could result in a loss of income, misdirected resources, poor performance against NI targets and negatively impact on our reputation.

4. The full departmental risk register contains 13 risks, there are nine risks that fall into the above exception reporting category and appear on the risk register. No risks with a prospect of meeting the target score by the target date shown as green will be reported as these are considered to have mitigation measures that are on target. Appendix D is a detailed record of the nine risks extracted from the risk register.

5. The three Adult Social Care Services risks that have a risk score below 12 or have prospects of meeting the target score by the target date are as follows:

Risk Number/Name	Risk Score	Prospects
RM13929 "The speed and severity of change".	12	Green
RM13936 "Inability to progress integrated service delivery".	10	Green
RM13924 "The pace and change of legislation for "Ordinary Residence".	9	Green
RM14198 "Mental Health Social Care Project".	12	Green

6. Within the constraints of the target date (which provides a time-frame for the risk) and using the Generic Risk Impact Criteria Model and Likelihood Criteria Model contained within the current Norfolk County Council "Well Managed Risk - Management of Risk Framework three risk scores can be determined. Each risk score is expressed as a multiple of the impact and the likelihood of the event occurring.
    - Inherent risk score – the level of risk exposure before any action is taken to reduce the risk
    - Current risk score – the level of risk exposure at the time the risk is reviewed by the risk owner, taking into consideration the progress of the mitigation tasks
    - Target risk score – the level of risk exposure that we are prepared to tolerate following completion of all the mitigation tasks.

7. The prospects of meeting target scores by the target dates are a reflection of how well the risk owners consider that the mitigation tasks are controlling the risk. The contents of this cell act as an early warning indicator that there may be concerns when the prospect is shown as amber or red. In these cases, further investigation may be required to determine the factors that have caused the risk owner to consider the target may not be met. It is also an early indication that additional resources and tasks or escalation may be required to ensure that the risk can meet the target score by the target date. The position is visually displayed for ease in the "Prospects of meeting the target score by the target date" column as follows:

    - Green – the mitigation tasks are on schedule and the risk owner considers that the target score is achievable by the target date
    - Amber – one or more of the mitigation tasks are falling behind and there are some concerns that the target score may not be achievable by the target date unless the shortcomings are addressed
    - Red – significant mitigation tasks are falling behind and there are serious concerns that the target score will not be achieved by the target date and the shortcomings must be addresses and/or new tasks are introduced.

8. Fig 1. Comparison of the percentages of risks in each of the above categories.

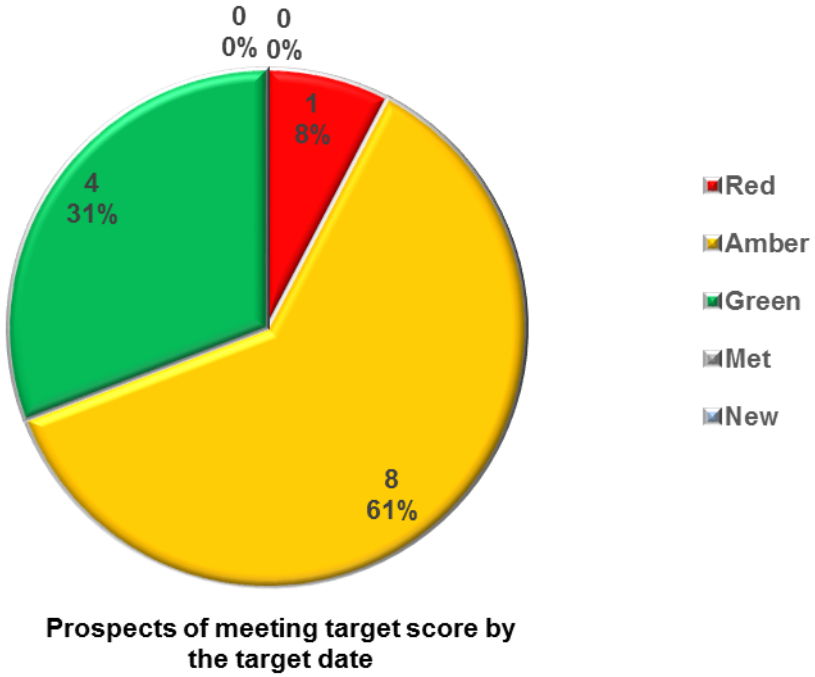


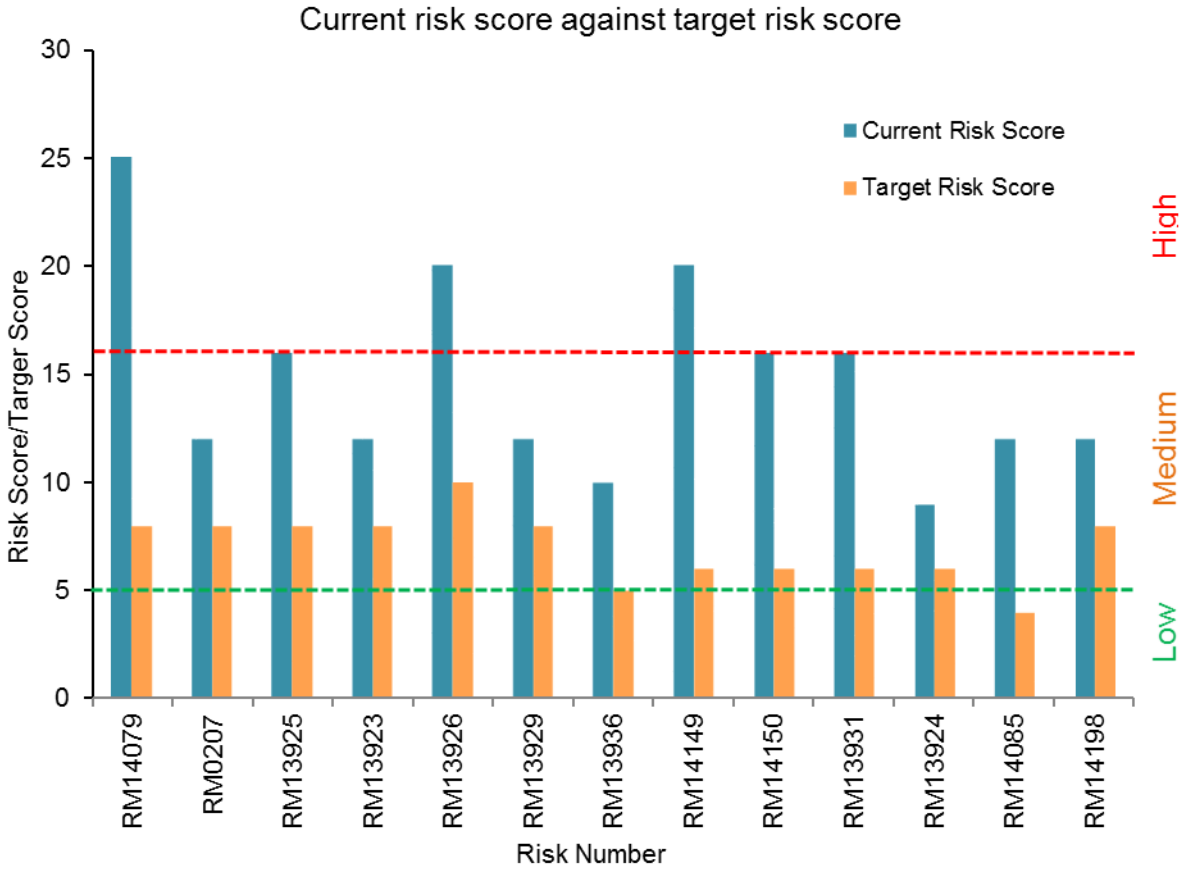
Fig 1.

9. There is one risk identified by the risk owner where the prospects of meeting the target score by the target date is recorded as red as follows:

   - RM13926 “Failure to meet budget savings”. There is still a forecast of a net overspend after the use of £3.656m of reserves. An action plan is in place to address the situation.

10. Fig 2. Compares the current risk scores and the target risk scores of the thirteen risks. The chart also identifies the transition points from low to medium to high risks.

Fig 2.



11. The average for the current risk score is 15, which places our combined level of risk in the top of the medium category. The target scores are a reflection of our risk appetite, the level of risk the risk owner is willing to pursue or retain, and the average score for the combined target risk scores is 7 placing it in the medium category. Clearly it is the progress of the risk mitigation tasks that acts upon the current risk scores to reduce them towards the target risk score level.

12. The evidence is that risks are being managed to an appropriate level with mitigation tasks being undertaken. In all cases risks have been reviewed by risk owners to ensure that risk scores and target dates reflect the current position against current service objectives. Risk registers are challenged by the Strategic Risk Manager to ensure a consistent approach to risk management across all teams.

13. There remains a strong corporate commitment to the management of risk and appropriately managing risk, particularly during periods of organisational change. A clear focus on strong risk management is necessary as it provides an essential tool to ensure the successful delivery of our strategic and operational objectives.

Steve Rayner - Strategic Risk Manager

Adult Social Services Risk Register

Risk Register Name	**Community Services Departmental Risk Register**		**Red**	
Prepared by	**Harold Bodmer and Steve Rayner**	**High**	**Amber**	
Date updated	**October 2014**	**Med**	**Green**	
Next update due	**January 2015**	**Low**	**Met**	

Area	Risk Number	Risk Name	Risk Description	Date entered on risk register	Inherent Likelihood	Inherent Impact	Inherent Risk Score	Current Likelihood	Current Impact	Current Risk Score	Tasks to mitigate the risk	Progress update	Target Likelihood	Target Impact	Target Risk Score	Target Date	Prospects of meeting Target Risk Score by Target Date	Risk Owner	Reviewed and/or updated by	Date of review and/or update
Community Services Transformation	RM14 079	Failure to meet the long term needs of older people	If the Council is unable to invest sufficiently to meet the increased demand for services arising from the increase in the population of older people in Norfolk it could result in worsening outcomes for service users, promote legal challenges and negatively impact on our reputation. With regard to the long term risk, bearing in mind the current demographic pressures and budgetary restraints, the Local Government Association modelling shows a projection suggesting local authorities may only have sufficient funding for Adult's and Children's care.	11/10/2012	5	5	25	5	5	25	• Take steps to protect the Purchase of Care budget when budget planning prior to 2014-17. • Invest in appropriate prevention and reablement services • Integrate social care and health services to ensure maximum efficiency for delivery of health and social care • The Building Better Futures Programme will realign and develop residential and social care facilities • Ensure budget planning process enables sufficient investment in adult social care particularly in year 3 of current plan. • Continue to: try and manage needs; to identify and deliver savings in the Adult Social Care budget plan; and to ensure the issues are understood and discussed corporately.	The Adult Social Care mitigating tasks are relatively short term measures compared to the long term risk, i.e. 2030, but long term measures are outside NCC's control, for example Central Government policy. Although steps have been taken to protect the Purchase of Care budget in previous budget planning, the proposals for 2014-17 have had to include savings from the Purchase of Care budget. Actions are in hand to achieve these, e.g. adjustments to the Resource Allocation System for Community Activities/Well Being and Transport were made on 1 April 2014. However it is proving difficult to make the savings in 2014-15. The Care Act including changes in social care funding will impact significantly: more people eligible for social care funding; less service user contributions; and it is not clear whether there will be additional/sufficient government funding. The	2	4	8	31/03/2030	**Amber**	Harold Bodmer	Janice Dane	13/10/2014

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												guidance is still draft. A project is in place to help ensure the department delivers the changes arising from the Care Act.								
Community Services Transformation	RM0207	Failure to meet the needs of older people	If the Council is unable to invest sufficiently to meet the increased demand for services arising from the increase in the population of older people in Norfolk it could result in worsening outcomes for service users, promote legal challenges and negatively impact on our reputation.	01/04/2011	3	4	12	3	4	12	• Invest in appropriate prevention and reablement services • Integrate social care and health services to ensure maximum efficiency for delivery of health and social care • The Building Better Futures Programme will realign and develop residential and social care facilities	A review of the fees paid to the independent sector was undertaken in 2012-13 and informed the inflationary uplift discussions with provider representatives for 2013-14 and 2014-15. Following the setting up of Norse Care in April 2011 the Building Better Futures 15 year transformation programme of the previous in house residential homes is starting with the reprovision of three residential homes in the Eastern Locality. The department is relaunching the Care Aware service, which provides independent financial advice. Most of the 2013-14 budgeted savings were achieved and where they weren't they were offset by underspends elsewhere in the department and the use of some reserves. Actions are in place to deliver the	2	4	8	31/03/2015	**Amber**	Harold Bodmer	Janice Dane	13/10/2014

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												2014-17 savings but there are risks associated with the savings, and they are proving difficult to achieve in 2014-15. Work is progressing on integration with NCH&C and around the setting up and delivery of the Better Care Fund (BCF). The Council will receive approximately £6m less funding from the BCF that NCC included in the budget plan to maintain current services. This is being fed into the corporate budget planning.								

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Support & Development	RM13925	Lack of capacity in ICT systems	A lack of capacity in IT systems and services to support Community Services delivery, in addition to the poor network capacity out into the County, could lead to a breakdown in services to the public or an inability of staff to process forms and financial information in for example Care First. This could result in a loss of income, misdirected resources, poor performance against NI targets and negatively impact on our reputation.	30/04/2011	4	4	16	4	4	16	Ensure ICT capacity issues are being addressed by CareFirst Management Board and ASC ICT Steering Group.• Children's Services, Adult Care, Finance and PPP planning requirements for 14/15 have been agreed by CFMB - this is monitored and updated as necessary at each CFMB meeting. This includes measures to significantly revise the plan to support delivery of the ChS Improvement Plan and increasingly the Care Act 2014. • Continue to request the Management of Change Group (formerly BIEG) to set aside some capacity for smaller departments where small input can have substantial gains.• Use the additional OLM consultancy days approved to ensure development and delivery of CareMobile, the Portal and other developments.• CareFirst Management Board monitors processes to ensure available ICT resources are allocated to Children's Services (ChS), Adult Social Care (ASC) and Finance on an agreed service priority basis. • Engage with the implementation of the Digital Norfolk Ambition (DNA) project and appoint a Business Lead. Create and submit DNA Priority Plans including identification of systems in use, staff locations for Adult Social Care and Cultural Services. Continue to work with ICT services to identify ways	• The ICT Business Partner pulls together CareFirst and other ICT developments for ChS and ASC in the form of commissioning documents that feed into ICT Steering Group and CFMB.. • New Strategic Plan has been developed and approved by the Management of Change Group and the ICT Lead Tom Baker is working towards supporting strategic service developments that will see dividends in the medium term. • The ASC Care First ICT group ensures priorities are co-ordinated and agreed and presented to CFMB to access the required ICT resource. • The Portal will be part of the NCC Portal development within the DNA programme and a specification has been provided to OLM - an update will be provided to the ASC Transformation Board in August 2014.. The CareFirst Production Review group, a sub group of CFMB, has been delegated to prioritise and schedule work fortnightly with ICT.• CFMB have raised the issue of ICT capacity in 14/15 with Tom Baker to ensure adequate capacity is available to meet business needs.• Active monitoring of the ICT resource is being developed to understand and address quality and workflow issues. Reviewed to take into account the Children's Services Improvement Plan which has placed significant further pressures on the ICT Resource resulting in	2	4	8	31/03/2014	**Amber**	John Perrott	John Perrott	07/10/2014

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											of resolving the network capacity issues on the library network. • Work with the corporate DNA business leads group to ensure departmental interests are represented in the roll-out of devices, the Information Hub and the move to Floor 8.	some ASC activity being delayed. • Action Plan developed for ICT 'recovery' in Cultural Services. Progress report received by J Holland each week. • Re-procurement of the Library catalogue and Museums Retail and Admissions systems have occurred but 'teething' issues are creating service downtime with loss of customer activity and loss of income. The new Library system is reliant on DNA for the provision of higher capacity equipment necessary for efficient processing. • A Business Lead is to lead on the implementation of DNA for Adult Social Care and Cultural Services. Priority plans were approved by SMT in November 2013. We are currently engaging with the DNA programme within the corporate Business Leads group.								

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Prevention	RM13923	Uncertainty around the shift towards investment in prevention services	There is uncertainty around achieving a general shift towards investment in prevention services by health care and housing organisations, meaning that key strategic strategies for older and disabled people were not met in line with Living Longer, Living Well. This results in poorer outcomes for service users and higher expenditure.	30/04/2011	4	4	16	3	4	12	• Agreement with NHS for investment in social care services in place for 2013-14 • Prevention strategy in place and agreed by Cabinet • The Council has established a one off Living Well in the Community Fund • Ensure an agreement is reached with NHS on how to use the Better Care Fund for 2014-15 onwards, and shift resources from the acute/hospitals to community care. • Members to reach a view this year on whether to put funding into the Living Well in the Community Fund • Enabling Communities Workstream underway as part of Enterprising Norfolk, aimed at a new approach to demand management and avoiding costs	The CSR budget requirements agreed a 40% reduction in prevention spending however this was reduced to 28% following the announcement of additional NHS funding and the removal of the 2011/12 saving of £5m. This resulted in an £11m reduction in prevention spending. £5m in 2012/13 and £6m in 2013/14. This required significant service and contract reviews. The Living Well in the Community Fund has been spent and is operational. The Council established a further one off Prevention fund of £3.5m which includes support to organisations in transition from block contracts to sport arrangements and includes an amount of building community capacity. This has been utilised significantly. Trading arrangements for Assistive Technology are not delivering the anticipated savings. New contractual arrangements for Information, Advice and Advocacy are operational. Ageing Well now forms part of a joint approach with Public Health. The Council identified £5m over five years for additional investment in prevention ('Strong and Well') - however the 2014-17 budget savings agreed by Council included cutting the next four years funding. Proposals have been agreed with most of the partnerships and	2	4	8	01/04/2015	**Amber**	Janice Dane	Janice Dane	13/10/2014

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												discussions are on-going with the remaining two. Discussions are on-going about the Better Care Fund, with the five CCGs. £3m funding has been informally agreed by the CCGs for reablement/Swifts. There is a virtual Enabling Communities team (led by Adult Social Care), looking to co-ordinate relevant work across NCC and maximise the benefits. Approval was granted by Norfolk's Health and Well-being Board for our Ageing Well initiative (linked to the Public Health Healthy Towns programme) and this worked has commenced through a dedicated post within Community Services.								
Transformation	RM13926	If we do not meet budget savings	If we do not meet our budget savings targets over the next three years it would lead to significant overspends in a number of areas. This would result in significant financial pressures across the Council and mean we do not achieve the expected improvements to our services.	30/04/2011	3	5	15	4	5	20	• All efficiency and savings targets are being managed through the transformation and efficiency programme. • The transformation workstreams are all being operated within tight governance arrangements and are supported by the CPO • Additional funding available from the NHS for 2014-17 although this has to be agreed through five pooled funds with each of the Clinical Commissioning Groups.	Achieved balanced budget in 2013-14, although this included using some one-off reserves. Overall the department contributed £1.3m contribution towards contingency for incinerator in 2013-14 - necessitated using social care reserves. In process of setting up Better Care Fund to access additional NHS funding in 2014-17. This means setting up a pooled fund with each of the five Clinical Commissioning Groups (CCGs). N8 As well as the BCF risks for 2014-15 include: uncertainty around income for Continuing Health Care; decline in income from service user contributions; and need to achieve all 2014-17 budgeted savings. The 2014-17 savings have risks and include	2	5	10	01/04/2017	**Amber**	Janice Dane	Janice Dane	13/10/2014

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												significant savings from the budget used to pay for packages of care, which has meant reducing elements of Personal Budgets for community activities/well being and transport. The initial forecast for period six (September 2014) showed a significant increase in the Adult Social Care overspend from period five. There is an action plan in place to: investigate why this has happened; ensure the accuracy of the forecast; take actions to reduce the overspend; and revise the period six forecast. This is being managed by the Senior Management Team and reported through the Transformation Programme Board, which includes the Chair of the Adult Social Care Committee.								
Transformation	RM14 149	Impact of the Care Act	Impact of the Social Care bill/Changes in Social Care funding (significant increase in number of people eligible for funding, increase in volume of care - and social care - and financial assessments, potential increase in purchase of care expenditure, reduction in service user contributions)	27/11/2013	4	3	12	4	5	20	Project for Implementation of the Care Act. Ensure processes and resources in place to deliver Government requirements. Estimate financial implications. Keep NCC Councillors informed of issues and risks.	Project on Implementation of the Care Act. Responded to latest Government consultation on guidance (15 August) and highlighted issue about funding. Initial estimates are that the financial and resource impact for NCC is significant and this is being fed into ADASS. Concerns about adequacy of central Government funding for costs. Two reports taken to Adult Social Care Committee and workshop on consultation response held on 12 August. Communications and presentations on-going to staff. Assessments Business Lead and Finance Business Lead	2	3	6	01/04/2016	**Amber**	Janice Dane	Janice Dane	13/10/2014

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												now in post.								
Transformation	RM14150	Impact of DNA	Impact of DNA: temporary pausing of customer portal/self service ; impact on work to integrate with NHS; resources required to deliver departmental elements; impact on resources with DNA implementation and funding of DNA.	27/11/2013	4	3	12	4	4	16	Ensure departmental requirements, e.g. Customer Portal and Integration with Health, are DNA priorities. Departmental resources/workstreams in place as required. DNA Business Lead appointed to carry these issues forward.	• Importance of Integration and Customer Portal being mentioned at appropriate opportunities, e.g. CMT. Monthly DNA updates are provided by the ICT Business Partner to Senior Management meetings from July 2014. • Raised issue on need for clarity around funding of DNA at Finance Management Team. Funding risk added to overall DNA register. • Preparatory work on Portal commenced by Business Systems team in January 2014 to ensure portal requirements are clearly mapped in relation to current processes viz referral, assessment, support planning and review in order to inform service requirements to OLM. • ComServ DNA Business lead leading the implementation of DNA to ASC and Cultural Services. Service business lead meetings set up to co-ordinate information gathering and communications with staff groups. • Current emphasis is on the roll-out of DNA devices as deadlines for Floor 8 were missed with a revised date of first week in September. As of	2	3	6	31/03/2015	**Amber**	John Perrott	John Perrott	07/10/2014

Area	Risk Number	Risk Name	Risk Description	Date entered on risk register	Inherent Likelihood	Inherent Impact	Inherent Risk Score	Current Likelihood	Current Impact	Current Risk Score	Tasks to mitigate the risk	Progress update	Target Likelihood	Target Impact	Target Risk Score	Target Date	Prospects of meeting Target Risk Score by Target Date	Risk Owner	Reviewed and/or updated by	Date of review and/or update
												June through to August 2014 staff have been engaged with user acceptance testing particularly with CareFirst. • Current concerns with the device roll-out to Mental Health staff from 1 October have been raised with the corporate DNA Business Lead and ICT for which a plan B may be necessary.								
Safeguarding	RM13931	A rise in hospital admissions	A significant rise in acute hospital admissions for whatever reason would lead to delays in the transfer of care. This would result in budget pressures, possible overspends and could negatively impact on our reputation.	30/06/2011	3	4	12	4	4	16	• Develop preventative and integrated approaches to caring for people in the community to avoid admission to hospital• Pilot working arrangements through integrated care projects being rolled out.• Ensure alternatives are in place to prevent delays from occurring • Monitor the delayed discharge targets	Integrated care approach is continuing to be developed with NCH&C across the CountyTargets agreed with NHS Commissioners.Reviewed regularly at Heads of Social Care meeting and Integration Operational Group. Recent increases in admissions have put more pressure on the system. Target score to remain at 6.28 January 2014 reviewed by SMT - no change.7/10/14 - recent increases in admissions have increased risk score. Continued close scrutiny of discharge processes across systems and plans to develop more reenablement capacity	2	3	6	01/04/2015	**Amber**	Debbie Olley	Debbie Olley	13/10/2014

Area	Risk Number	Risk Name	Risk Description	Date entered on risk register	Inherent Likelihood	Inherent Impact	Inherent Risk Score	Current Likelihood	Current Impact	Current Risk Score	Tasks to mitigate the risk	Progress update	Target Likelihood	Target Impact	Target Risk Score	Target Date	Prospects of meeting Target Risk Score by Target Date	Risk Owner	Reviewed and/or updated by	Date of review and/or update
Information Management	RM14 085	Failure to follow data protection procedures	Failure to follow data protection procedures can lead to loss or inappropriate disclosure of personal information resulting in a breach of the Data Protection Act and failure to safeguard service users and vulnerable staff, monetary penalties, prosecution and civil claims.	30/09/2011	3	5	15	3	4	12	New staff not allowed computing access until they have completed the data protection and information security e-learning courses. Mandatory refresher training and monitoring rates of completion of training. Introduction of more stringent rules to ensure sensitive information is sent to the correct recipient. Monitoring and reporting regime, including monthly reports to COG, now established. Work in progress on a standardised mechanism for investigating breaches. A workbook on data protection and information security has been published for staff and volunteers who have no computer access.	• Any cases reported to Performance Board. • Action following an adverse audit includes spot checking of ASC premises and actions taken to promote rapid improvement. • A Data Quality policy is being developed by the Business Systems team in respect of CareFirst which will take account of DP requirements. • Cultural Services managers are checking that personal data held in systems is reviewed in line with DP principles. • Floor 6 staff at County Hall are implementing a clear desk policy to further reduce DP risk in preparation for moving to floor 8. All user emails are being sent on a regular basis. issue of fax machines is being reviewed. Corporate Risk reviewed monthly by Information Compliance Group. Managers in department are sent regular reminders about people who have not completed e-learning course and completion discussed at SMT.	1	4	4	31/03/2015	**Amber**	Harold Bodmer	John Perrott	07/10/2014

Appendix D(iii)

Risk Exceptions Report

Risk Number	RM14079	**Date of update**	26 January 2015
Risk Name	Failure to meet the long term needs of older people		
Risk Owner	Harold Bodmer	**Date entered on risk register**	11 October 2012

Risk Description

If the Council is unable to invest sufficiently to meet the increased demand for services arising from the increase in the population of older people in Norfolk it could result in worsening outcomes for service users, promote legal challenges and negatively impact on our reputation. With regard to the long term risk, bearing in mind the current demographic pressures and budgetary restraints, the Local Government Association modelling shows a projection suggesting local authorities may only have sufficient funding for Adult's and Children's care.

Inherent			Current			Target				
Likelihood	Impact	Risk score	Likelihood	Impact	Risk score	Likelihood	Impact	Risk score	Target Date	Prospects of meeting Target Risk Score by Target Date
5	5	**25**	5	5	**25**	2	4	**8**	Mar-30	**Amber**

Tasks to mitigate the risk

• Take steps to protect the Purchase of Care budget when budget planning prior to 2014-17. • Invest in appropriate prevention and reablement services • Integrate social care and health services to ensure maximum efficiency for delivery of health and social care • The Building Better Futures Programme will realign and develop residential and social care facilities • Ensure budget planning process enables sufficient investment in adult social care particularly in year 3 of current plan. • Continue to: try and manage needs; to identify and deliver savings in the Adult Social Care budget plan; and to ensure the issues are understood and discussed corporately.

Progress update

The Adult Social Care mitigating tasks are relatively short term measures compared to the long term risk, i.e. 2030, but long term measures are outside NCC's control, for example Central Government policy. Although steps were taken to protect the Purchase of Care budget in previous budget planning, the proposals for 2014-17 have had to include savings from the Purchase of Care budget. Actions are in hand to achieve these, e.g. adjustments to the Resource Allocation System for Community Activities/Well Being and Transport were made on 1 April 2014. However it is proving difficult to make the savings in 2014-15. The Care Act including changes in social care funding will impact significantly: more people eligible for social care funding; less service user contributions; and it is not clear whether there will be additional/sufficient government funding. The guidance is still draft. A project is in place to help ensure the department delivers the changes arising from the Care Act. It appears that there will be further and sustained cuts to local government funding. The department is remodelling it's offer around "Promoting Independence" to try and further reduce demand for packages of care, and to deliver better outcomes. Community Development is also key to dealing with long term pressures.

Risk Number	RM0207	Date of update	26 January 2015
Risk Name	Failure to meet the needs of older people		
Risk Owner	Harold Bodmer	Date entered on risk register	01 April 2011

Risk Description

If the Council is unable to invest sufficiently to meet the increased demand for services arising from the increase in the population of older people in Norfolk it could result in worsening outcomes for service users, promote legal challenges and negatively impact on our reputation.

Inherent			Current			Target				
Likelihood	Impact	Risk score	Likelihood	Impact	Risk score	Likelihood	Impact	Risk score	Target Date	Prospects of meeting Target Risk Score by Target Date
3	4	**12**	3	4	**12**	2	4	**8**	Mar-15	**Amber**

Tasks to mitigate the risk

• Invest in appropriate prevention and reablement services • Integrate social care and health services to ensure maximum efficiency for delivery of health and social care • The Building Better Futures Programme will realign and develop residential and social care facilities

Progress update

A review of the fees paid to the independent sector was undertaken in 2012-13 and informed the inflationary uplift discussions with provider representatives for 2013-14 and 2014-15. Following the setting up of Norse Care in April 2011 the Building Better Futures 15 year transformation programme of the previous in house residential homes is starting with the reprovision of three residential homes in the Eastern Locality. The department is relaunching the Care Aware service, which provides independent financial advice. Most of the 2013-14 budgeted savings were achieved and where they weren't they were offset by underspends elsewhere in the department and the use of some reserves. Actions are in place to deliver the 2014-17 savings but there are risks associated with the savings, and they are proving difficult to achieve in 2014-15. The Purchase of Care budget and the department are forecast to overspend in 2014-15. Work is progressing on integration with NCH&C and around the setting up and delivery of the Better Care Fund (BCF). The Council will receive approximately £6m less funding from the BCF than NCC included in the budget plan to maintain current services. This is being fed into the corporate budget planning.

Risk Number	RM13925	**Date of update**	11 February 2015
Risk Name	Lack of capacity in ICT systems		
Risk Owner	John Perrott	**Date entered on risk register**	30 April 2011

Risk Description

A lack of capacity in IT systems and services to support Community Services delivery, in addition to the poor network capacity out into the County, could lead to a breakdown in services to the public or an inability of staff to process forms and financial information in for example Care First. This could result in a loss of income, misdirected resources, poor performance against NI targets and negatively impact on our reputation.

Inherent			Current			Target				
Likelihood	Impact	Risk score	Likelihood	Impact	Risk score	Likelihood	Impact	Risk score	Target Date	Prospects of meeting Target Risk Score by Target Date
4	4	**16**	4	4	**16**	2	4	**8**	Mar-15	**Amber**

Tasks to mitigate the risk

Ensure ICT capacity issues are being addressed by CareFirst Management Board and ASC ICT Steering Group. • Children's Services, Adult Care, Finance and PPP planning requirements are prioritised by CFMB - monitor and update as necessary at each CFMB meeting. • Continue to represent departmental interests at the Management of Change Board. • CareFirst Management Board monitors processes to ensure available ICT resources are allocated to Children's Services (ChS), Adult Social Care (ASC) and Finance on an agreed service priority basis. • DNA Business Lead co-ordinates device roll-out with HP/ICT and attends corporate DNA business lead meetings to report progress. Business lead also to attend weeky MoC meetings to contribute to corporate DNA priorities and solutions. • Ensure ICT attendance at SMT, Transformation, Care Act and BCF meetings to share departmental priorities and address ICT capacity issues.

Progress update

• The ICT Business Partner pulls together CareFirst and other ICT developments for ChS and ASC in the form of commissioning documents that feed into ICT Steering Group and CFMB. • New Strategic Plan has been developed and approved by the Management of Change Group and the NCC ICT Lead is working towards supporting strategic service developments that will see dividends in the medium term. • The ASC Care First ICT group ensures priorities are co-ordinated and agreed and presented to CFMB to access the required ICT resource. • The work to deliver the 15/16 Care Act ICT requirements was approved by the Transformation Board in October 2014. Forms were submitted to ICT on 16 Dec for delivery by 31 March. • ICT Business Lead has raised the issue of ICT capacity in 2015 with Head of Resources to request adequate capacity is available to meet business needs. • Active monitoring of the ICT resource was undertaken by CFMB to ensure Care Act developments are achieved on time. This included temporarily holding back Requests for Change from all services until 31 March 2015. -We are actively engaging with the DNA programme that will see new devices delivered to ASSD HQ, Norwich ComCare teams, Carrow House and locations in the Eat, West and Northern Localities by 6 March. Further planning work to schedule the further roll out of devices is in hand.

Risk Number	RM13923	**Date of update**	26 January 2015
Risk Name	Uncertainty around the shift towards investment in prevention services		
Risk Owner	Janice Dane	**Date entered on risk register**	30 April 2011

Risk Description

There is uncertainty around achieving a general shift towards investment in prevention services by health care and housing organisations, meaning that key strategic strategies for older and disabled people were not met in line with Living Longer, Living Well. This results in poorer outcomes for service users and higher expenditure.

Inherent			Current			Target				
Likelihood	Impact	Risk score	Likelihood	Impact	Risk score	Likelihood	Impact	Risk score	Target Date	Prospects of meeting Target Risk Score by Target Date
4	4	**16**	3	4	**12**	2	4	**8**	Apr-15	**Amber**

Tasks to mitigate the risk

• Agreement with NHS for investment in social care services in place for 2013-14 • Prevention strategy in place and agreed by Cabinet • The Council has established a one off Living Well in the Community Fund • Ensure an agreement is reached with NHS on how to use the Better Care Fund for 2014-15 onwards, and shift resources from the acute/hospitals to community care. • Members to reach a view this year on whether to put funding into the Living Well in the Community Fund • Enabling Communities Workstream underway as part of Enterprising Norfolk, aimed at a new approach to demand management and avoiding costs

Progress update

The CSR budget requirements agreed a 40% reduction in prevention spending however this was reduced to 28% following the announcement of additional NHS funding and the removal of the 2011/12 saving of £5m. This resulted in an £11m reduction in prevention spending. £5m in 2012/13 and £6m in 2013/14. This required significant service and contract reviews. The Living Well in the Community Fund has been spent and is operational. The Council established a further one off Prevention fund of £3.5m which includes support to organisations in transition from block contracts to spot arrangements and includes an amount of building community capacity. This has been utilised significantly. Trading arrangements for Assistive Technology are not delivering the anticipated savings. New contractual arrangements for Information, Advice and Advocacy are operational. Ageing Well now forms part of a joint approach with Public Health. The Council identified £5m over five years for additional investment in prevention ('Strong and Well') - however the 2014-17 budget savings agreed by Council included cutting the next four years funding. Proposals have been agreed with most of the partnerships and discussions are ongoing with the remaining one. £3m funding has been informally agreed by the CCGs for reablement/Swifts through the Better Care Fund. There is a virtual Enabling Communities team (led by Adult Social Care), looking to co-ordinate relevant work across NCC and maximise the benefits. Approval was granted by Norfolk's Health and Well-being Board for our Ageing Well initiative (linked to the Public Health Healthy Towns programme) and this worked has commenced through a dedicated post within Community Services. Adult Social Services is remodelling it's offer based on "Promoting Independence".

Risk Number	RM13926	Date of update	26 January 2015
Risk Name	Failure to meet budget savings		
Risk Owner	Janice Dane	Date entered on risk register	30 April 2011

Risk Description

If we do not meet our budget savings targets over the next three years it would lead to significant overspends in a number of areas. This would result in significant financial pressures across the Council and mean we do not achieve the expected improvements to our services.

Inherent			Current			Target				
Likelihood	Impact	Risk score	Likelihood	Impact	Risk score	Likelihood	Impact	Risk score	Target Date	Prospects of meeting Target Risk Score by Target Date
3	5	**15**	4	5	**20**	2	5	**10**	Apr-17	**Red**

Tasks to mitigate the risk

• All efficiency and savings targets are being managed through the transformation and efficiency programme. • The transformation workstreams are all being operated within tight governance arrangements and are supported by the CPO • Additional funding available from the NHS for 2014-17 although this has to be agreed through five pooled funds with each of the Clinical Commissioning Groups.

Progress update

Achieved balanced budget in 2013-14, although this included using some one-off reserves. Overall the department contributed £1.3m contribution towards contingency for incinerator in 2013-14 - necessitated using social care reserves. In process of setting up Better Care Fund to access additional NHS funding in 2014-17. This means setting up a pooled fund with each of the five Clinical Commissioning Groups (CCGs). Budget proposals for 2015-16 now include use of £3m of Adult Social Services one off reserves to balance the revenue budget. This will significantly reduce the amount of funding the department has available to fund transformation and change, and could mean that there is no money in 2016-17 to pay for the Transformation team (who are funded from the Transformation reserve). As well as the BCF risks for 2014-15 include: uncertainty around income for Continuing Health Care; decline in income from service user contributions; and need to achieve all 2014-17 budgeted savings. The 2014-17 savings have risks and include significant savings from the budget used to pay for packages of care, which has meant reducing elements of Personal Budgets for community activities/well being and transport. The forecast for period nine (December 2014) is for a net overspend of £2.3m after using reserves off £3.656m. There is an action plan in place which is reported through the Transformation Programme Board, which includes the Chair of the Adult Social Care Committee.

Risk Number	RM14149	**Date of update**	26 January 2015
Risk Name	Impact of the Care Act		
Risk Owner	Janice Dane	**Date entered on risk register**	27 November 2013

Risk Description

Impact of the Social Care bill/Changes in Social Care funding (significant increase in number of people eligible for funding, increase in volume of care - and social care - and financial assessments, potential increase in purchase of care expenditure, reduction in service user contributions)

Inherent			Current			Target				
Likelihood	Impact	Risk score	Likelihood	Impact	Risk score	Likelihood	Impact	Risk score	Target Date	Prospects of meeting Target Risk Score by Target Date
4	3	**12**	4	5	**20**	2	3	**6**	Apr-16	**Amber**

Tasks to mitigate the risk

Project for Implementation of the Care Act. Ensure processes and resources in place to deliver Government requirements. Estimate financial implications. Keep NCC Councillors informed of issues and risks.

Progress update

Project on Implementation of the Care Act. Responded to latest Government consultation on guidance (15 August) and highlighted issue about funding. Initial estimates are that the financial and resource impact for NCC is significant and this is being fed into ADASS. Concerns about adequacy of central Government funding for costs. Two reports taken to Adult Social Care Committee and workshop on consultation response held on 12 August. Communications and presentations on-going to staff. Assessments Business Lead and Finance Business Lead in post. Project on track to deliver necessary changes for April 2015. Report taken to ASC Committee on 12 January about some charging issues and prisons. Consultation around changes in funding arrangements (April 2016) has not been sent out by Central Government: it was originally due out in November.

Risk Number	RM14150	Date of update	00 January 1900
Risk Name	Impact of DNA		
Risk Owner	John Perrott	Date entered on risk register	27 November 2013

Risk Description

Impact of DNA: temporary pausing of customer portal/self service ; impact on work to integrate with NHS; resources required to deliver departmental elements; impact on resources with DNA implementation and funding of DNA.

Inherent			Current			Target				
Likelihood	Impact	Risk score	Likelihood	Impact	Risk score	Likelihood	Impact	Risk score	Target Date	Prospects of meeting Target Risk Score by Target Date
4	3	**12**	4	4	**16**	2	3	**6**	Mar-15	**Amber**

Tasks to mitigate the risk

Ensure departmental requirements, e.g. Customer Portal and Integration with Health, are DNA priorities. Departmental resources/workstreams in place as required. DNA Business Lead appointed to carry these issues forward.

Progress update

• Importance of Integration and Customer Portal being mentioned at appropriate opportunities, e.g. CMT. Monthly DNA updates are provided by the ICT Business Partner to Senior Management meetings from July 2014. • Raised issue on need for clarity around funding of DNA at Finance Management Team. Funding risk added to overall DNA register. • Preparatory work on Portal commenced by Business Systems team in January 2014 to ensure portal requirements are clearly mapped in relation to current processes viz referral, assessment, support planning and review in order to inform service requirements to OLM. • ComServ DNA Business lead leading the implementation of DNA to ASC and Cultural Services. Service business lead meetings set up to co-ordinate information gathering and communications with staff groups. • Current emphasis is on the roll-out of DNA devices as deadlines for Floor 8 were missed with a revised date of first week in September. As of June through to August 2014 staff have been engaged with user acceptance testing particularly with CareFirst. • Current concerns with the device roll-out to Mental Health staff from 1 October have been raised with the corporate DNA Business Lead and ICT for which a plan B may be necessary.

Risk Number	RM13931	Date of update	02 February 2015
Risk Name	A rise in hospital admissions		
Risk Owner	Debbie Olley	Date entered on risk register	30 June 2011

Risk Description

A significant rise in acute hospital admissions for whatever reason would lead to delays in the transfer of care. This would result in budget pressures, possible overspends and could negatively impact on our reputation.

Inherent			Current			Target				
Likelihood	Impact	Risk score	Likelihood	Impact	Risk score	Likelihood	Impact	Risk score	Target Date	Prospects of meeting Target Risk Score by Target Date
3	4	**12**	4	4	**16**	2	3	**6**	Apr-15	**Amber**

Tasks to mitigate the risk

• Develop preventative and integrated approaches to caring for people in the community to avoid admission to hospital • Pilot working arrangements through integrated care projects being rolled out. • Ensure alternatives are in place to prevent delays from occurring • Monitor the delayed discharge targets

Progress update

Integrated care approach is continuing to be developed with NCH&C across the County (Phase 2) Targets agreed with NHS Commissioners. Reviewed regularly at Heads of Social Care meeting and Integration Operational Group. Recent increases in admissions have put more pressure on the system. Target score to remain at 6. 28 January 2014 reviewed by SMT - no change. 7/10/14 - recent increases in admissions have increased risk score. Continued close scrutiny of discharge processes across systems and plans to develop more reenablement capacity. 2/2/15 - weekly capacity meetings now in place. Wider system under considerable pressure, but dtoc attributable to social care remain low.

Risk Number	RM14085	**Date of update**	00 January 1900
Risk Name	Failure to follow data protection procedures		
Risk Owner	Harold Bodmer	**Date entered on risk register**	30 September 2011

Risk Description

Failure to follow data protection procedures can lead to loss or inappropriate disclosure of personal information resulting in a breach of the Data Protection Act and failure to safeguard service users and vulnerable staff, monetary penalties, prosecution and civil claims.

Inherent			Current			Target				
Likelihood	Impact	Risk score	Likelihood	Impact	Risk score	Likelihood	Impact	Risk score	Target Date	Prospects of meeting Target Risk Score by Target Date
3	5	**15**	3	4	**12**	1	4	**4**	Mar-15	**Amber**

Tasks to mitigate the risk

New staff not allowed computing access until they have completed the data protection and information security e-learning courses. Mandatory refresher training and monitoring rates of completion of training. Introduction of more stringent rules to ensure sensitive information is sent to the correct recipient. Monitoring and reporting regime, including monthly reports to COG, now established. Work in progress on a standardised mechanism for investigating breaches. A workbook on data protection and information security has been published for staff and volunteers who have no computer access.

Progress update

• Any cases reported to Performance Board. • Action following an adverse audit includes spot checking of ASC premises and actions taken to promote rapid improvement. • A Data Quality policy is being developed by the Business Systems team in respect of CareFirst which will take account of DP requirements. • Cultural Services managers are checking that personal data held in systems is reviewed in line with DP principles. • All user emails are being sent on a regular basis. issue of fax machines is being reviewed. Corporate Risk reviewed monthly by Information Compliance Group. Managers in department are sent regular reminders about people who have not completed e-learning course and completion discussed at SMT.


Mental Health
median
care
service users
different
care
social
Residential
trend
social
compared
result
adults
nursing
needs
admissions
Norfolk
Data
primary
support
carers
figures
people
Direct payments
Average
referrals
Family
reflects
Benchmarking
Outcome
England
referrals
Councils
change
services
nursing
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provided
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assessments
Learning Disability

Contents

1. Introduction

Who is this report for?

This report presents benchmarking information for Norfolk Adult Social Care for the year 2013/14 and is designed to help managers and elected members compare the performance of Norfolk with other councils that have social care responsibilities and identify areas for improvement. It is not designed for use by the public.

All data included in this report can be subject to change as the Department of Health can retrospectively republish data of councils if issues or amendments are identified.

What is benchmarking?

'Benchmarking' is a widely used term, within all sectors describing when an organisation compares what it does against others. Organisations can benchmark their business processes, performance, finance, quality etc. to understand strengths and weaknesses and respond accordingly. Essentially 'benchmarking' provides a snapshot of how a 'business' is performing in relation to a particular standard. We use benchmarking in a variety of ways in order to inform how we are doing and help us determine what our priorities are. It enables us to position ourselves amongst others, letting us know where our issues are as well as informing the target setting process. Benchmarking is not an exact science and should be treated with some caution. It is important that the information is used properly and within context. Where possible, this report has tried to overlay performance against population. But there are some warnings to consider when using benchmarking information. Broadly these include:

- In 2012/13 and 2013/14 not all councils were able to provide a full set of data for the social care indicator values and estimates have not been made for those with missing data. Therefore England and regional totals are based on councils that have provided the complete data.
- The disparity between the councils (even amongst our 'family group') can sometimes impact on the results (e.g. size, demography, structure, budget etc.).

This does not negate the benefits of benchmarking but understanding what it is telling you is vital; resist simplistic interpretations by sourcing some contextual understanding.

What is this report measuring?

This report presents benchmarking information for Norfolk Community Services for the year 2013/14.

Most of the data presented relates directly to the year 2013/14. Where the latest reportable data relates to another financial year, details are always provided with the data on the relevant page of the report.

Every social services department must submit a range of returns each year relating to referrals, assessments and packages of care (RAP), adult social care related activity (ASC-CAR), the Adult Social Care Survey (plus the Carers' Survey every other year) and expenditure (PSS-EX1). The results of these returns are collected together by the National Adult Social Care Intelligence Service (NASCIS) and made available to the Council online.

Most of the data in this report has been taken from the NASCIS tool. Some other data has been taken from CIPFA Public Library Statistics.

All of the information in this report is divided into the four sections of the Adult Social Care Outcomes Framework and has been specially selected to try and demonstrate how well Norfolk is doing at delivering the priorities agreed for us nationally.

The text of specific outcome measures set nationally has been included under each relevant outcome section to provide more information about what the desired outcome of our activities should be.

Which councils are being compared?

Our results are mostly compared to Norfolk's 'family group '– a collection of 15 other councils that the Care Quality Commission considers to have similar characteristics to Norfolk and are therefore a valid comparison for performance.

These are: Cambridgeshire, Cumbria, Derbyshire, Devon, Gloucestershire, Leicestershire, Lincolnshire, North Yorkshire, Northamptonshire, Nottinghamshire, Somerset, Staffordshire, Suffolk, Warwickshire and Worcestershire.

East of England and England results are also included in many cases to provide further benchmarks for our activity.

Where financial information is being compared with other councils the comparator group is based on Area Cost Adjustment (ACA) factors. The ACA factors are derived from the relative cost of providing services within a council's geographic area. For comparison of expenditure data, Norfolk was placed into one of four ACA groupings with 49 other councils with similar ACA factors in 2007/08.

Where other comparator groups are being used, details are provided with the data on the relevant page of the report.

How to use the report

In this report, information is presented in several different ways. In many case, traditional bar charts or line graphs and pie charts are used.

In some other cases, pictographs (or picture icons) are used to provide a visual demonstration of how Norfolk figures compare to other councils. The size of these pictographs is adjusted to provide an approximate reflection of the figures represented. The method used for sizing pictographs is not consistent throughout the report so icons on different pages may appear to be different sizes even though they represent the same figure. The figure represented is always provided inside or next to the icon.

Data relating to people is sometimes represented with a stick person icon.

Data relating to financial information is sometimes represented with a pound sign icon.

Data relating to living accommodation is sometimes represented with a house icon.

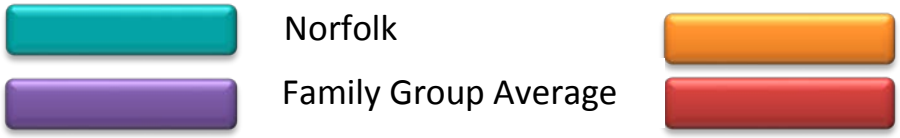
Data relating to satisfaction is sometimes represented with a smiley face icon.

A dotted line is sometimes used to show where the England or East of England results sits in comparison with the pictograph. This shows how big an England or East of England pictograph would be if they were also shown in the report.

A table is sometimes provided alongside current data to show changing results over time. The grey box shows the year the data relates to. The turquoise box relates to historic Norfolk data and the purple box to historic family group data.

12/13	420	300
11/12	430	284

A key is provided on each page but in most cases the following colours indicate the following things.



An information icon is used to mark important information about data.

The Norfolk Picture – 2013/14

Enquiries and Referrals per 10,000 population

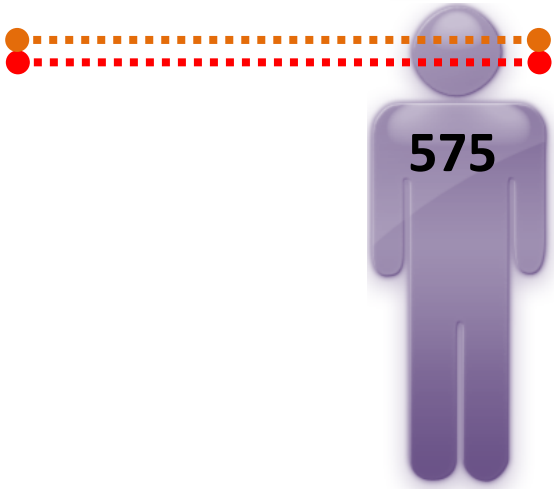
The following pages provide background information about the overall numbers of people seeking help from Norfolk social care services in 2013/14, including:

- How many new social care referrals and enquiries Norfolk had to deal with in 2013/14
- How many people went on to be assessed
- How many people received services as a result of their assessment
- How many carers of people with social care needs were assessed and how many received services as a result of their assessment
- How Norfolk's total spend on adult social care compares to other local authorities

Family group results for all the above are also provided to give a flavour of how Norfolk's experience in 2013/14 compared to other similar councils.

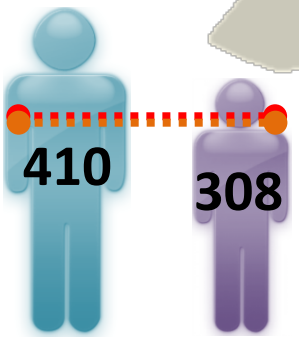
All contacts by new clients

1010



12/13	910	550
11/12	765	529

New clients dealt with at point of contact.



12/13	420	300
11/12	430	284

Norfolk Adult Social Care was contacted by 71,190 people in 2013/14.

This is a 10.79% increase compared to 2012/13.

'Dealt with at point of contact' means - information and/or advice only given, with no further action beyond registration or a 'basic service' (one-off service with an initial, but no ongoing resource commitment)

Icon size reflects figure represented Data source: RAP R2, R3

Norfolk

Family Group average

England

East England

People assessed for the first time

Adults 65+

In 2013/14 Norfolk assessed 10,195 people for the first time – more than double the average from our family group.

7,030

12/13	10,730	5,808
11/12	10,345	5,563

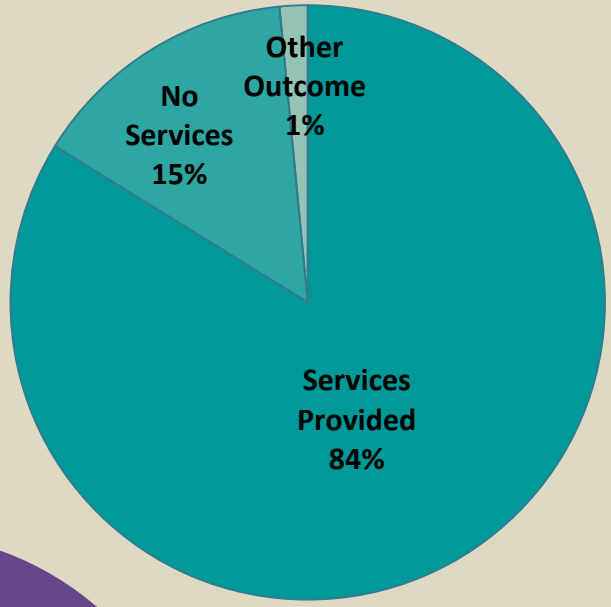
Adults 18-64

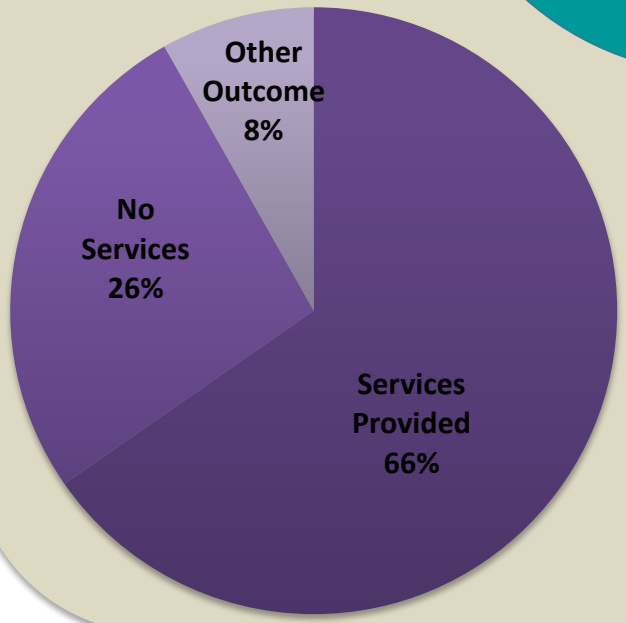
3,165

12/13	5,020	2,087
11/12	3,800	1,672

Outcome of assessments

Norfolk





Family Group total

Icon size reflects figure represented
Data source: RAP A6

Norfolk

Family Group average

Primary needs of people receiving services

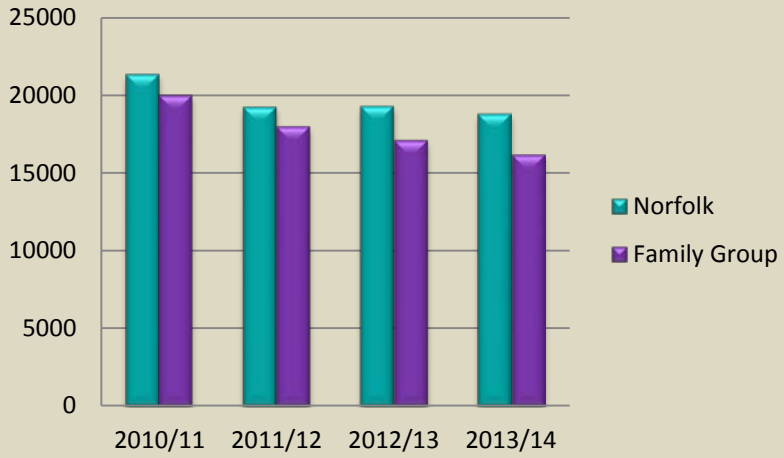
If Norfolk's service users in 2013/14 were 100 people…

The table below shows how this compares to the picture in other areas for 2013/14:

	Physical Dis.	Mental Health	Learning Dis.	Substance/ Other
Norfolk	62	24	13	1
Family Group	69	18	11	2
East of England	65	21	12	2
England	66	20	12	2

The amount of people receiving services has been reducing steadily over the past four years both in Norfolk and comparatively across the family group.

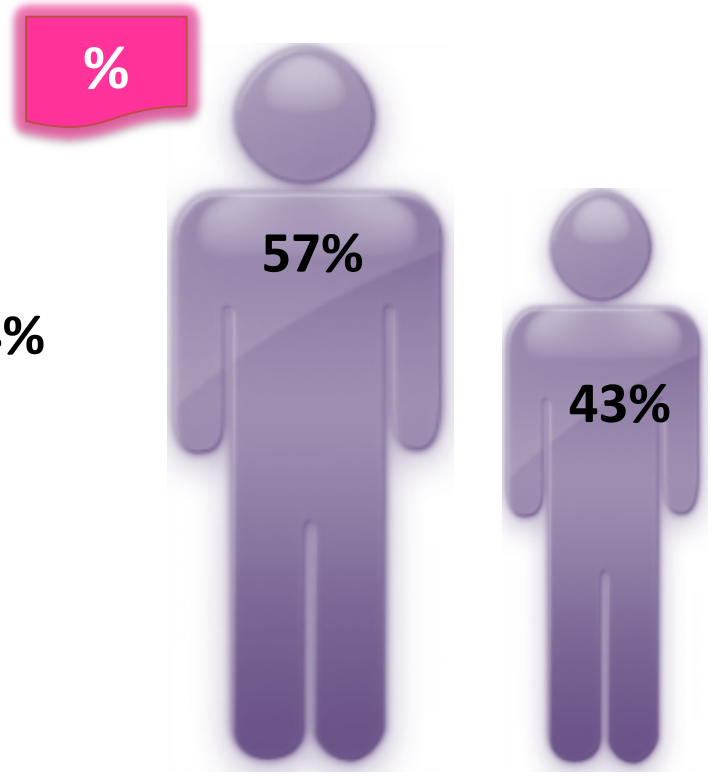
Number of service users



Data source: RAP P1

Lincolnshire data unavailable for 10/11 therefore have been removed from all family group averages for people receiving services.

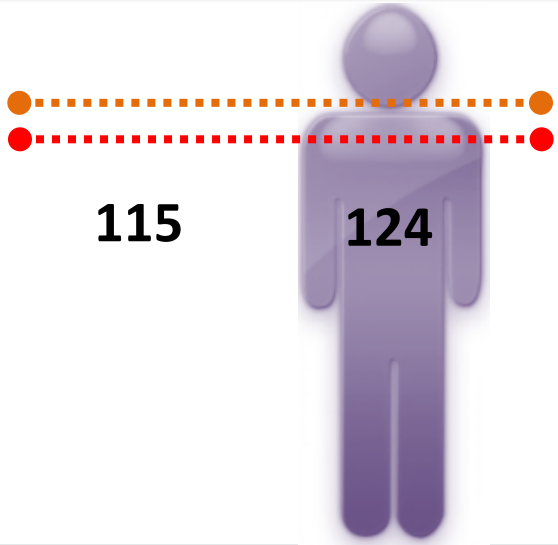
Carers receiving services or information



	Services	Info
12/13	65	35
11/12	70	30

	Services	Info
12/13	52	48
11/12	52	48

Carers' assessment and reviews per 10,000 18+ population



- 6,515 carers' assessments or reviews were carried out in 2013/14.
- Of the 6,515 carers assessed, 3,640 received a service and 2,875 received information.
- Compared to previous years the balance of carers in Norfolk receiving services versus information has shifted since 2010 and is now moving more in line with other areas.

Icon size reflects figure represented
Data source: RAP C1, C2.
Please note that NASCIS has rounded these values to the nearest five.

Norfolk

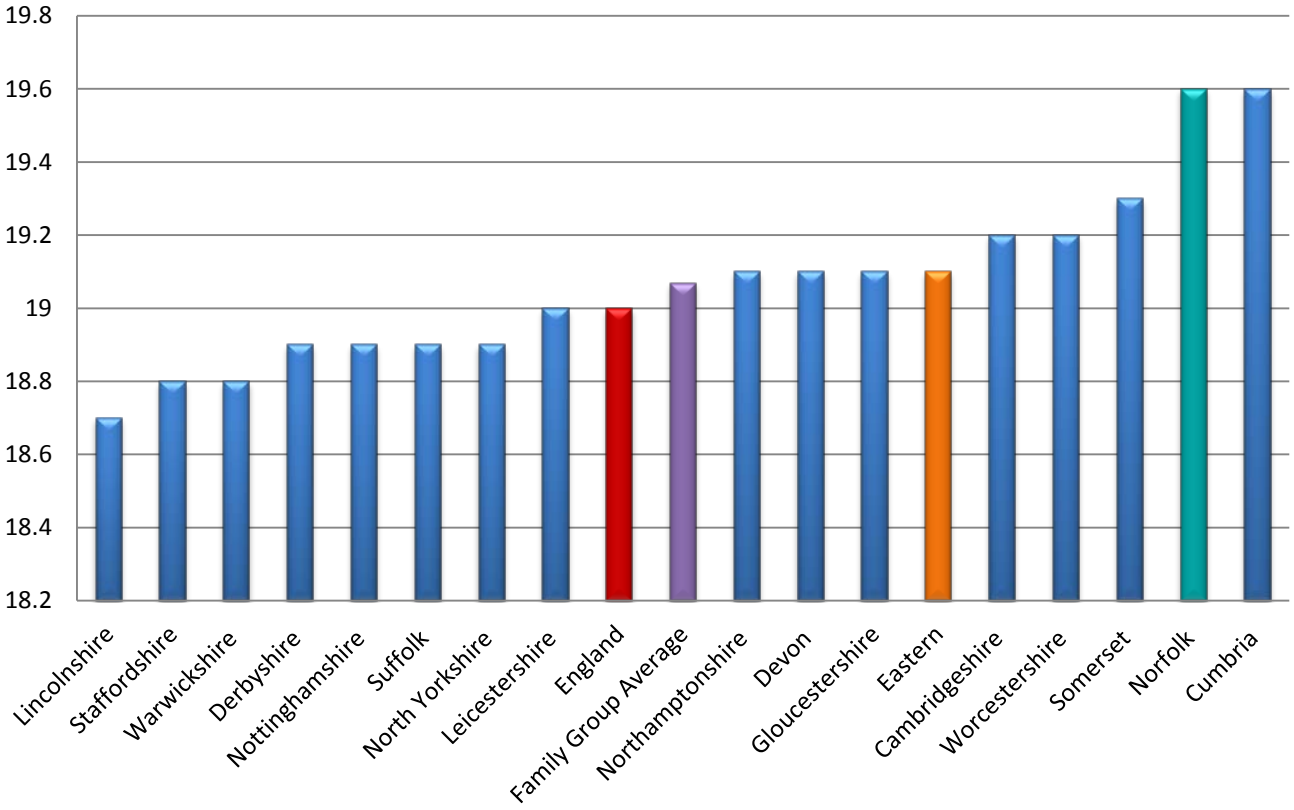
Family Group average

England

East England

Outcome 1 – Enhancing quality of life for people with care and support needs

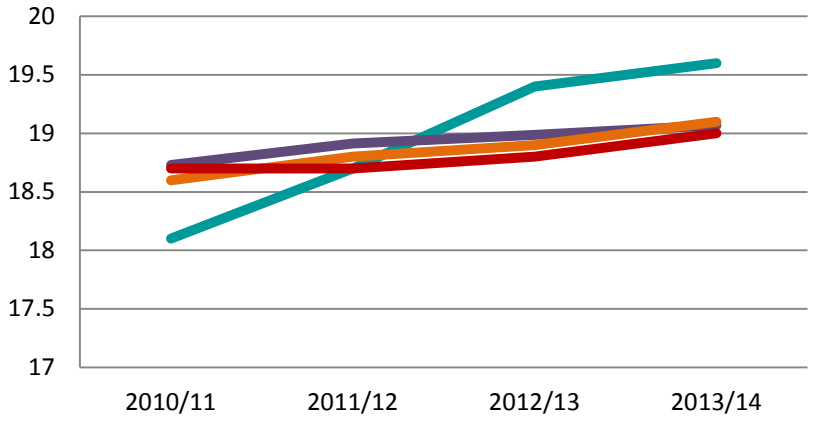
Social Care-related quality of life - average score



Data Source: NASCIS ASCOF 1A data set from annual Adult Social Care Survey.

- Norfolk
- Family Group Average
- East of England
- England

Change over time

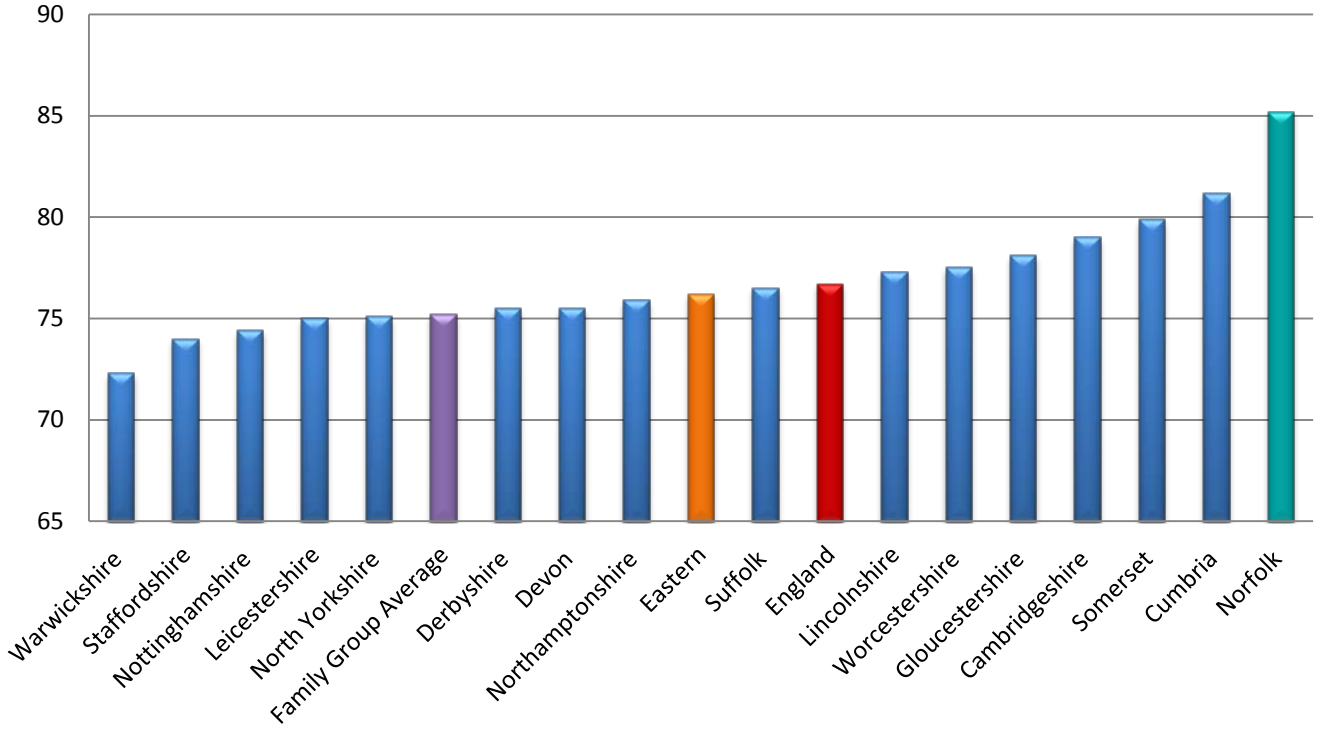


Desired outcome:

'People manage their own support as much as they wish…'

People using services who have control over their daily life

% of people using services who have control over their daily life

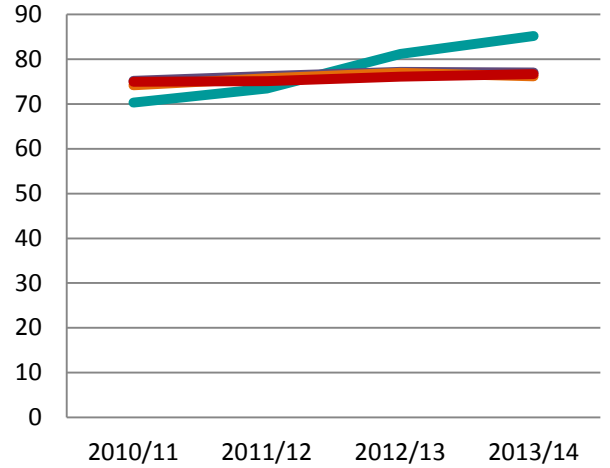


Data Source: NASCIS ASCOF 1B data set from annual Adult Social Care Survey.

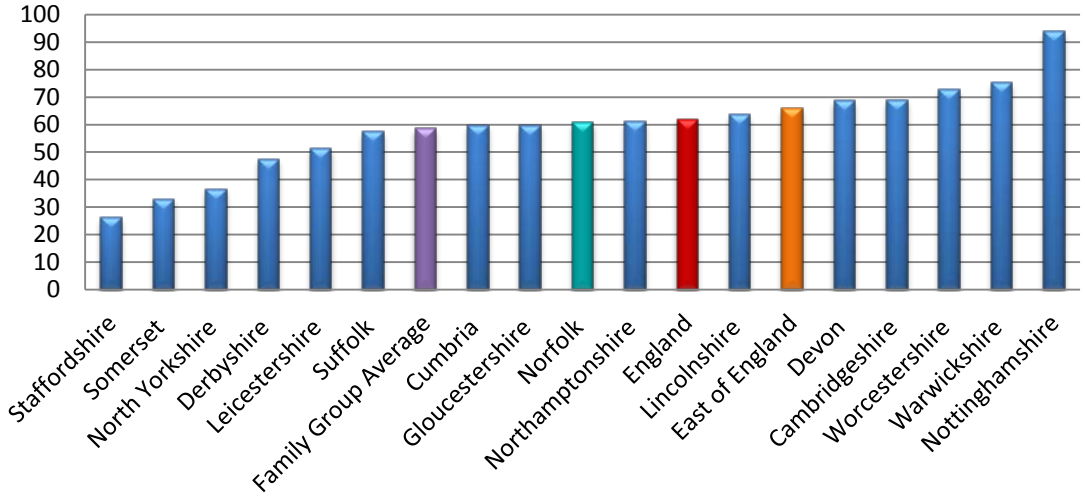
- Norfolk
- Family Group Average
- East of England
- England

The results presented here have been weighted to make the survey results more representative of each total local population. This means that caution must be taken when comparing Norfolk's performance with the results from other areas (and with the family group average) since variations in population characteristics mean our results are not directly comparable with anything but our own historic performance.

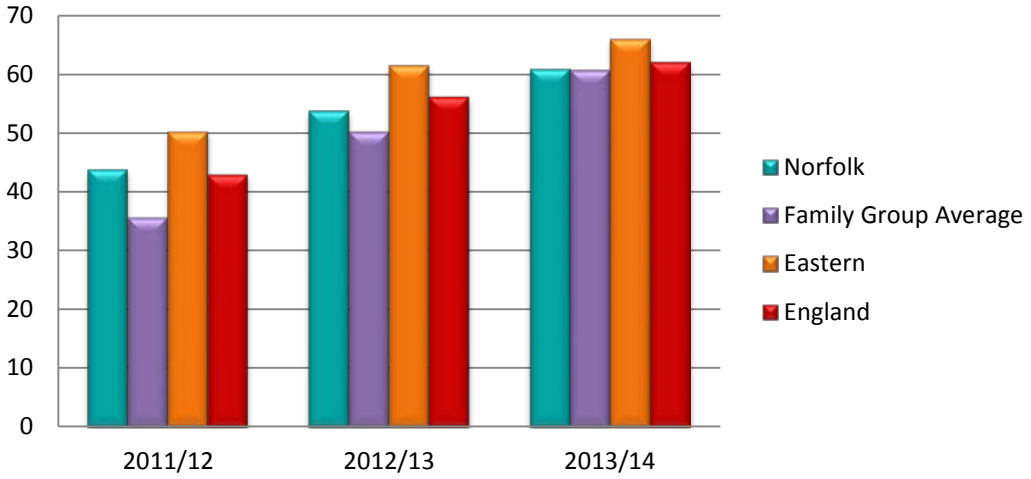
Change over time



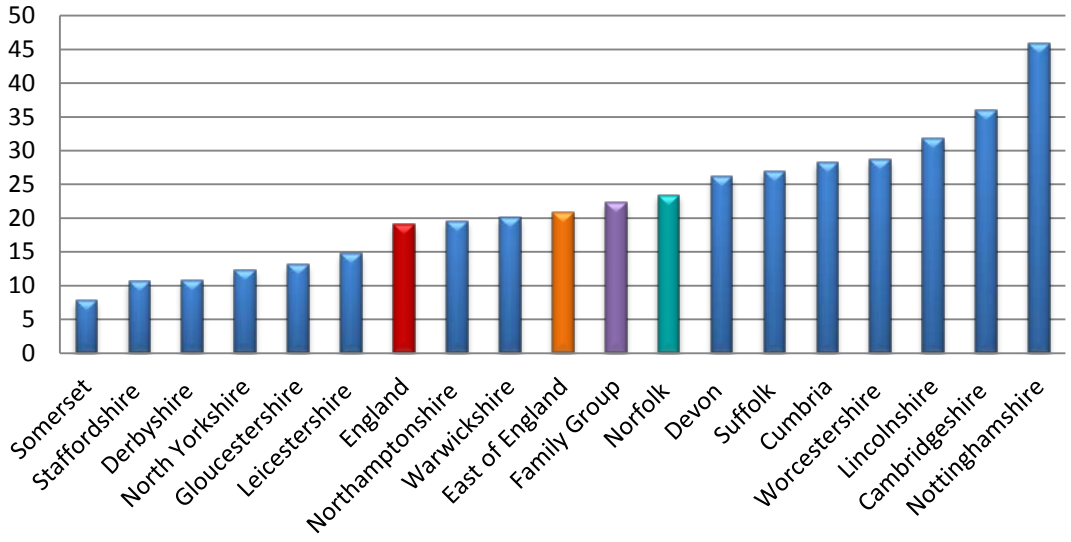
People using services receiving self directed support
(ASCOF 1C PART 1 - %)



Change over time - self directed support

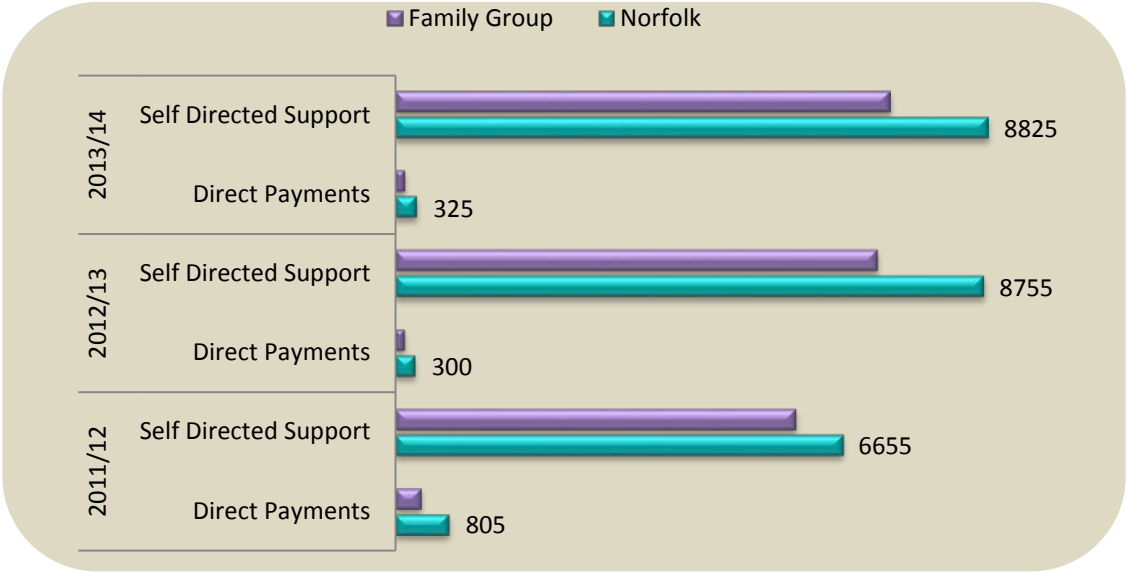


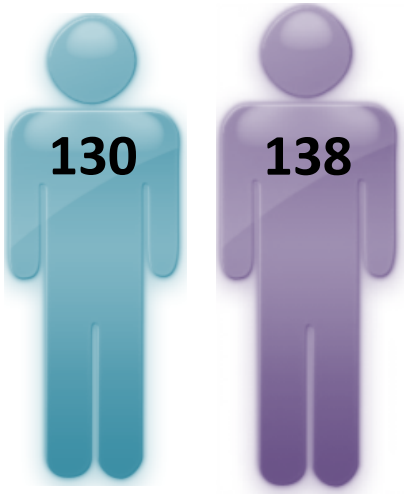
People using services receiving cash payments
(ASCOF 1C PART 2 - %)



Data Source: NASCIS ASCOF data set. Lincolnshire data is missing for years 2011/12 so has been removed from the family group average.

Service users using self-directed support

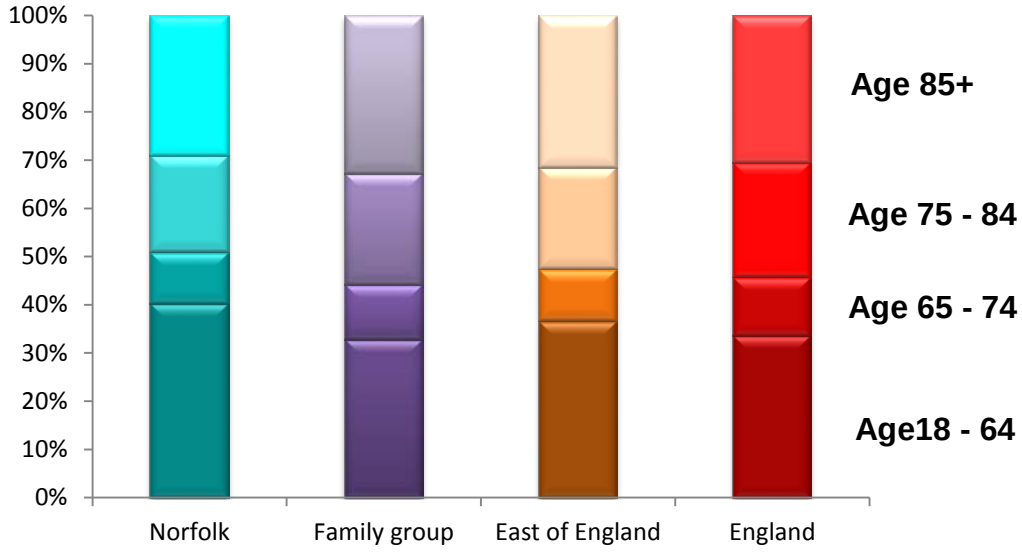




12/13	130	134
11/12	105	118

Per 10,000 population, of which:

9,150 service users were using Self Directed Support in 2013/14 through either a Direct Payment or Personal Budget. In 2010/11 this figure was only 3,365.



Data source: RAP SD1, PSSEX 1
All values presented here rounded by NASCIS to the nearest 5.

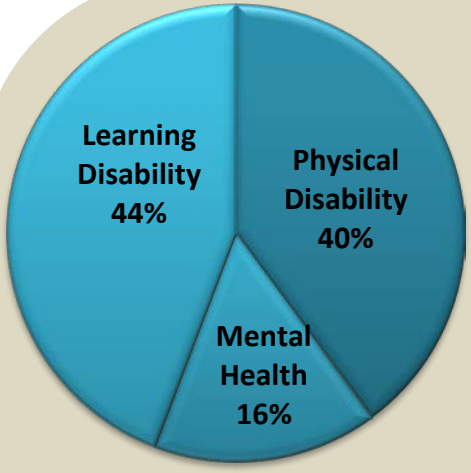
Norfolk

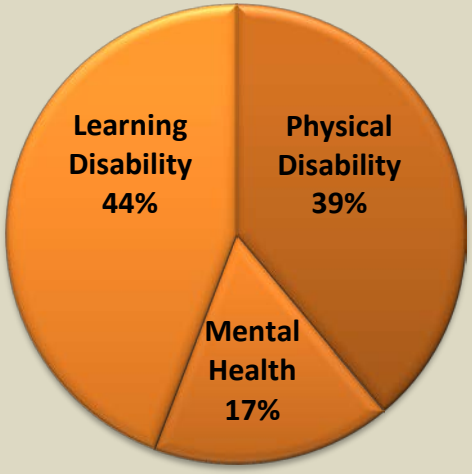
Family Group average

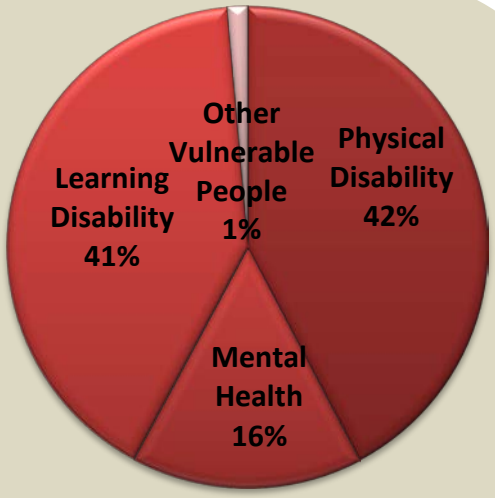
England

East England

Service users using self-directed support – by primary need







Direct Payment unit costs (£ per person per week)

The comparator group for this indicator is made up of 27 shire counties. Norfolk's unit costs have increased from £134 in 2010/11 but this is in line with the rest of England.

196 **228** **243** **225**

Data Source: RAP SD1, PSSEX 1.

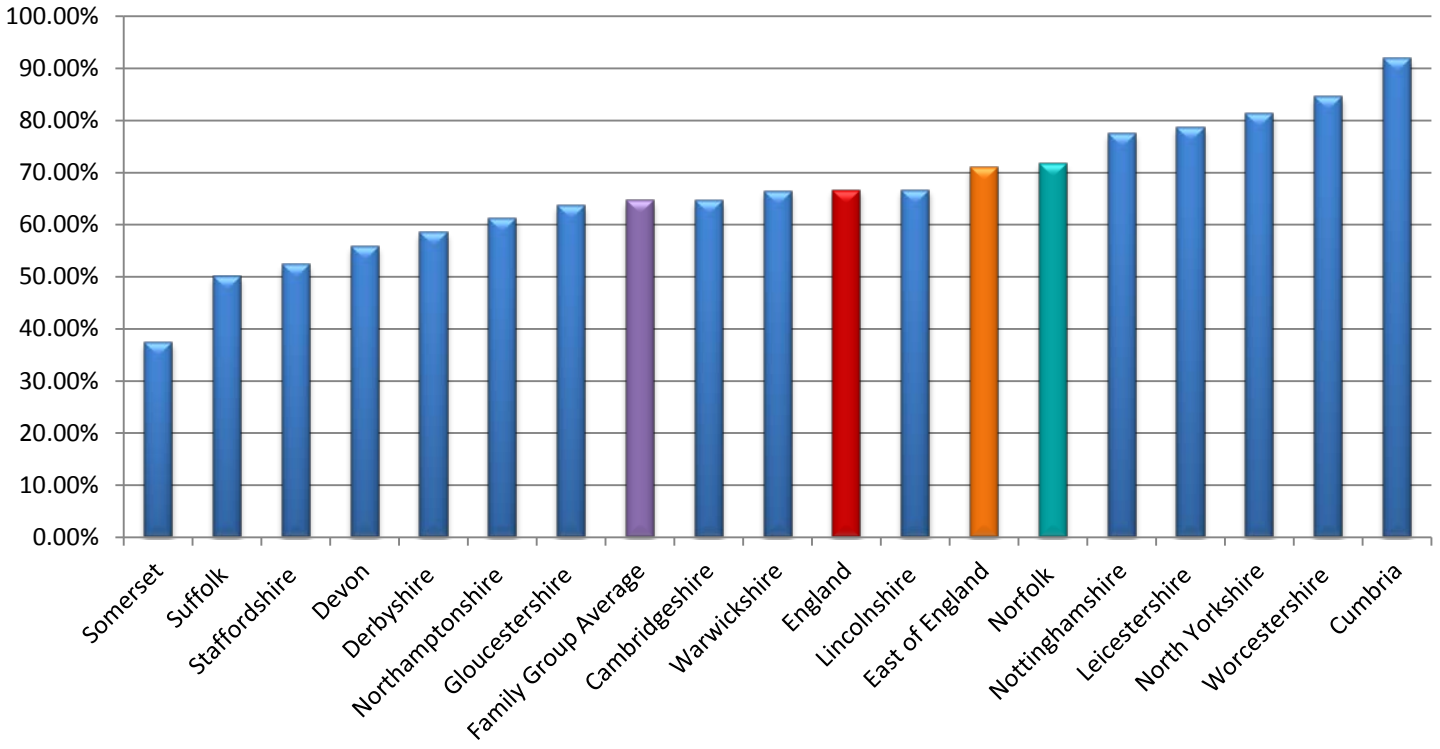
Norfolk

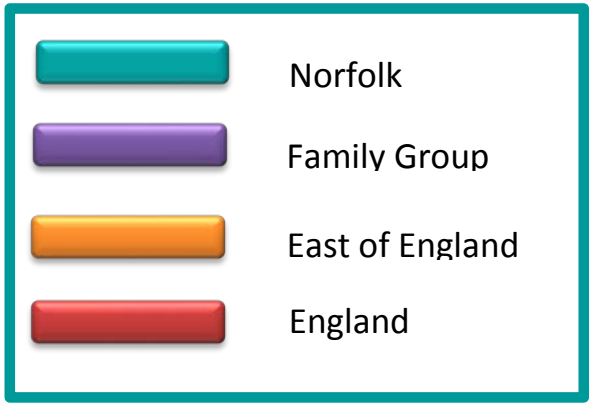
Family Group Average

East of England

England

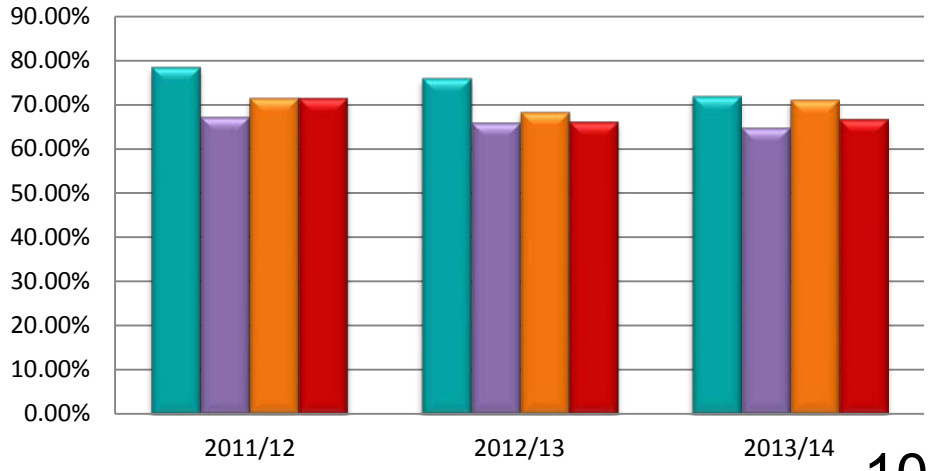
Proportion of service users receiving a review





In 2013/14 Norfolk carried out 13,495 reviews. This is a 4.11% reduction compared to the 14,640 reviews that were carried out in 2012/13.

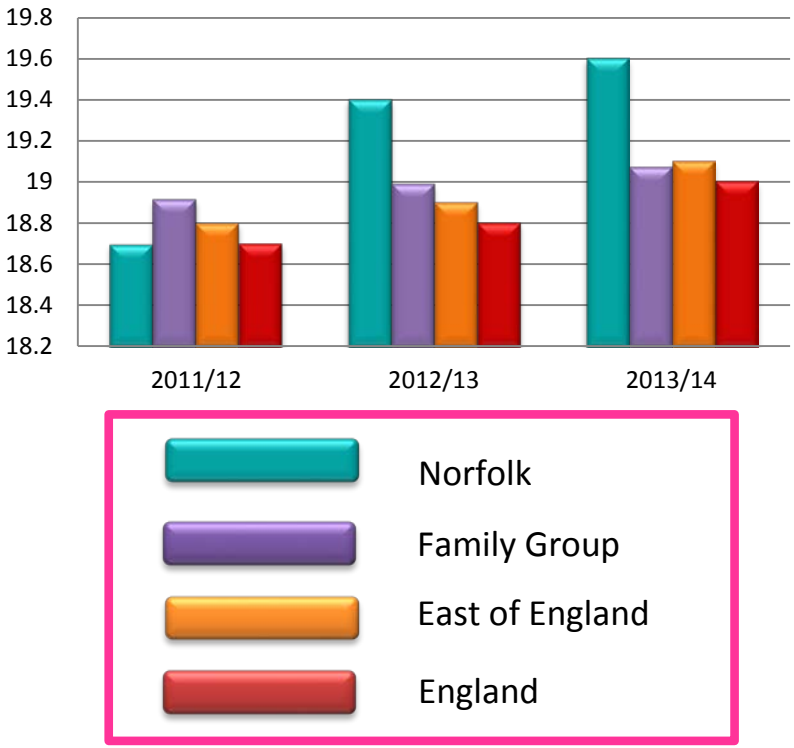
Change over time

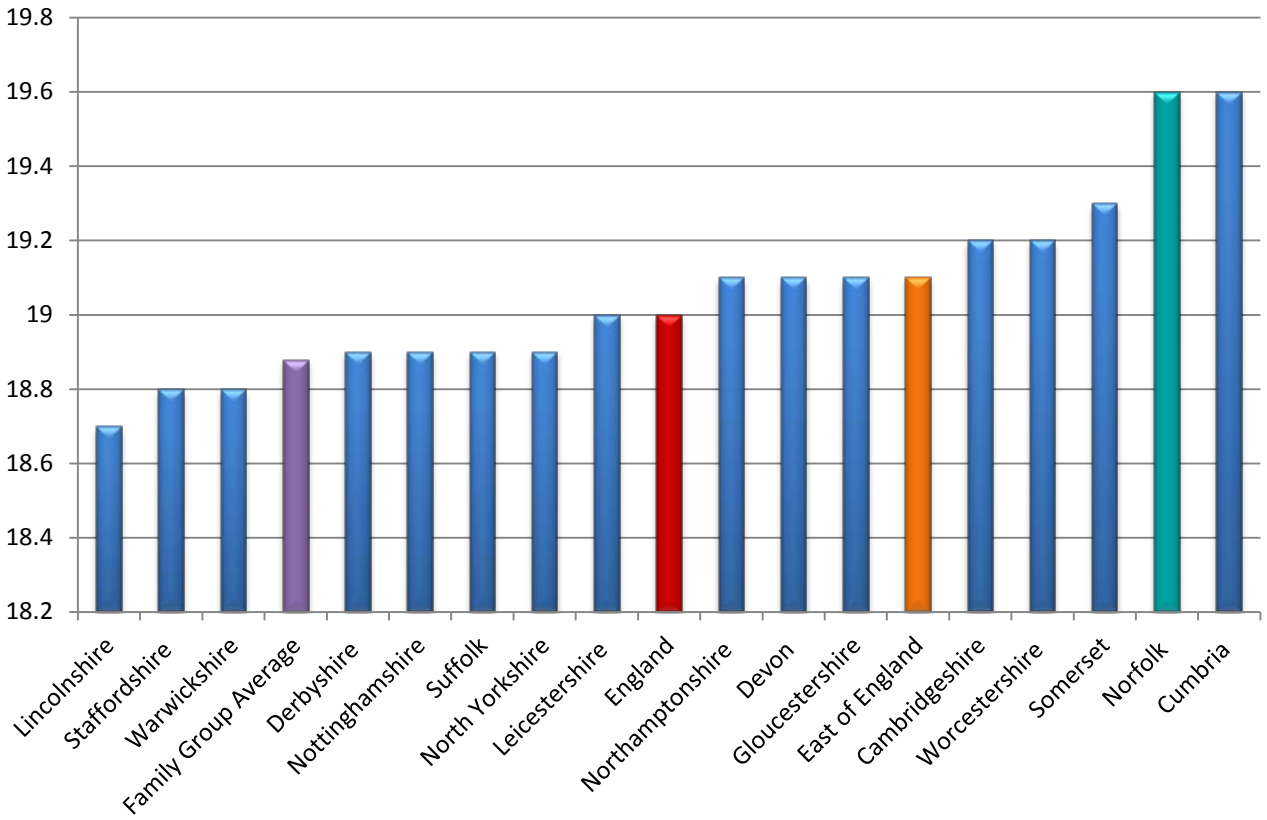


Data Source: RAP SD1, RAP A1, RAP P1.

Carer reported quality of life

Change over time





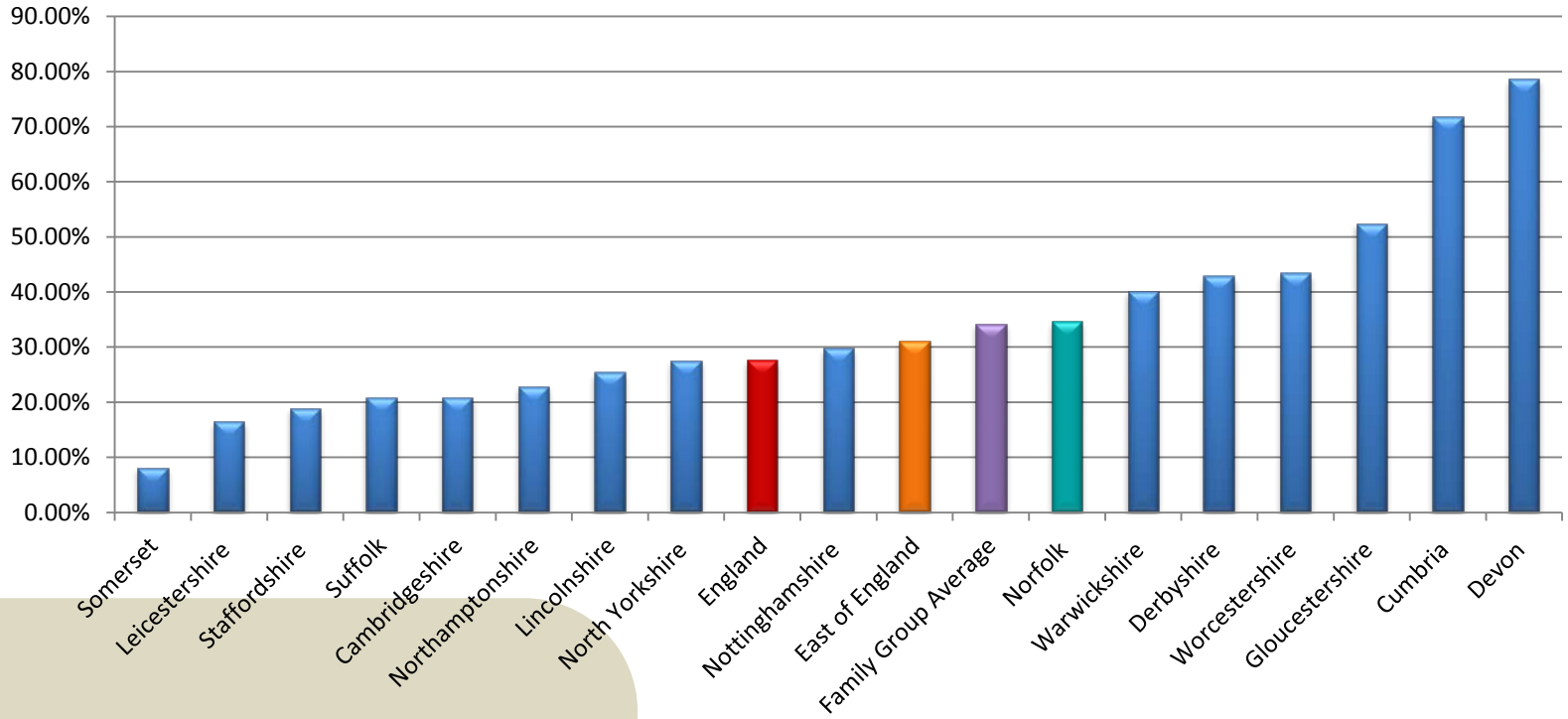
Carers reported quality of life is improving steadily across Norfolk. From 2010/11 Norfolk's carers reported quality of life has increased by 7.65%. This is the largest increase across our family group. When compared to the rest of the country England had an increase of 1.58%. Although Norfolk's results are impressive it is important to remember that these results are only based on what carers are telling us. It does not include carers that chose not to divulge this information.

Data Source: NASCIS ASCOF Data Set – 1D (Average Score from the Carers' Survey.)

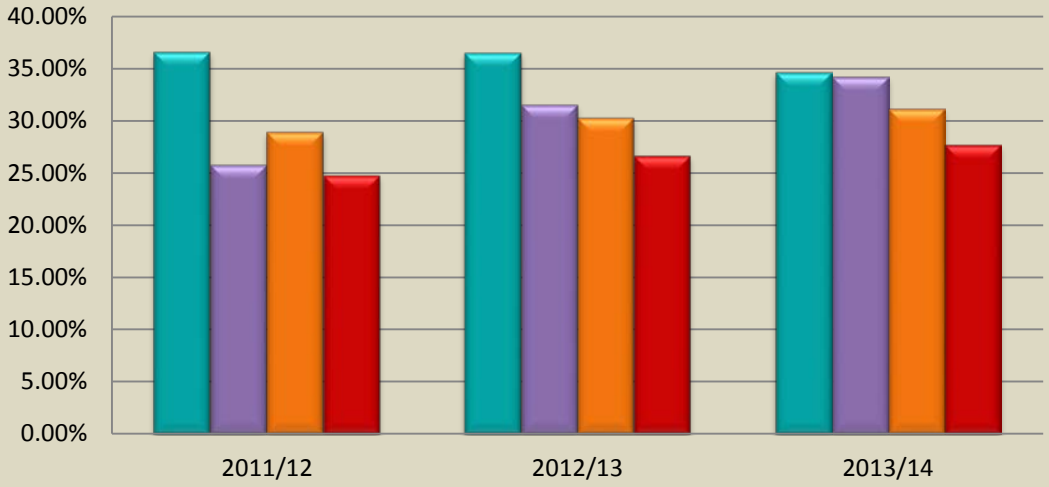
Carers supported following an assessment or review

Norfolk
Family Group
East of England
England

Data Source: RAP C2 & RAP P1



Change over time



Desired outcome:

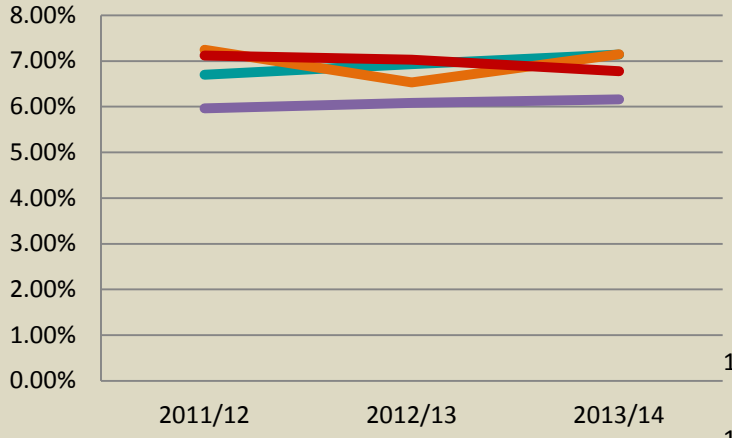
'Carers balance their caring roles and maintain their desired quality of life'

People with Learning Disabilities in paid employment

Desired outcome:

'People are able to find employment when they want, maintain a family and social life and contribute to community life'

Change over time



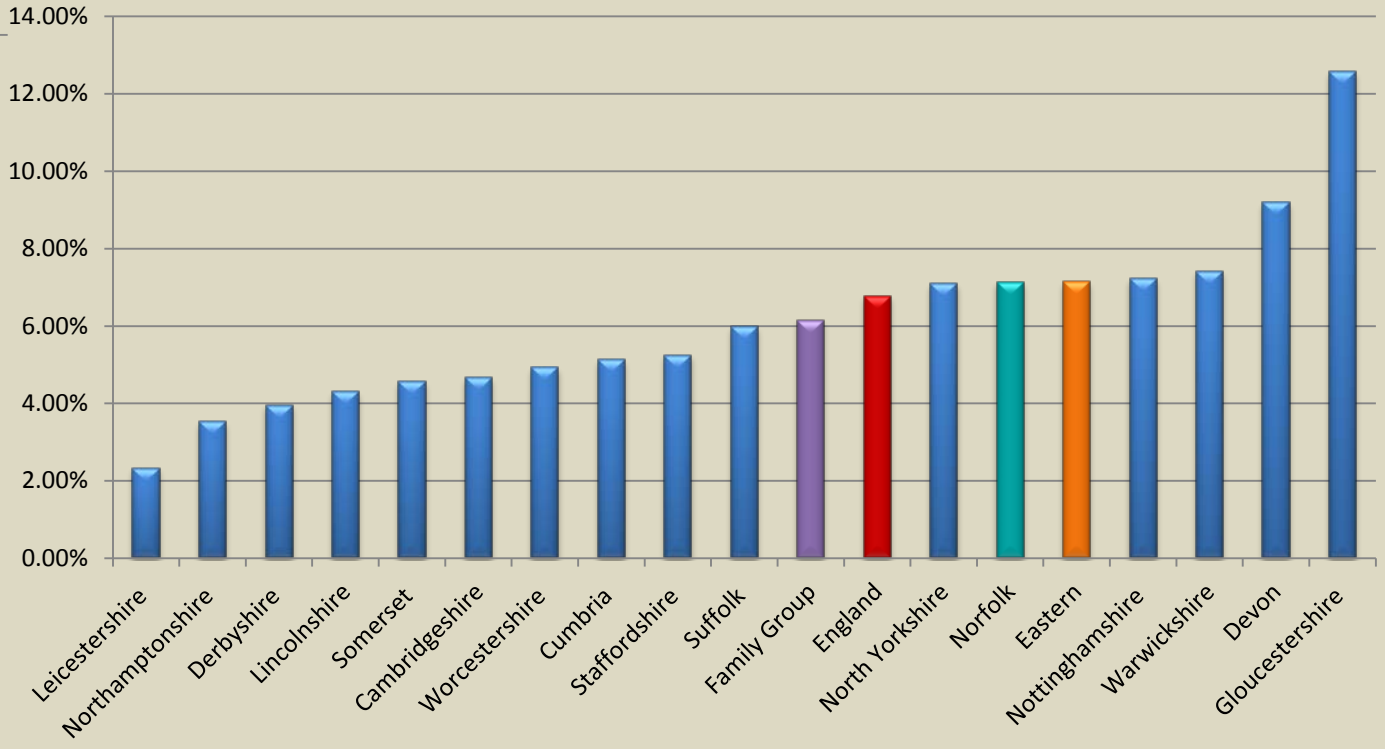
Norfolk

Family Group

East of England

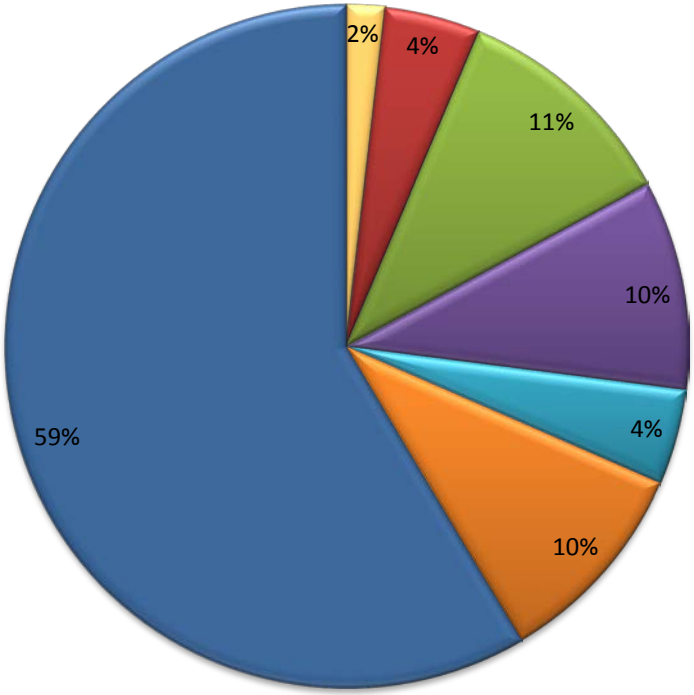
England

Data Source: ASCOF 1E



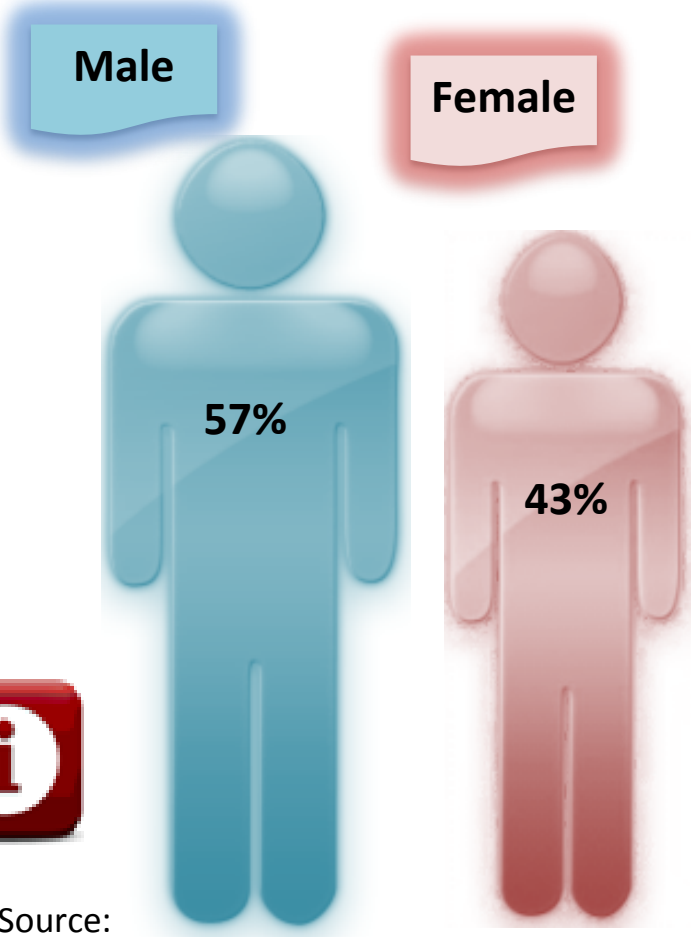
People with Learning Disabilities in paid employment

People with Learning Disabilities by worker status



- Working as a paid employee or self-employed 30 or more hrs p/w
- Working as a paid employee or self-employed 16 to 30 hrs p/w
- Working as a paid employee or self-employed 4 to16 hrs p/w
- Working as a paid employee or self-employed between 0 and 4 hrs p/w
- Working regularly as a paid employee or self-employed but less than weekly
- Voluntary work (unpaid) and paid employee or self-employed
- Voluntary work unpaid only

% of people with Learning Disabilities in paid employment by gender.



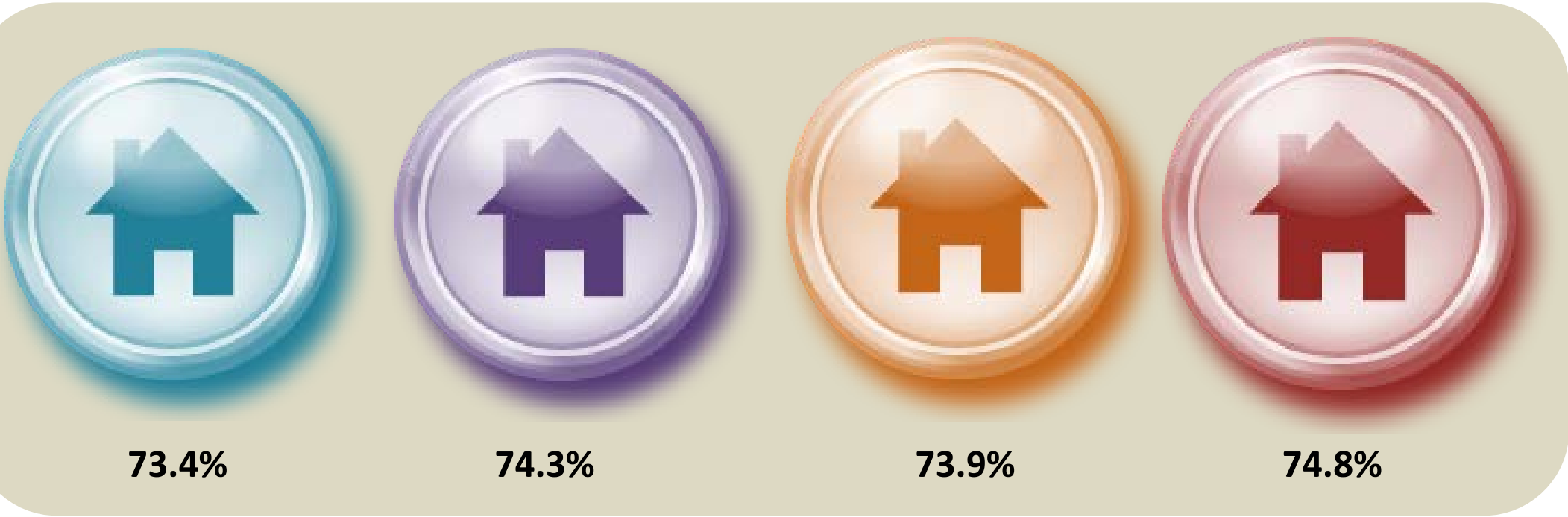
Data Source: ASCOF 1E

12/13	61%	39%
11/12	63%	37%

How does this compare?

The percentage of females with Learning Disabilities in paid employment for 2013/14 is higher in Norfolk compared to the rest of the country and our comparator group by an average of just over 6%. Norfolk has a higher percentage of people with Learning Disabilities in voluntary work than compared to England and our family group.

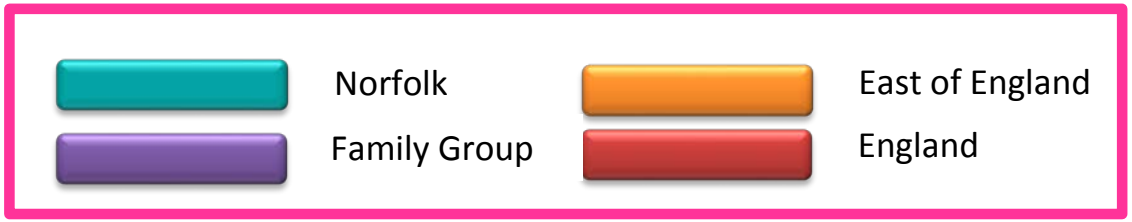
People with Learning Disabilities living in their own home or with family

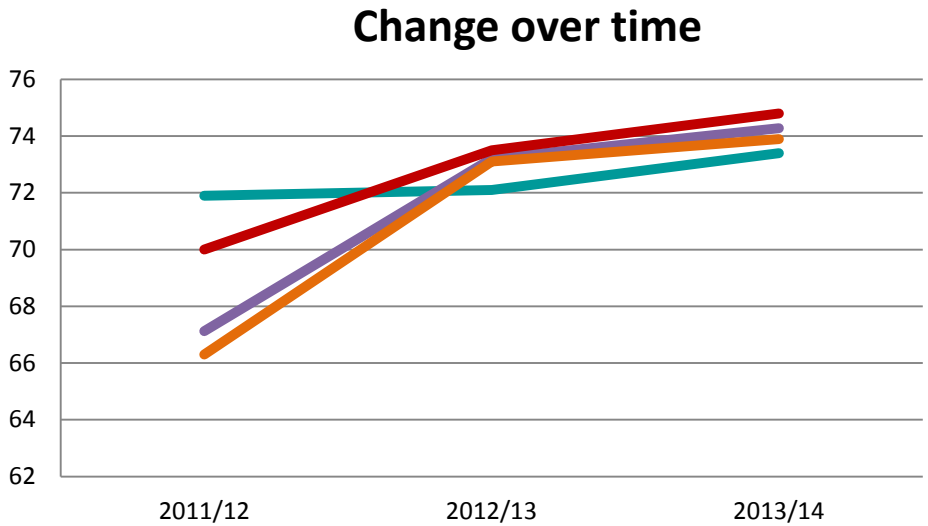


Although Norfolk's results are just below average in comparison to our family group and England, the increases since 2010 have been poor in comparison.

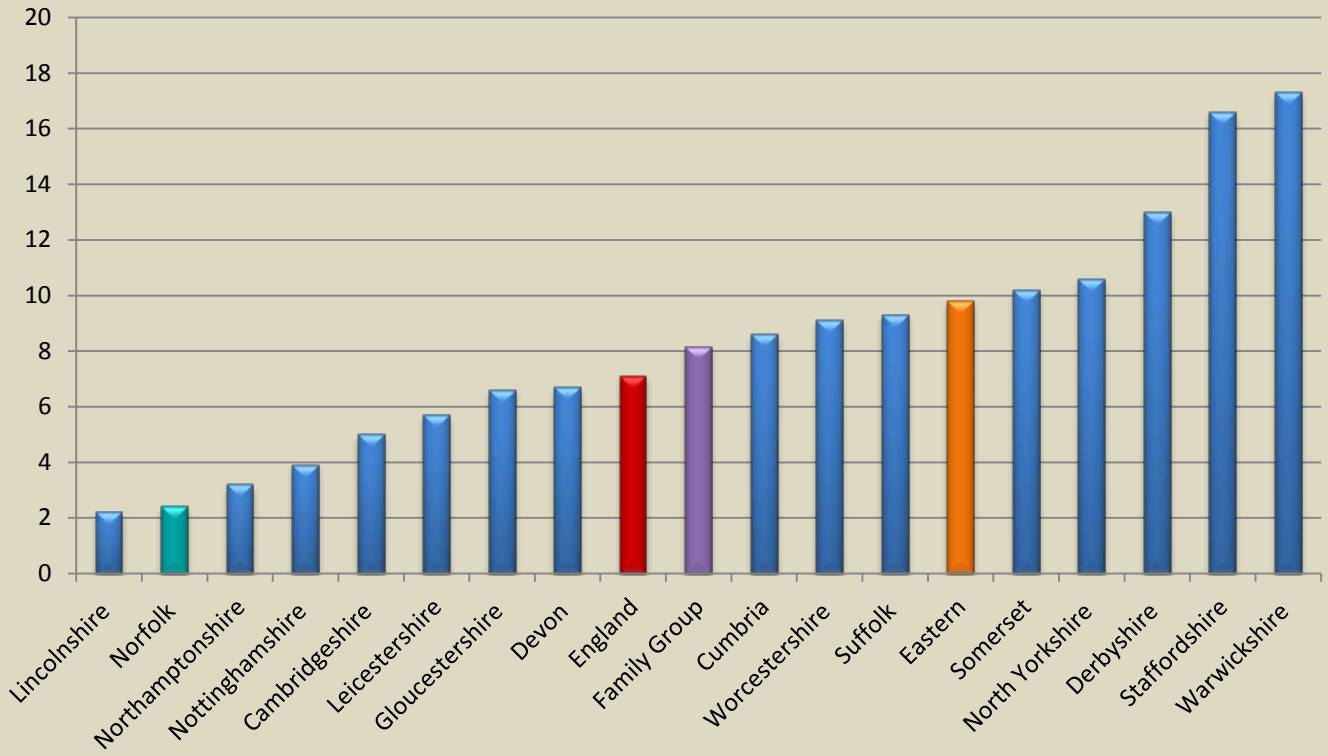
Data Source:

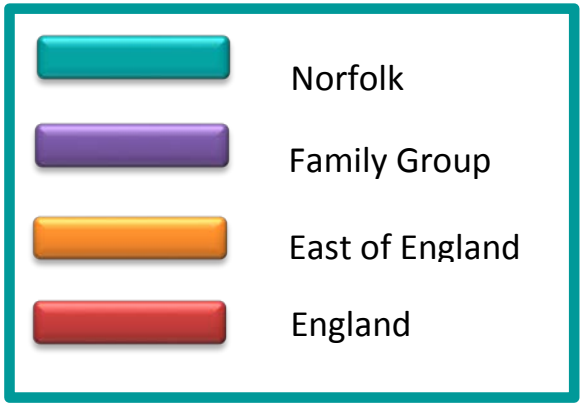
ASCOF 1G





People using mental health services in paid employment

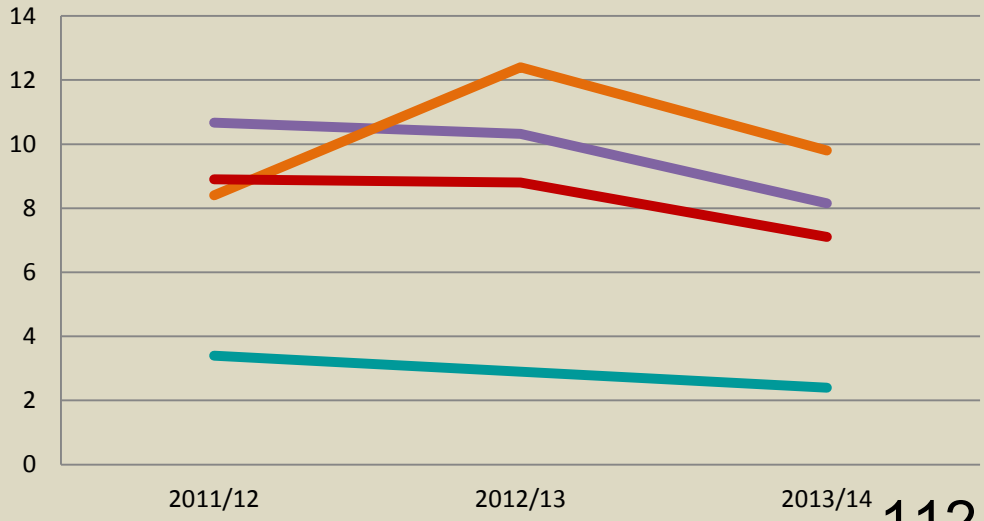




Data Source: ASCOF 1F

Norfolk's performance in this area compared to our family group and the rest of the country is significantly below average.

Change over time



People using mental health services living independently with or without support

46%

51%

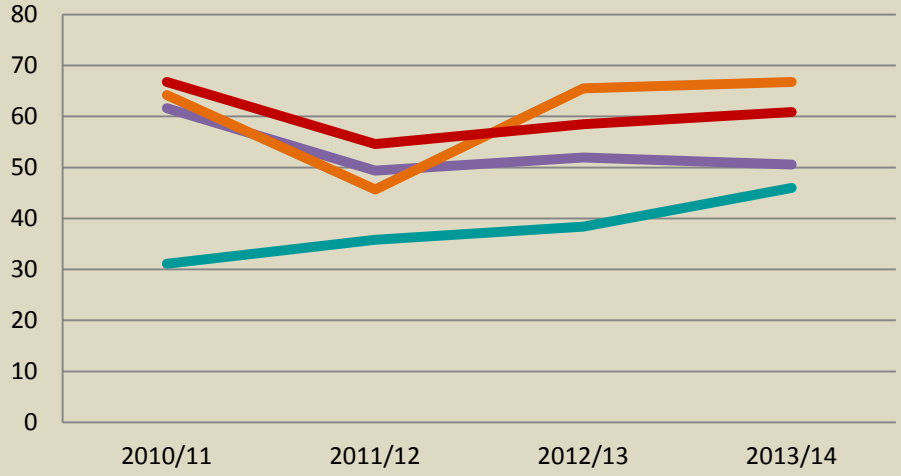
67%

61%

Although Norfolk's results are just below average in comparison to our family group, it does not compare well to the rest of the country.

Data Source:

ASCOF 1H



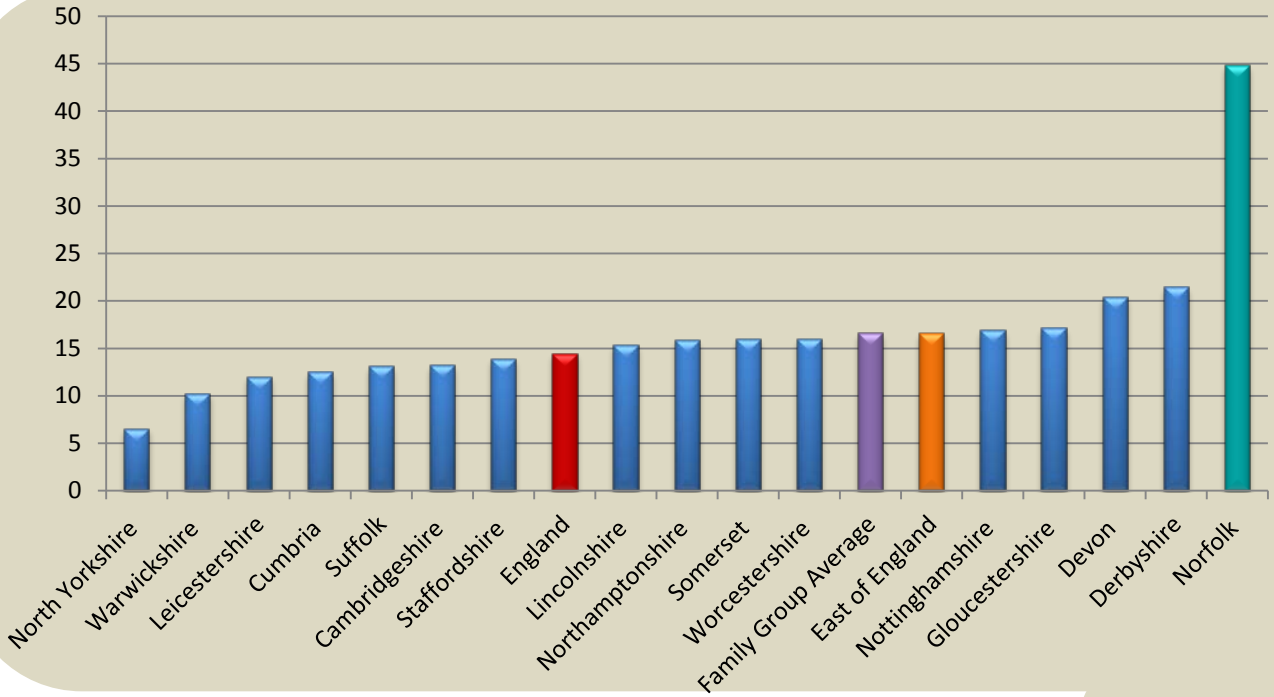
Norfolk

Family Group

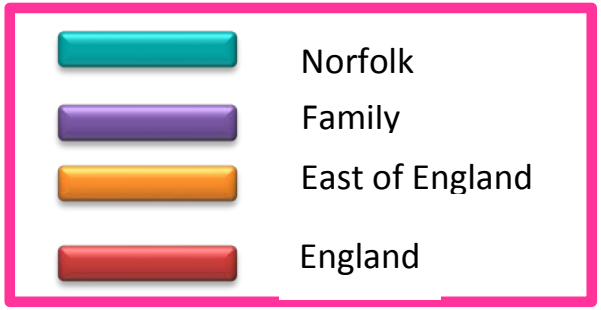
East of England

England

Outcome 2 – Delaying and reducing the need for care and support



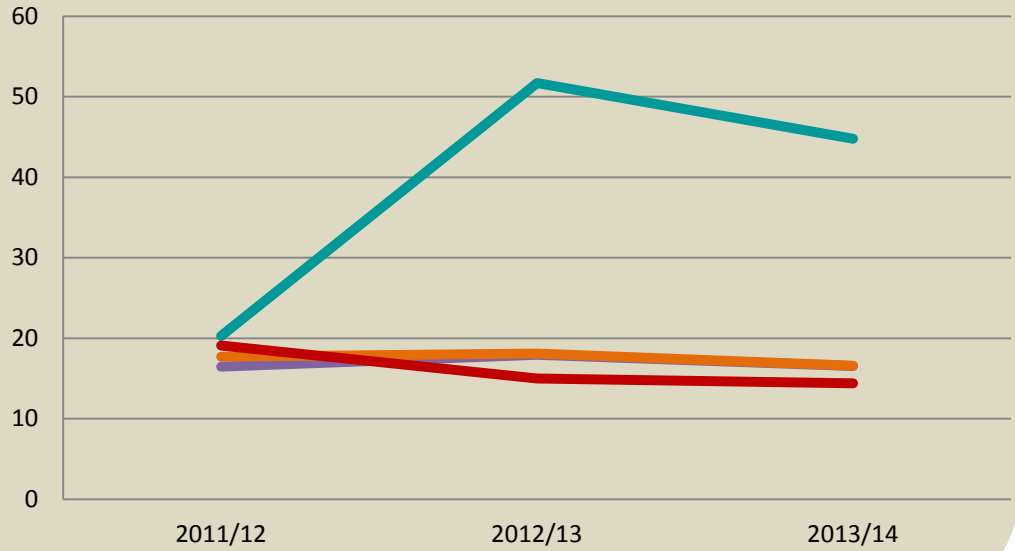
Permanent admissions of younger adults (18 – 64) to residential and nursing care homes per 100,000 population.



Desired outcome:

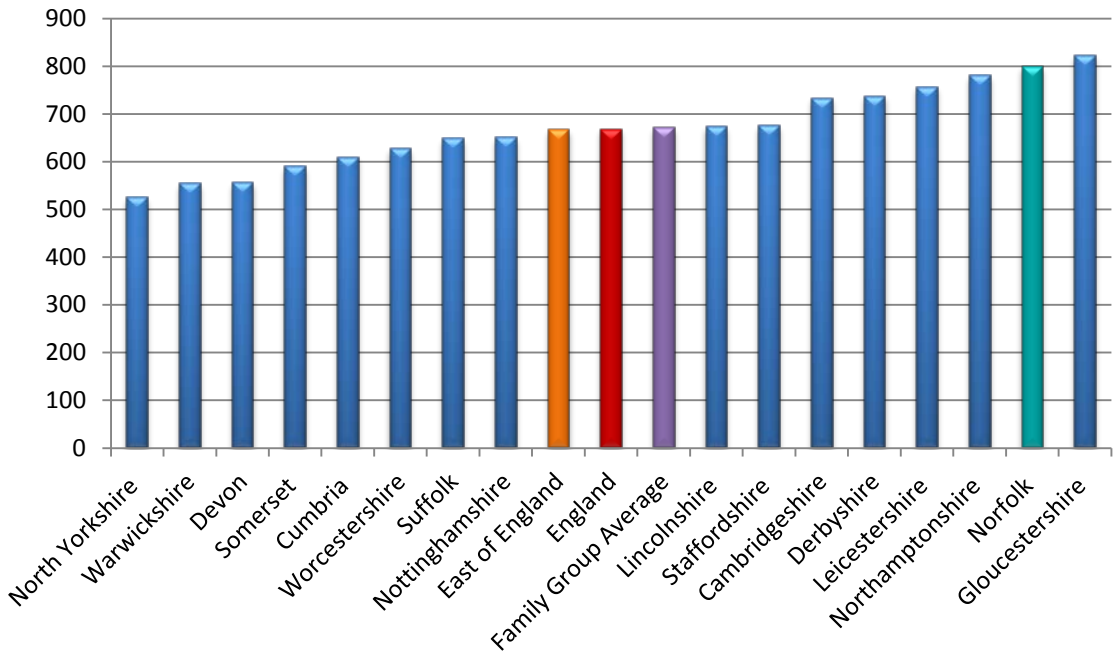
'When people develop care needs, the support they receive takes place in the most appropriate setting and enables them to regain their independence'

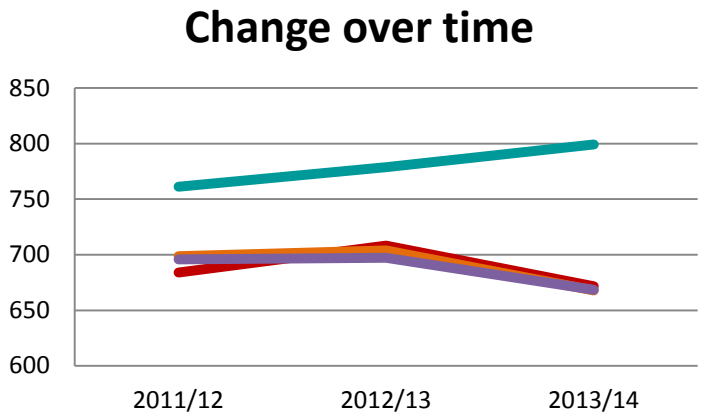
Change over time



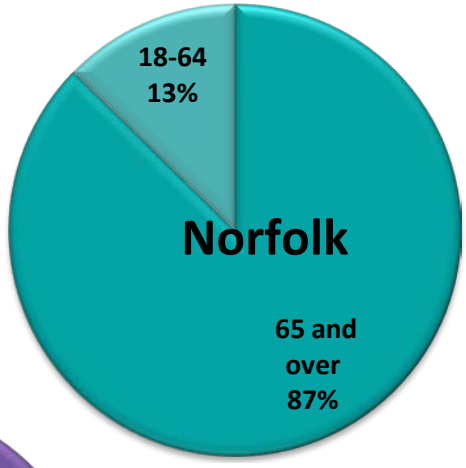
Data Source: ASCOF 2A

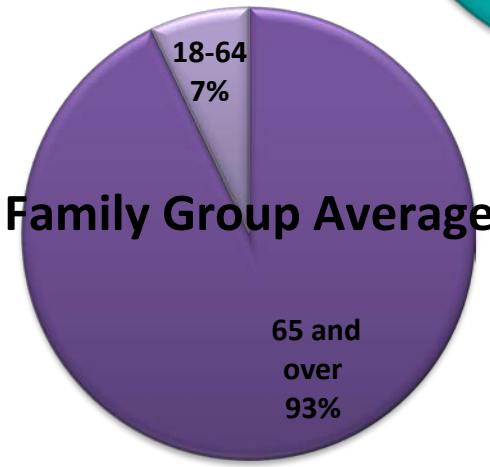
Permanent admissions of older adults (65+) to residential and nursing care homes per 100,000 population





% split between admissions for younger adults compared to older adults.





Data Source

ASCOF 2A Part 2

Norfolk

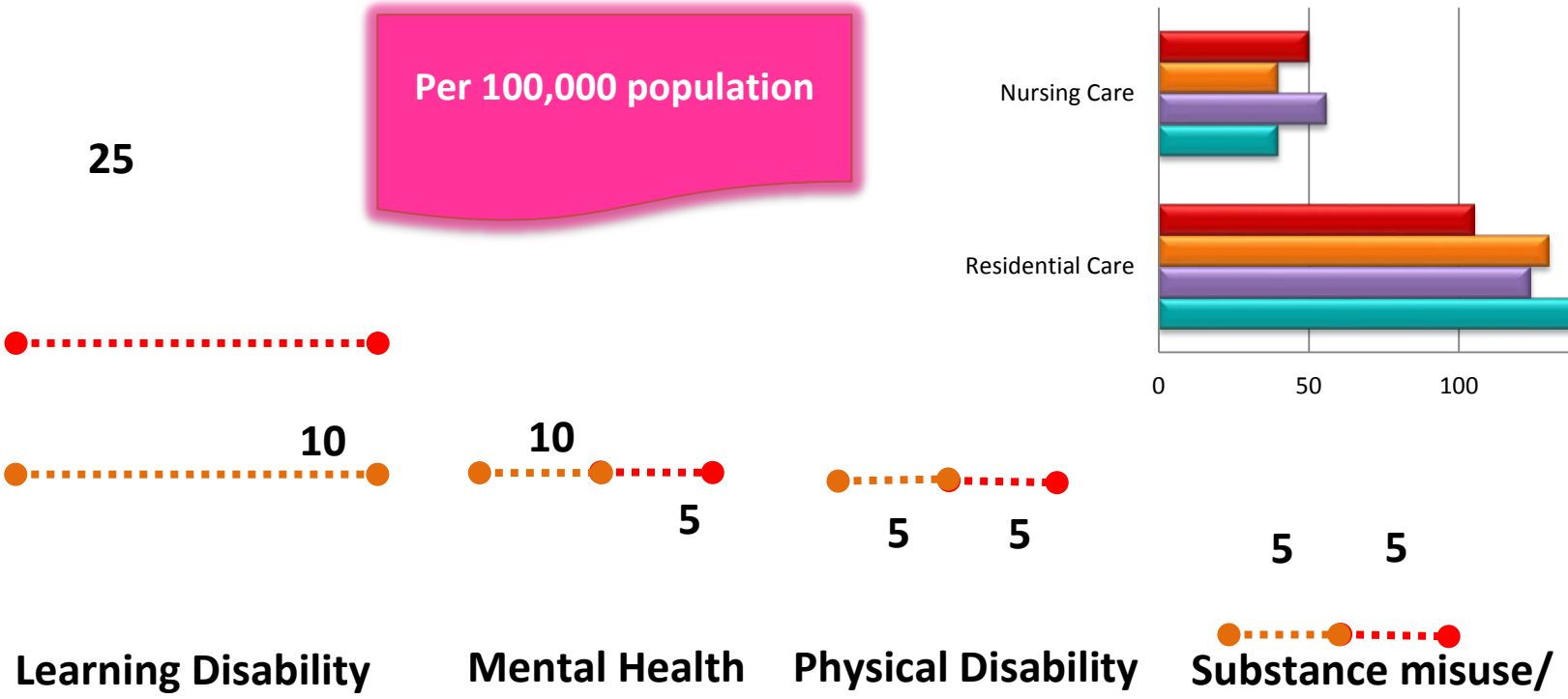
Family Group

East of England

England

Permanent admissions of younger people (18-64) to residential and nursing care homes – by primary need

Per 100,000 population



Norfolk

Family Group average

Icon size reflects figure represented.
Data source: ASC-CAR S3
Figures show new permanent admissions to residential and nursing care and other residential accommodation who are supported financially by the Council.
Residents receiving no financial support are not included. Family result for breakdown by primary need is based on median, rather than average result.

Norfolk

Family Group

East of England

England

England

East England

People in residential and nursing care homes

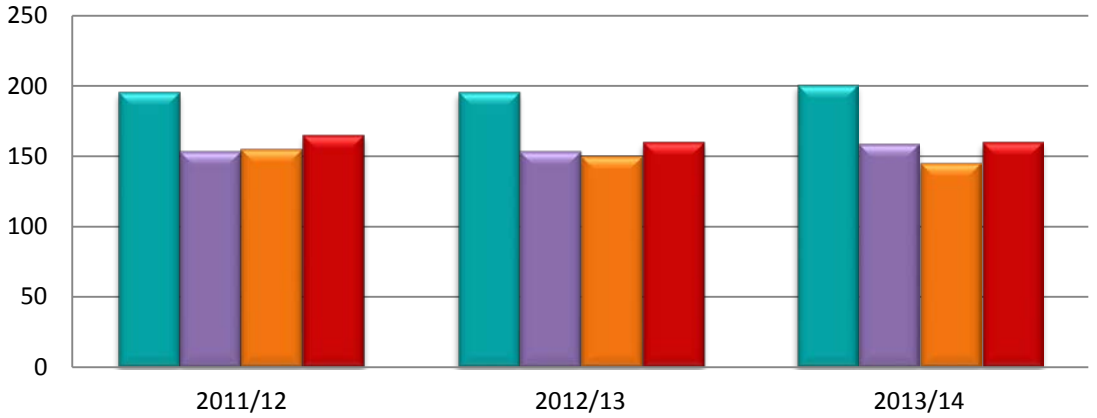
Per 100,000 population – snapshot at 31st March 2014

All adults, of which:

650

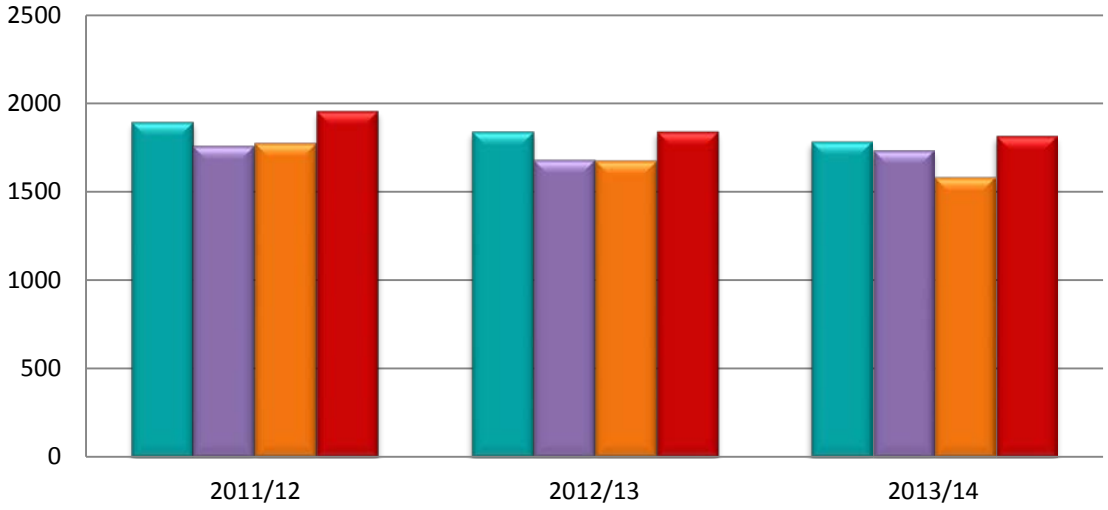
565

Younger people aged 18-64 (per 100,000 population)



12/13	655	535
11/12	655	540

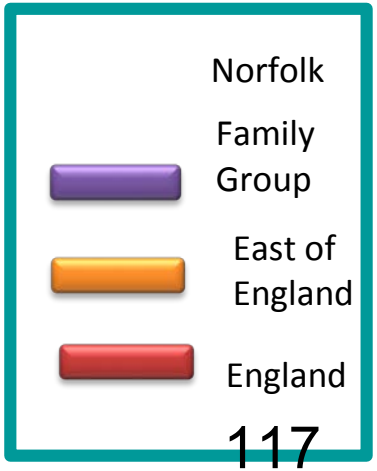
Older people aged 65+ (per 100,000 population)



4,580 people were in residential or nursing care on 31st March 2014; this is the second highest figure in our family group. The numbers have not changed significantly when compared to 2011/12 when the figure was 4,535.

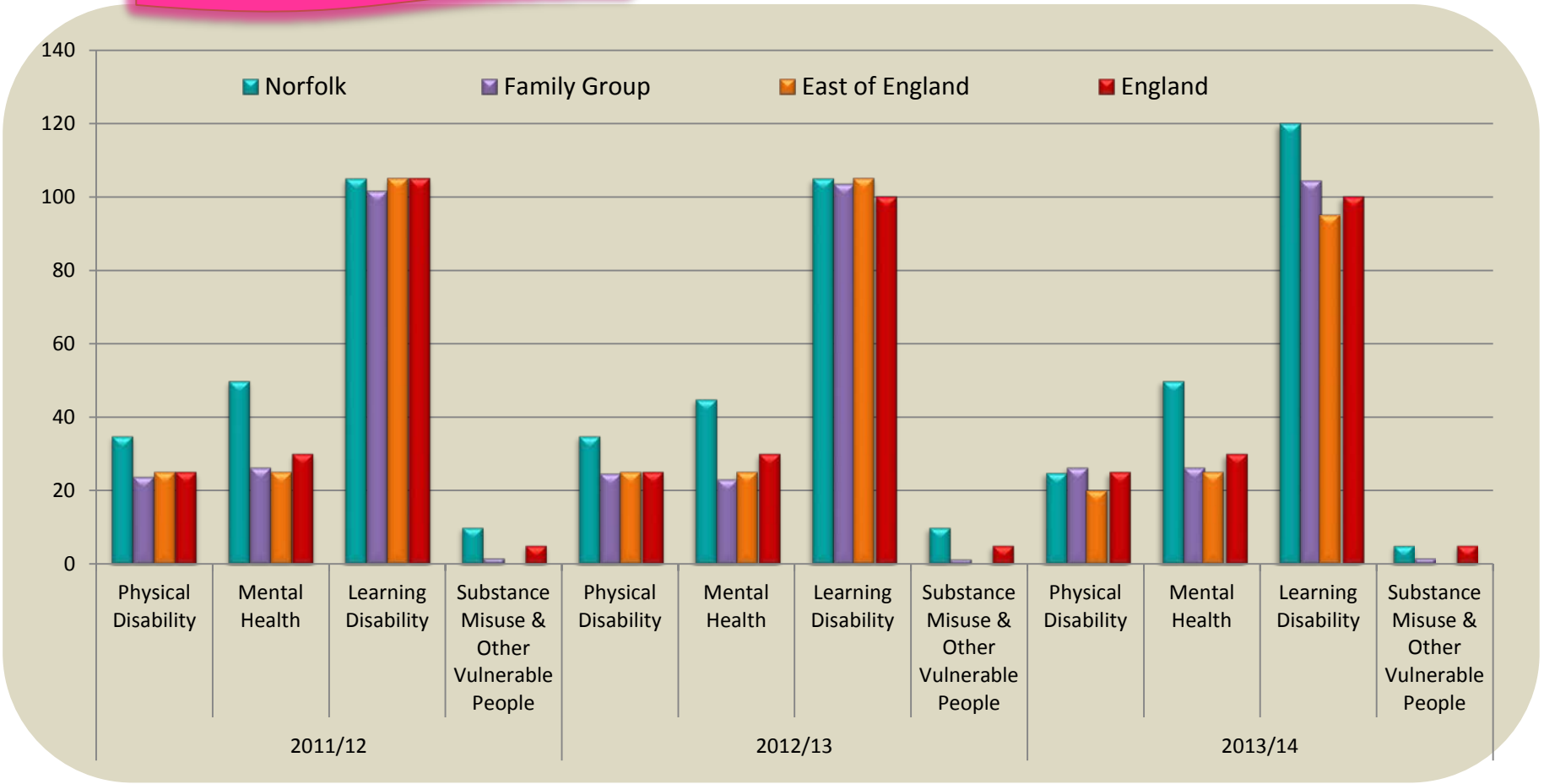
Icon size reflects figure represented. Data source: ASC-CAR S1 Number of residents supported in residential and nursing placements as at 31 March 2014.

Figures show only people who are supported financially by the Council. Values are rounded by NASCIS to the nearest 5 and this means some figures do not add up.



Younger people (aged 18-64) in residential and nursing care – by primary need

Per 100,000 population – snapshot at 31st March 2014



Data source: ASC-CAR S1. Number of residents supported in residential and nursing placements as at 31 March 2014.

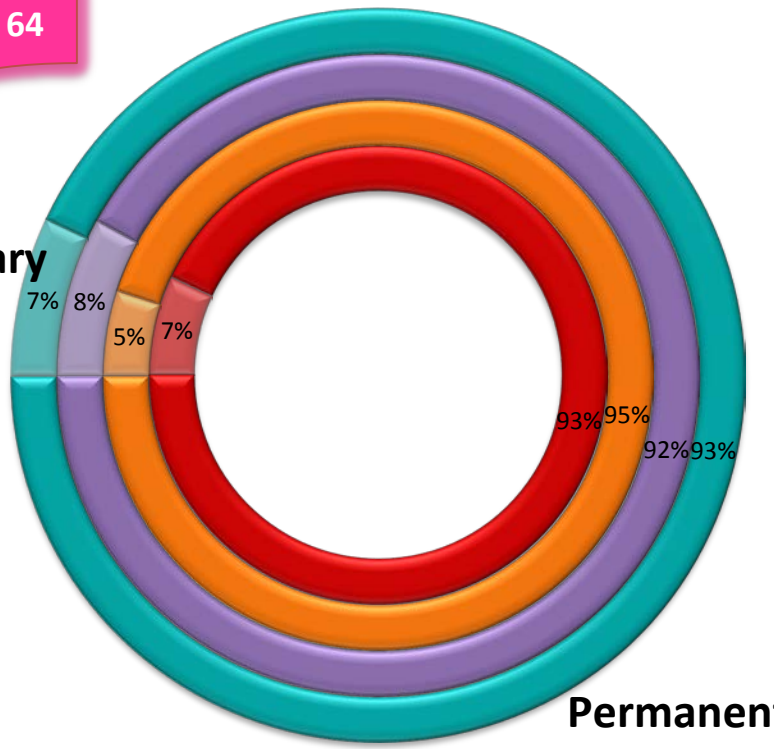
Figures show only people supported financially by the Council. Values are rounded by NASCIS to the nearest 5.

The table shows the total number of residents aged 18-64 supported in residential or nursing care in 2013/14. When compared to the 2012/13 figures we can see there is a 6% increase in admissions for those with Learning Disabilities. This is the highest in our family group and much higher than the average of 420.

	Physical Disability	Mental Health	Learning Disability	Substance Misuse & Other
Norfolk	135	250	615	20
Family Group	105.625	105.3125	420	7.5
East of England	780	865	3445	45
England	8720	10205	33135	965

Number of residents supported by type of residence

Ages 18- 64

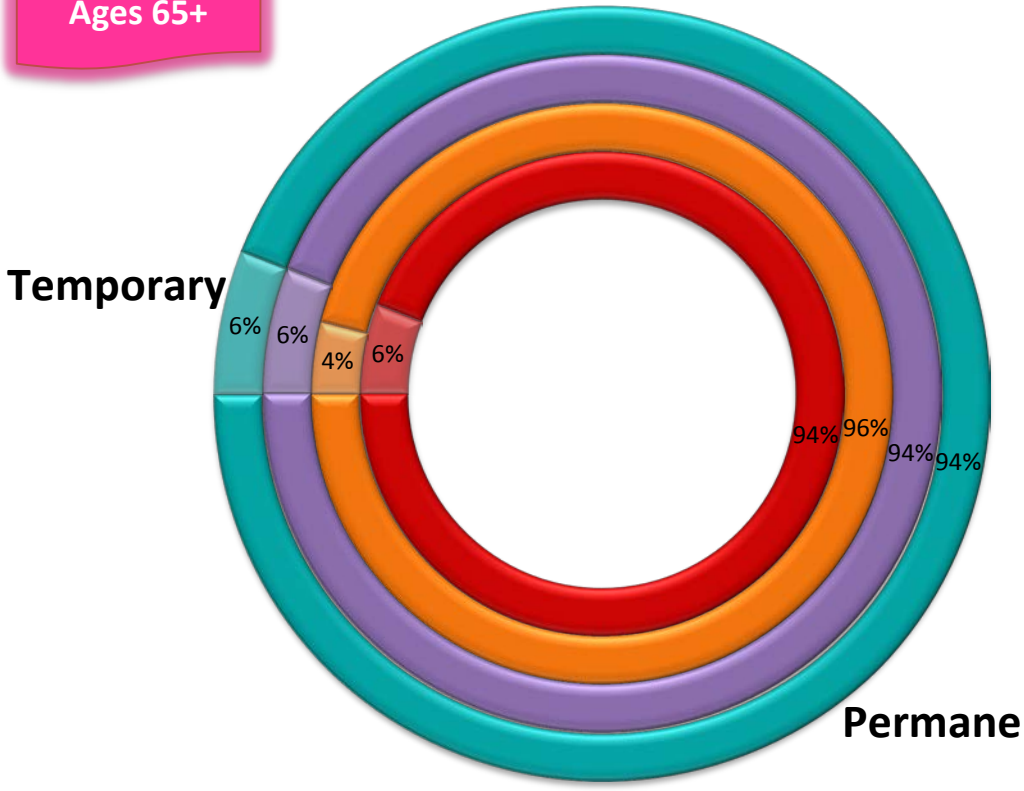


Per 100,000 population –

snapshot at 31st March 2014

In 2013/14 Norfolk supported a total of 4,585 people in residential and nursing care. Of these 4,280 were permanent admissions. 3,565 of these were aged 65+ and 1,020 were aged between 18-64.

Ages 65+



Norfolk
East of England
Family Group
England

Data Source:

NASCIS ASC-CAR S1

Residential and nursing care unit costs

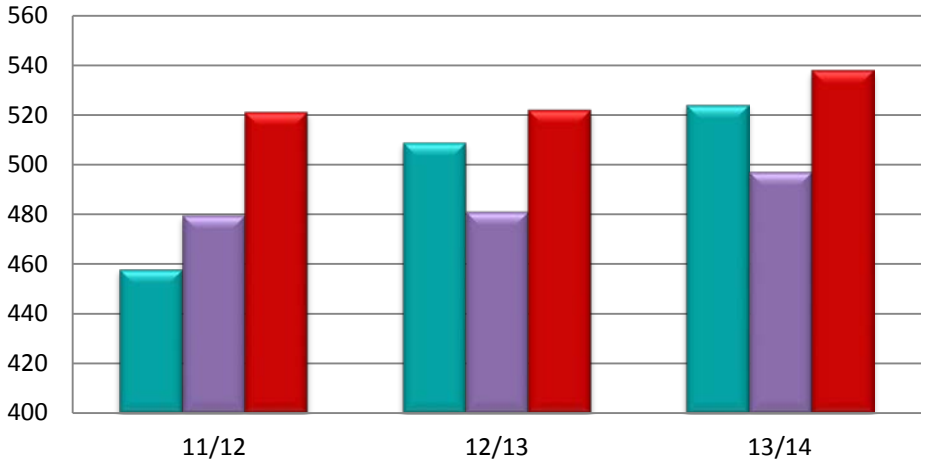
Unit Cost per person per week

Norfolk Costs Increased

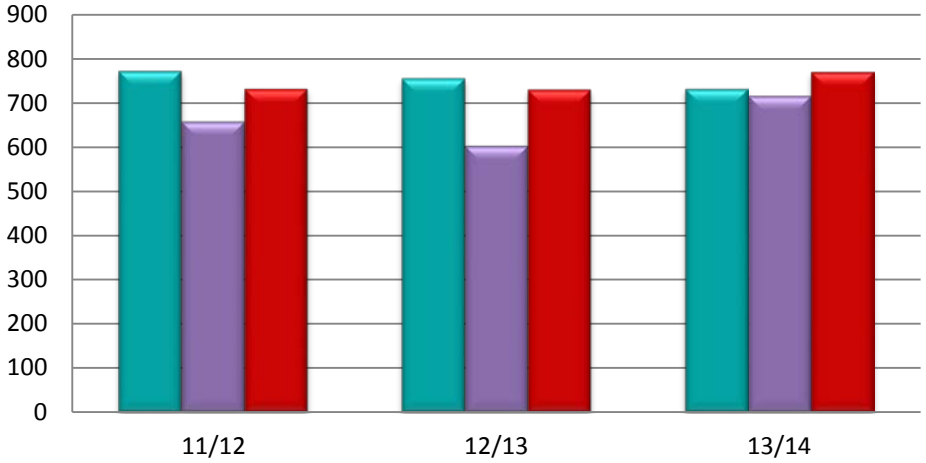
Residential and nursing care for older people

524 | 497 | 538

Change over time



Change over time



Residential and nursing care for adults with mental illness

733 | 715 | 771

Norfolk Costs Decreased

Norfolk	Family Group	England

Residential and nursing care unit costs

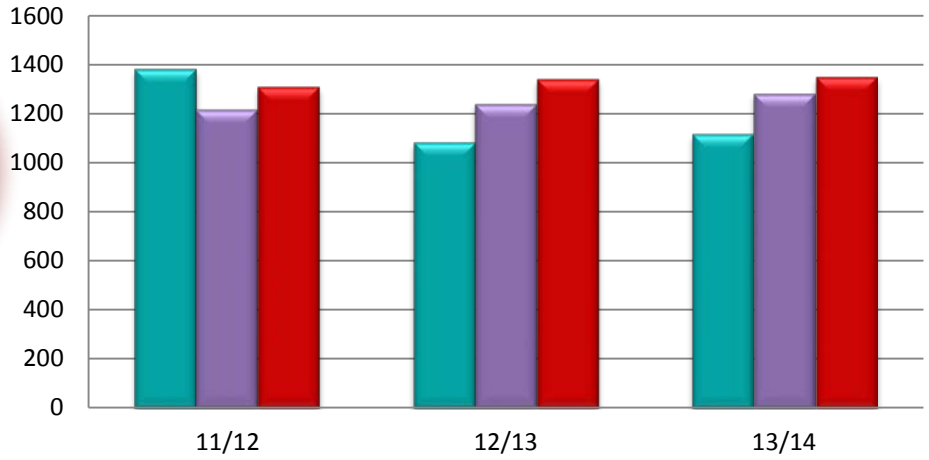
Unit Cost per person per week

Norfolk Costs Increased

Residential and nursing care for adults with learning disabilities

1116 | 1282 | 1349

Change over time

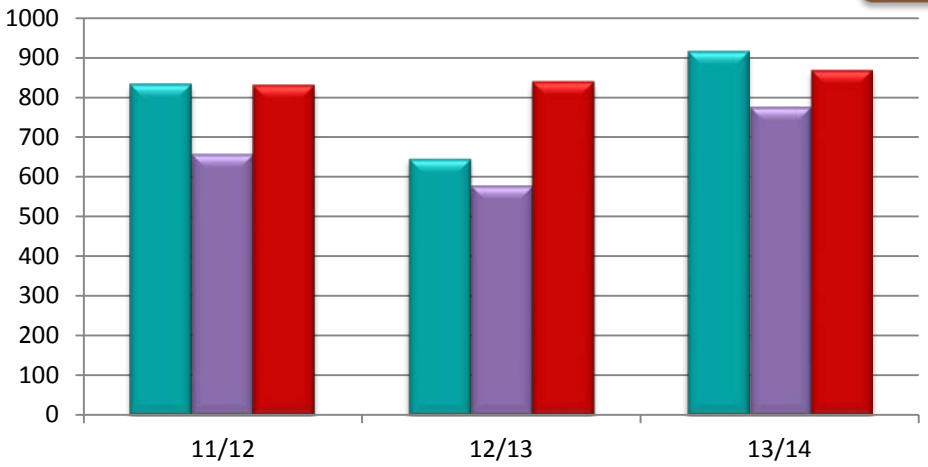


Residential and nursing care for adults with physical disabilities

915 | 775 | 868

Norfolk Costs Increased

Change over time

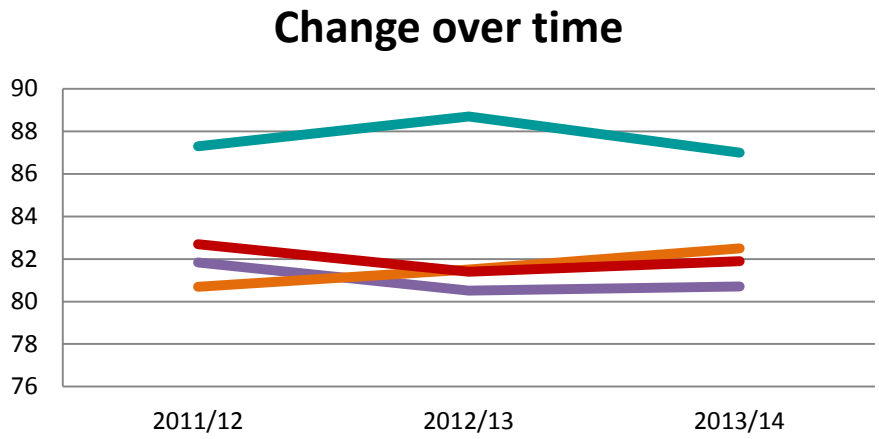


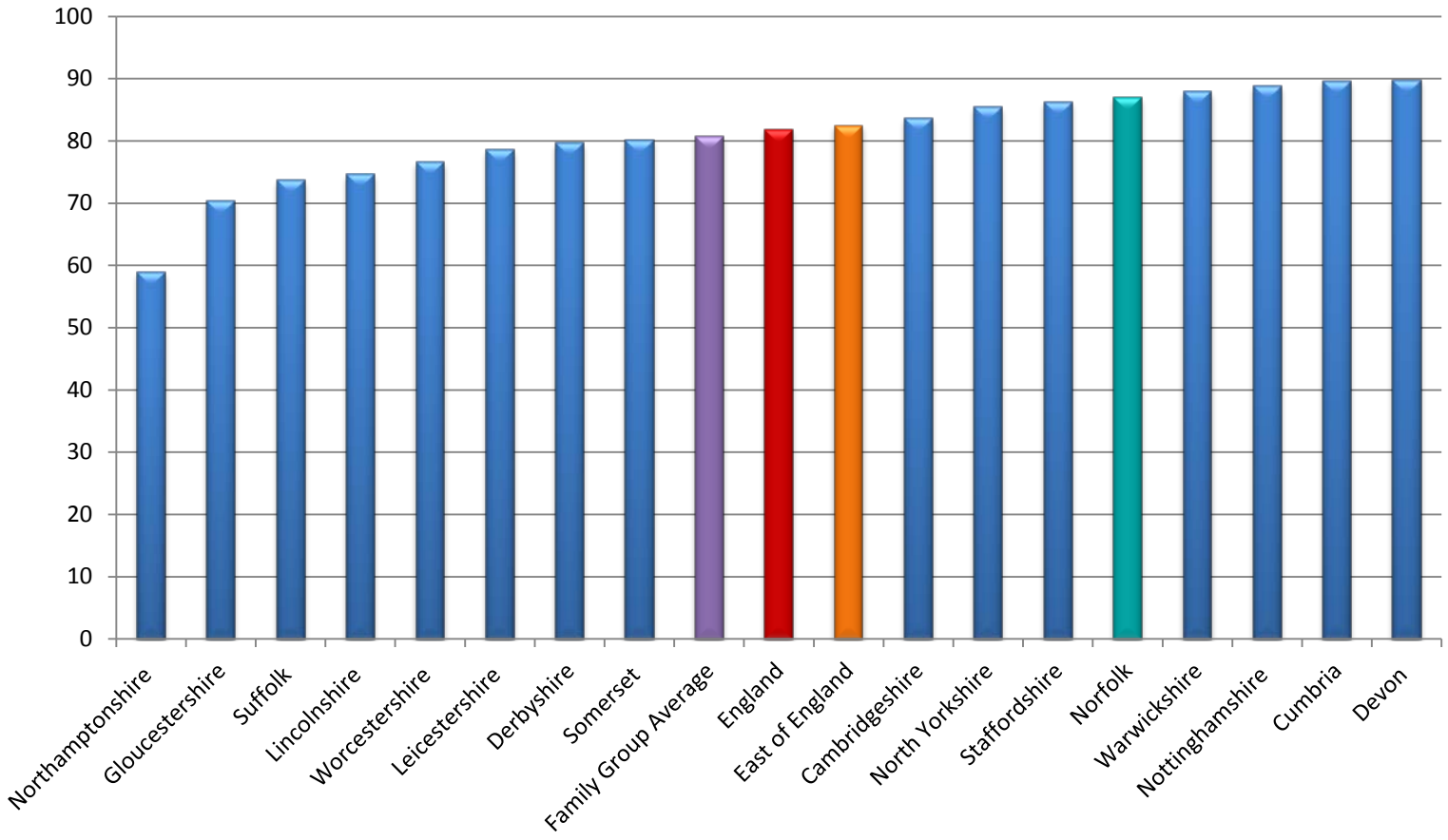
Norfolk | Family Group | England

Older people (65+) still at home 91 days after discharge from hospital into reablement/ rehabilitation services

Data Source: NASCIS ASCOF 2B Part 1

% of people





When compared to the family group, Norfolk is in the top 3% in our family group for 2013/14. However, this has declined from 2012/13 when we were in the top 2%.

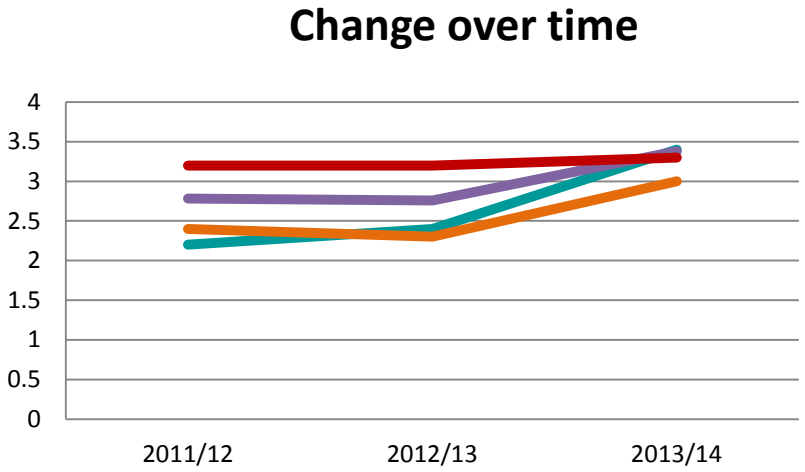
Norfolk

Family Group

East of England

England

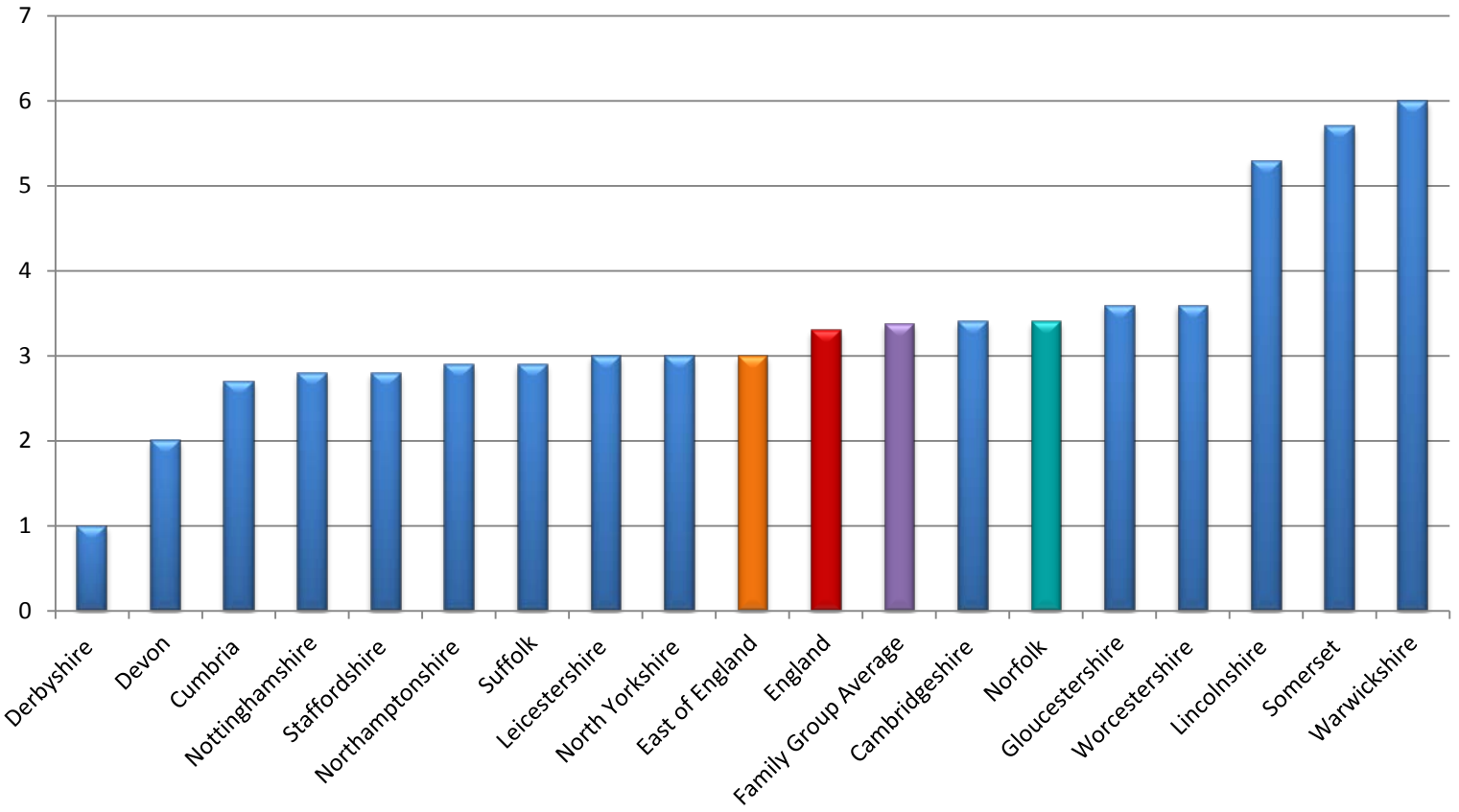
Older people (65+) offered reablement/ rehabilitation services following discharge from hospital



% of people

Data Source: NASCIS ASCOF 2B Part 2

Desired outcome:
'Earlier diagnosis, intervention and reablement means that people and their carers are less dependent on intensive services'



Norfolk

Family Group

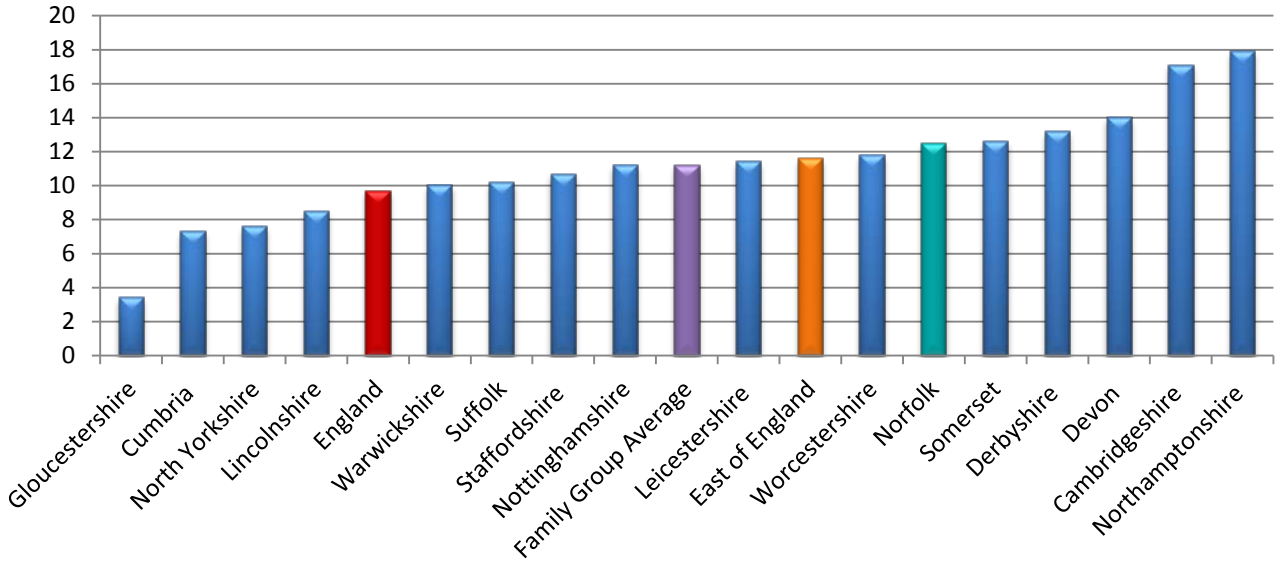
East of England

England

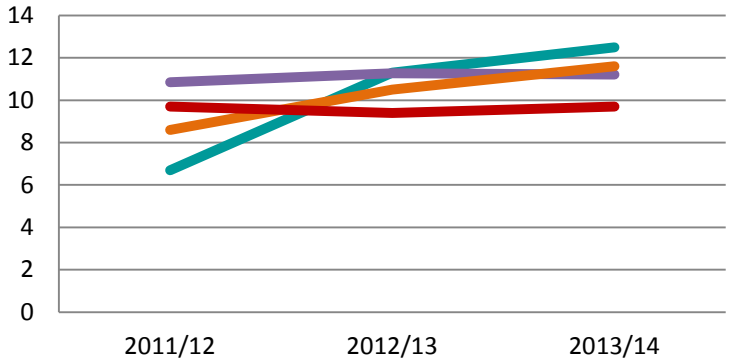
Delayed transfers of care from hospital

Per 100,000 population

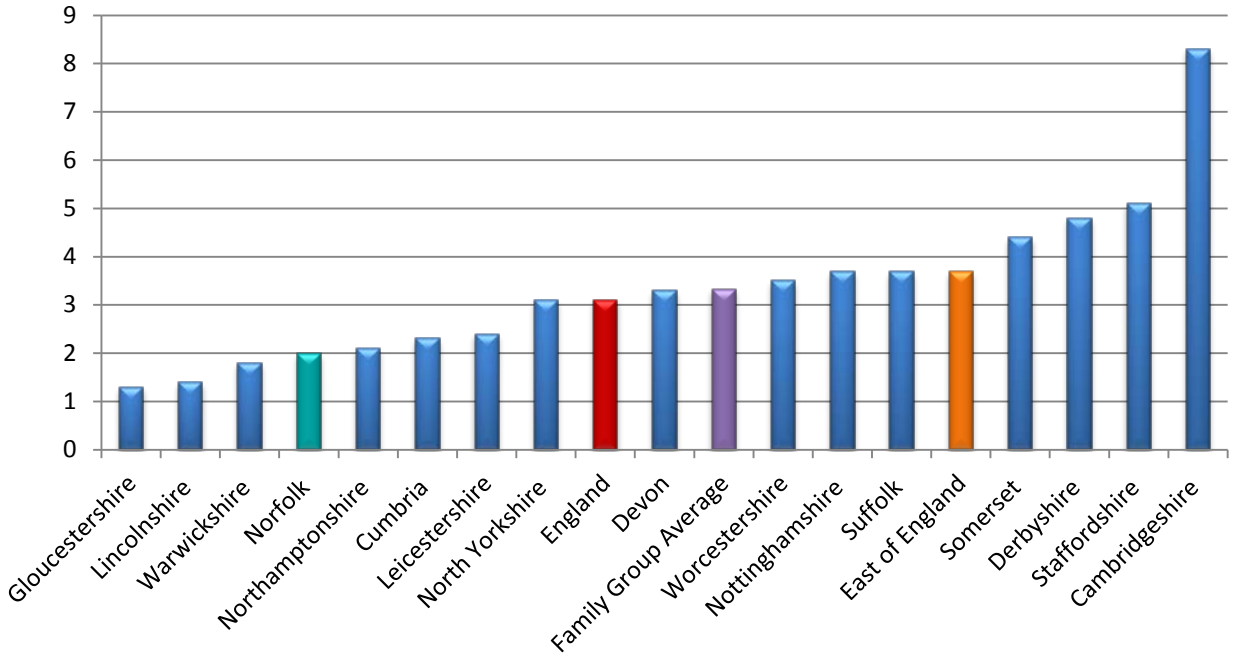
ASCOF 2C Part 1 & 2



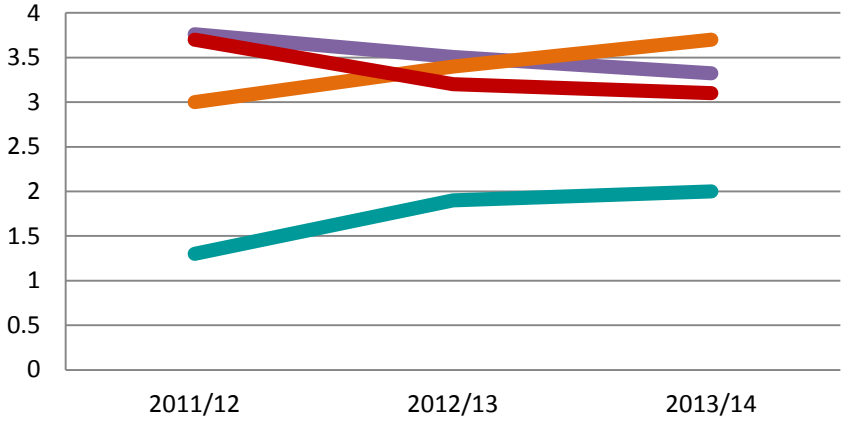
Change over time



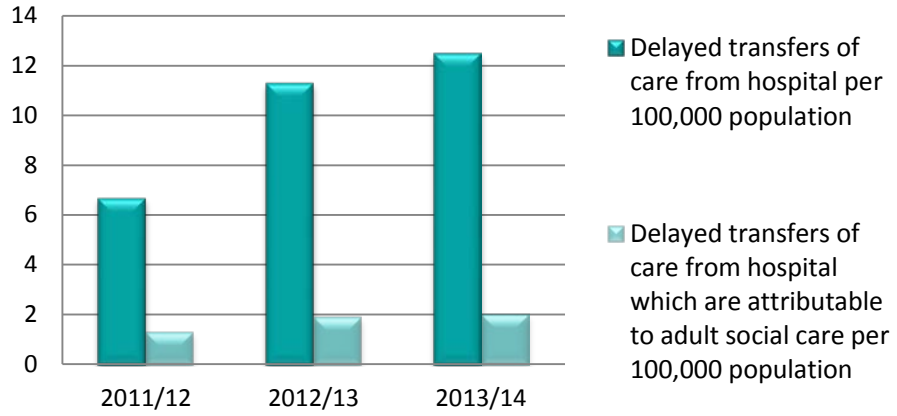
Delayed transfers of care from hospital attributable to adult social care



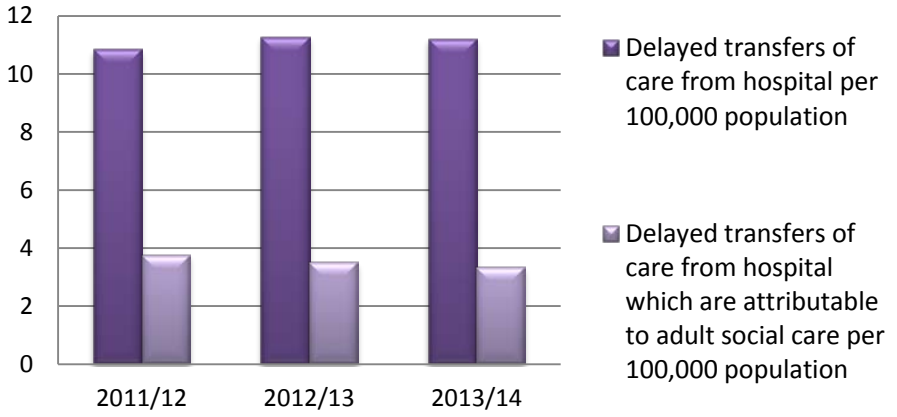
Change over time



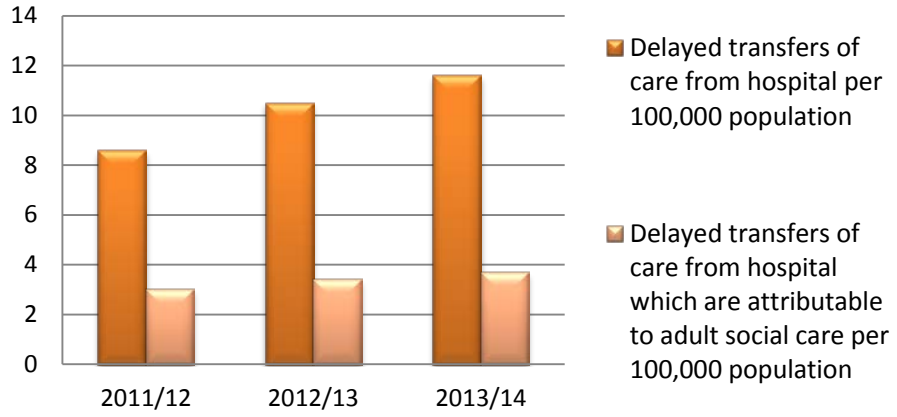
Norfolk



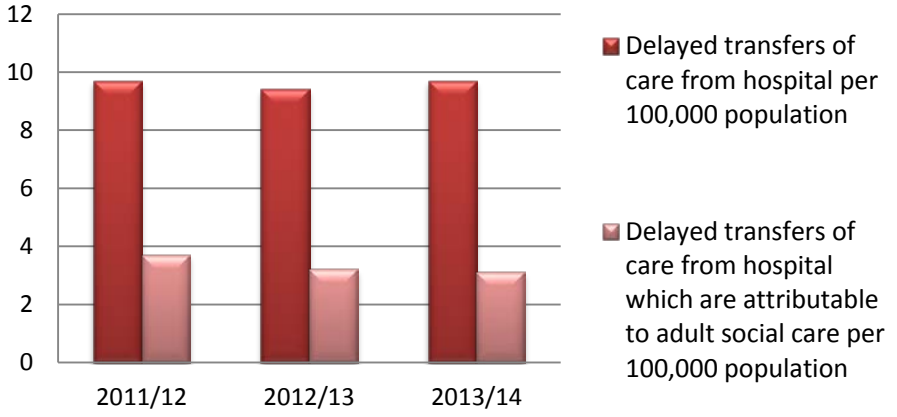
Family Group Average



East of England



England



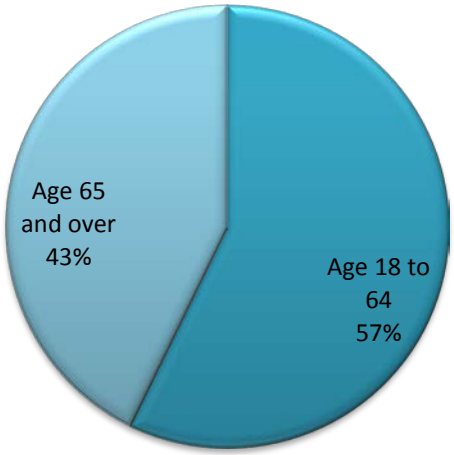
In 2013/14 Norfolk's number of delayed transfers was slightly above average for our family group. However, the number of those attributable to adult social care was 25% lower than our family group average, East of England and England.

Data Source: NASCIS ASCOF 2c Part 1 & 2

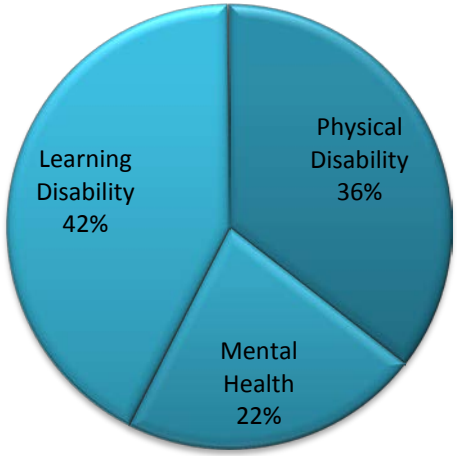
These results based on the average number of delayed transfers of care (for those aged 18 and over) on a particular day taken over the year. This is the average of the 12 monthly snapshots collected in the monthly Situation Report (SitRep)

People receiving day care

Day care unit costs (£ per person per week)



Those receiving day care by age

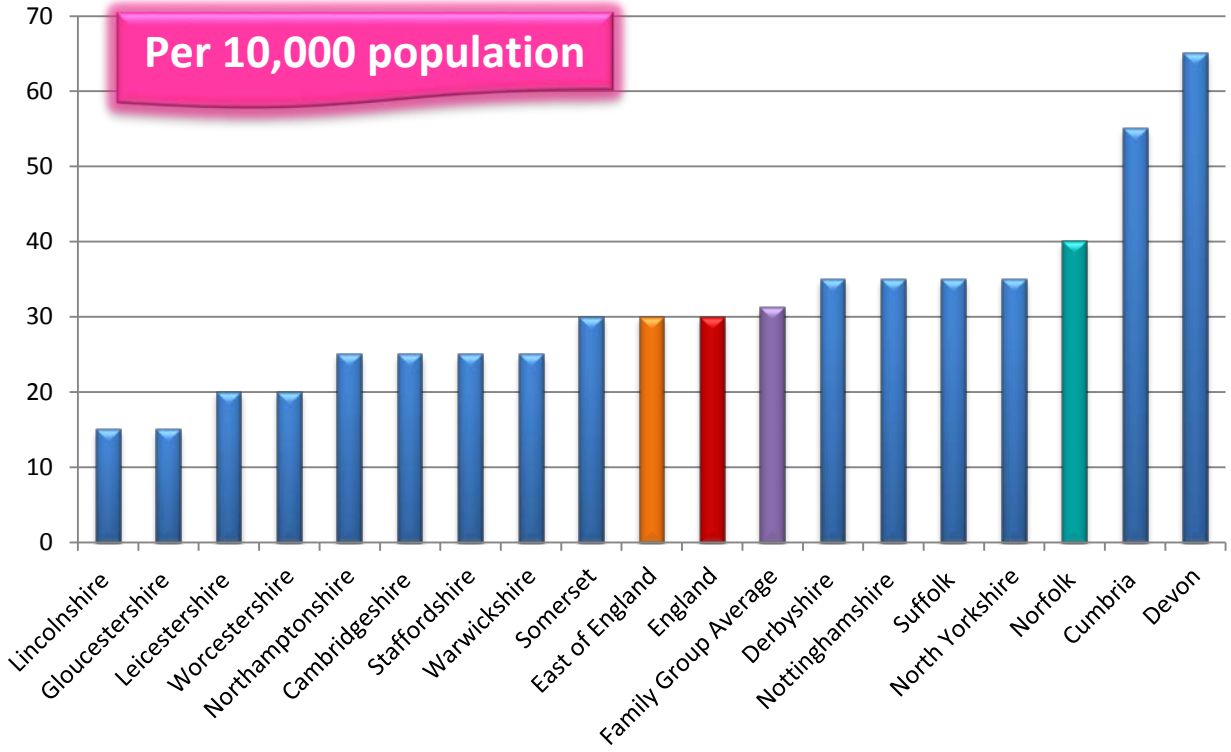


255

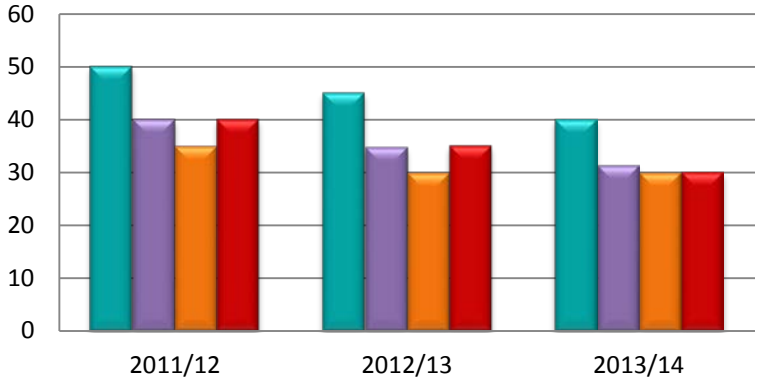
215

228

Per 10,000 population



Change over time

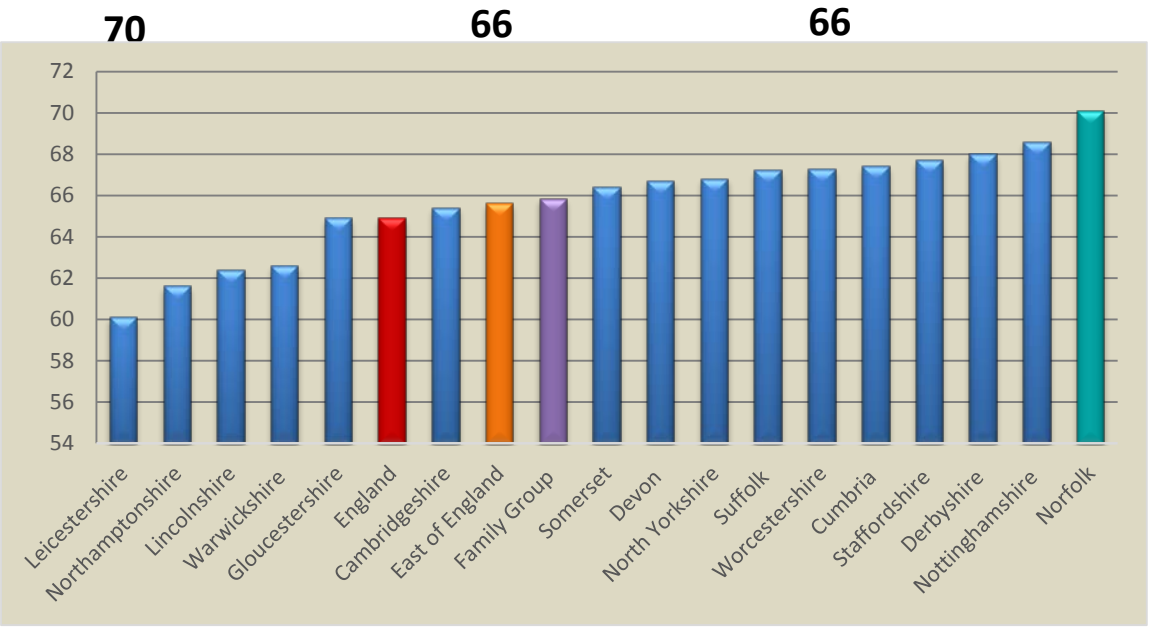


Data source: RAP P2F, Unit Costs – PSS-EX1 The comparator group for unit cost indicator is made up of 27 shire counties.

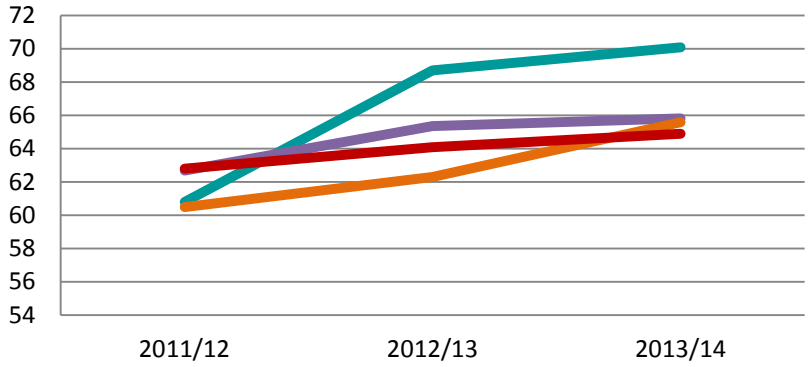
Outcome 3 – Ensuring that people have a positive experience of care & support

Average score

Overall satisfaction of people who use services with their care and support.



Change over time



NASCIS ASCOF 3A data set (from annual Adult Social Care Survey). Results are weighted to be more representative of each total local population. Therefore apply caution when comparing performance with other areas - variations in population characteristics mean results not directly comparable with anything but our own historic performance.

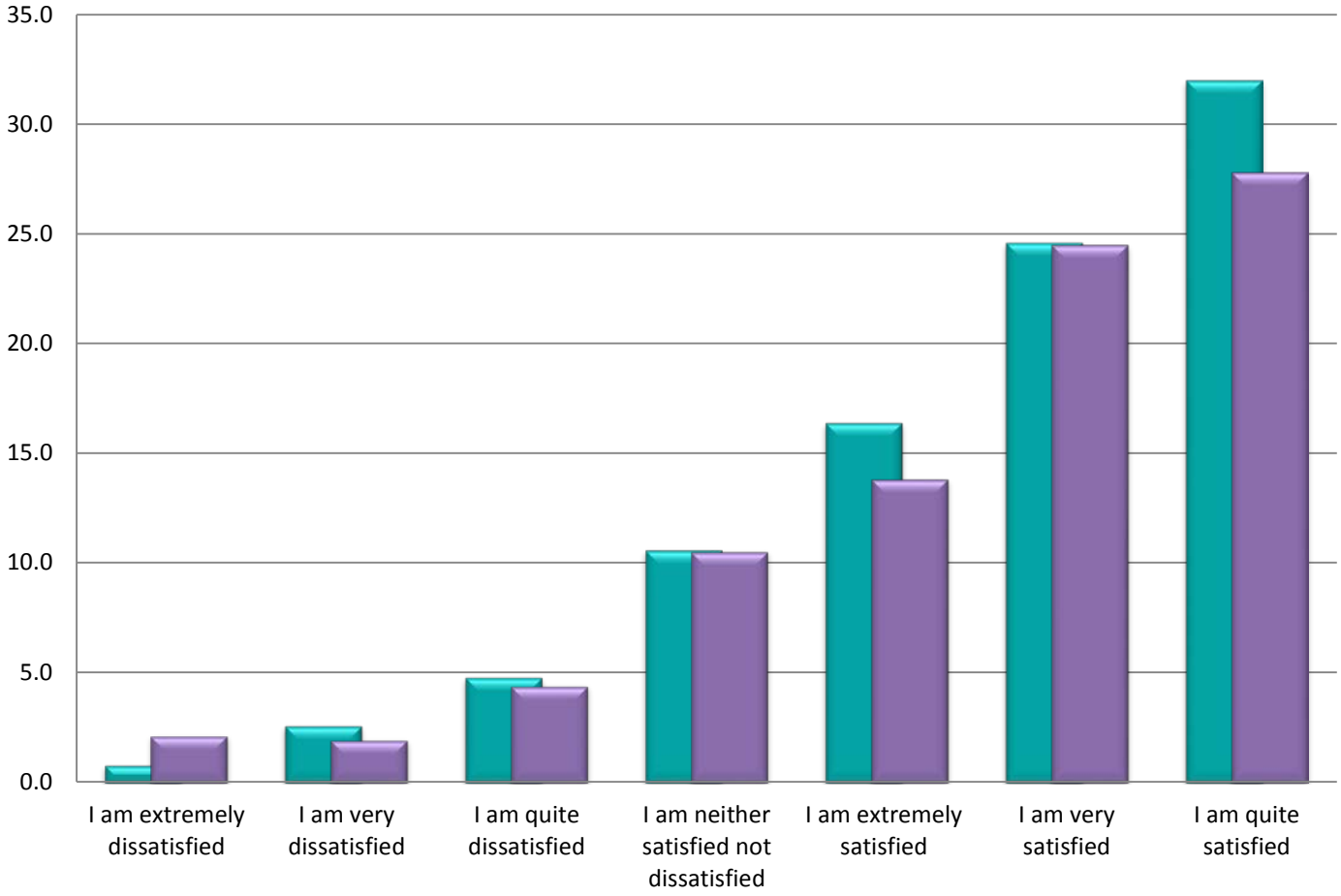
Norfolk

East of England

Family Group

England

Satisfaction of carers with social services



16.4% of Norfolk's carers are extremely satisfied with social services. This is the second highest figure in our family group.

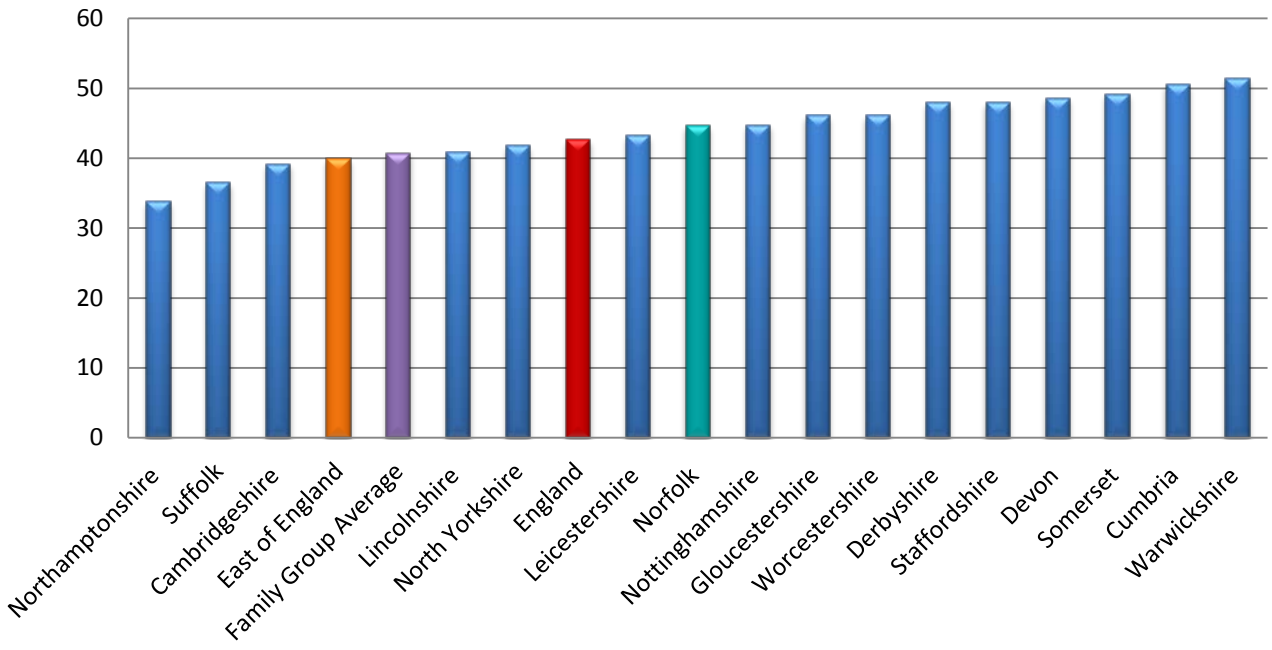
16.4% **13.9%**

Extremely satisfied

NASCIS ASCOF 3A data set (from annual Adult Social Care Survey). Results are weighted to be more representative of each total local population. Therefore apply caution when comparing performance with other areas - variations in population characteristics mean results not directly comparable with anything but our own historic performance.

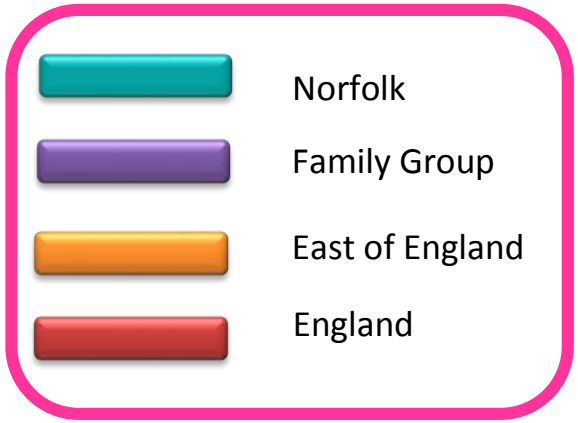
Norfolk **Family Group**

Overall satisfaction of carers with social services

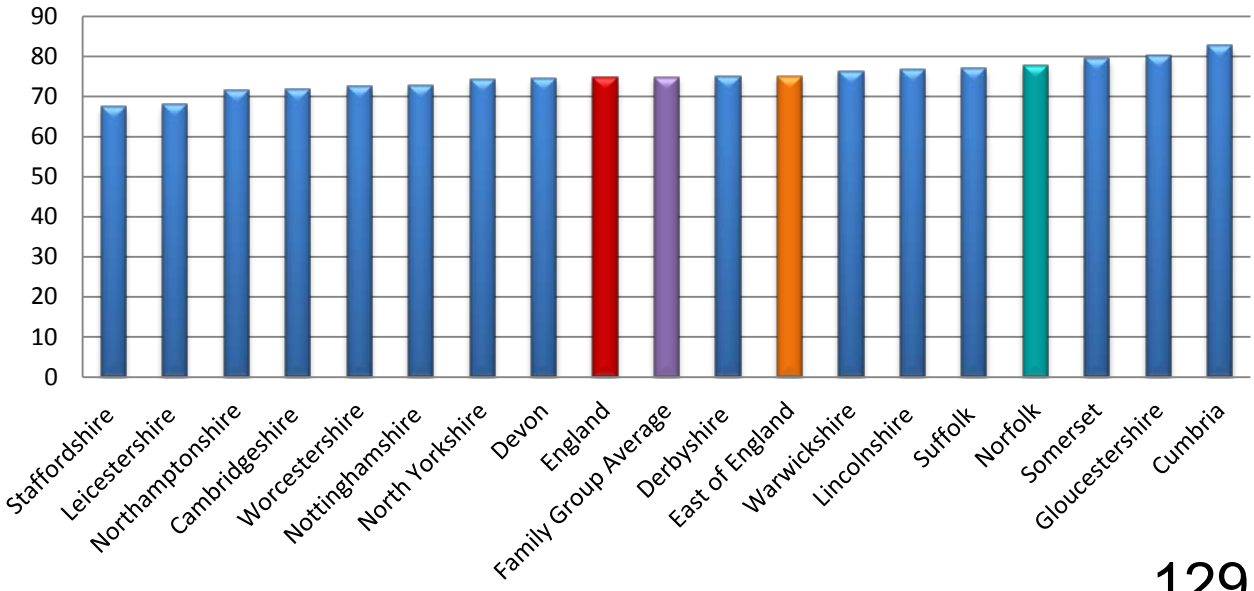


Desired outcome:

'People know what choices are available to them locally, what they are entitled to, and who to contact when they need help'



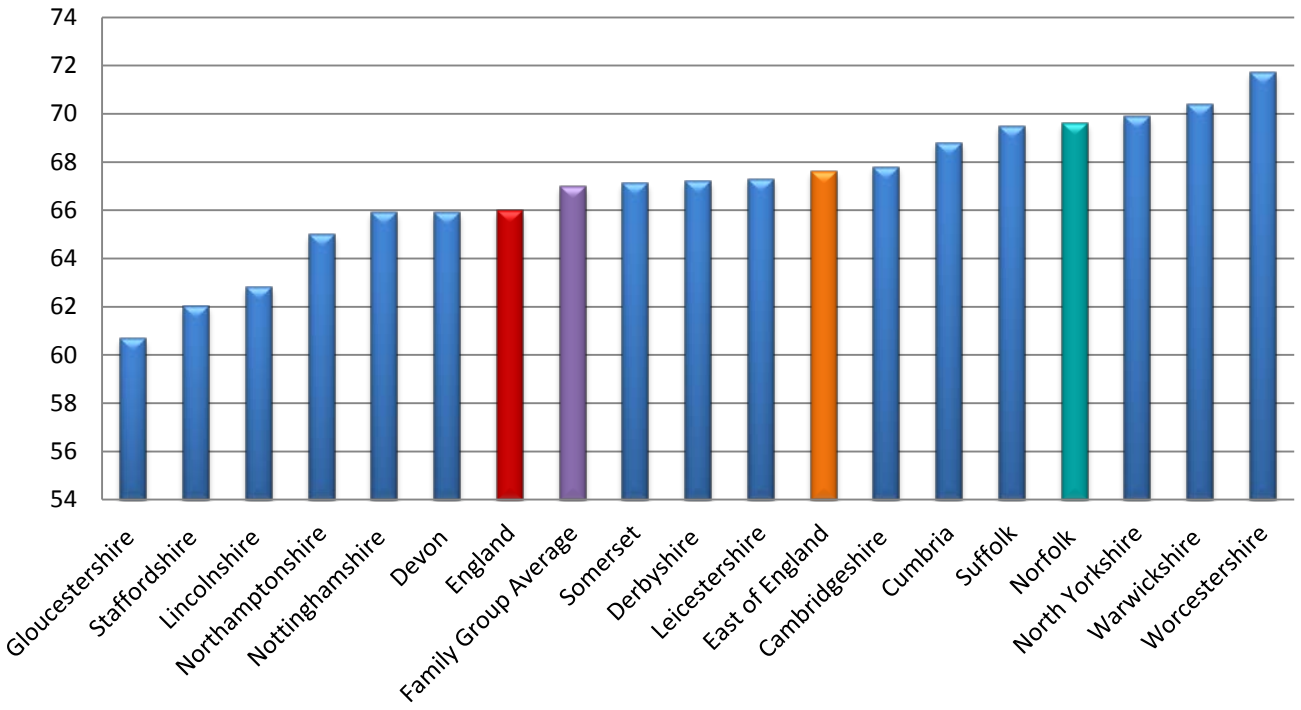
Proportion of people who use services who find it easy to find information about services



NASCIS ASCOF 3B & 3D data set (from annual Adult Social Care Survey).

Outcome 4 – Safeguarding adults whose circumstances make them vulnerable and protecting them from avoidable harm

% of service users who feel safe



Norfolk

East of England

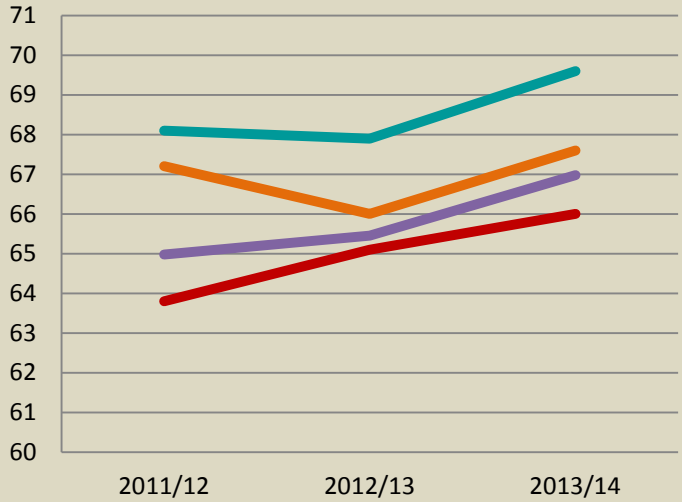
Family Group

England

Desired outcome:

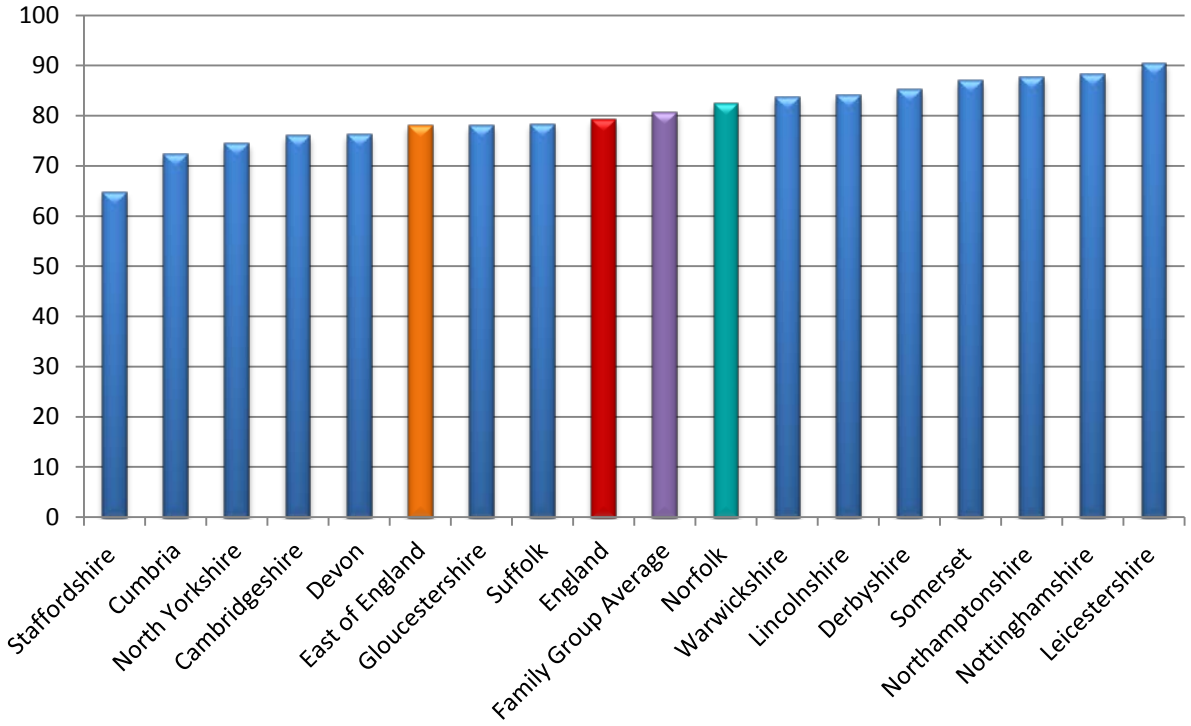
'Everyone enjoys physical safety and feels secure'

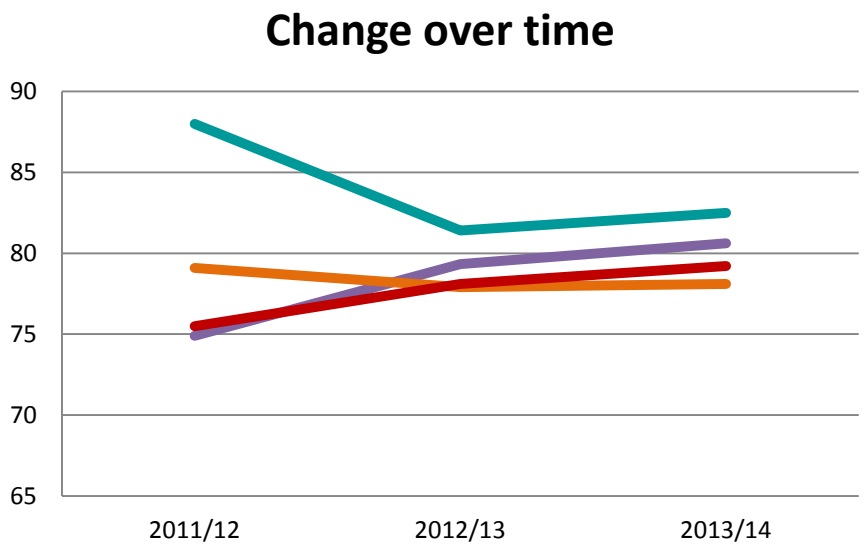
Change over time



NASCIS ASCOF 4A data set (from annual Adult Social Care Survey).

People using services who say those services have made them feel safe and secure





Data source: NASCIS ASCOF 4B Data Set (from annual Adult Social Care Survey) Results are weighted to be more representative of each total local population. Therefore apply caution when comparing performance with other areas - variations in population characteristics mean results not directly comparable with anything but our own historic performance.

Norfolk

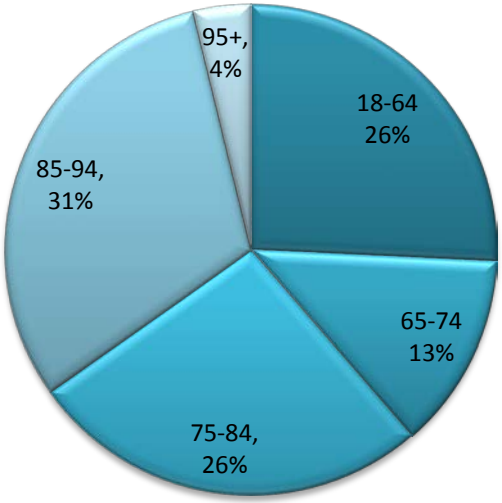
East of England

Family Group

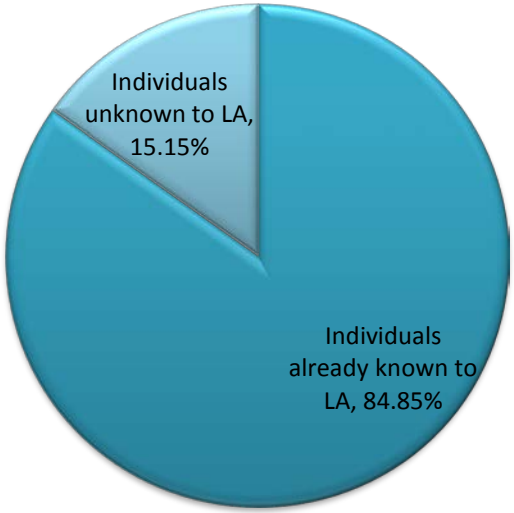
England

Safeguarding Referrals – number of referrals in 2013/14 by age

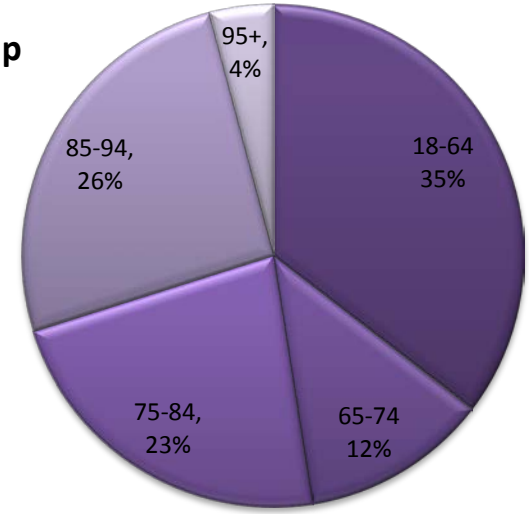
Norfolk



Of which



Family Group



Of which

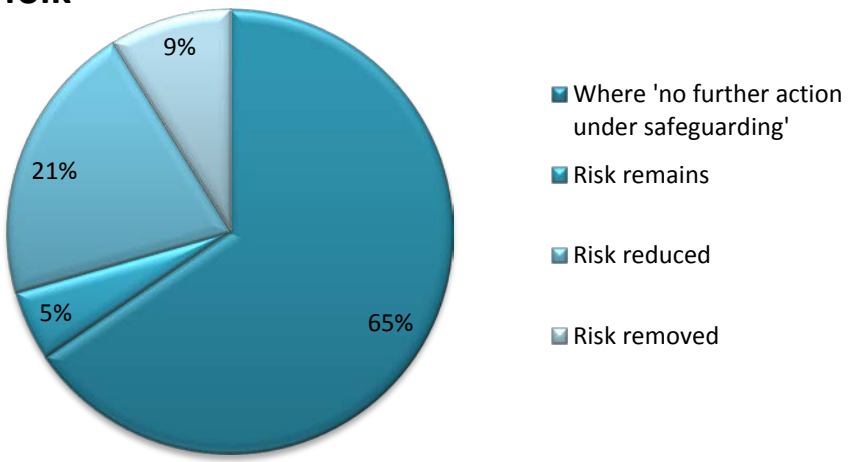
NASCIS SAR Data Set 2013/14. The 2013-14 reporting period is the first year of the SAR collection. Before this time, safeguarding data were gathered in the Abuse of Vulnerable Adults (AVA) collection which has now been discontinued.

Norfolk

Family Group

Safeguarding Referrals – Levels of risk of allegations for referrals which concluded in the reporting period

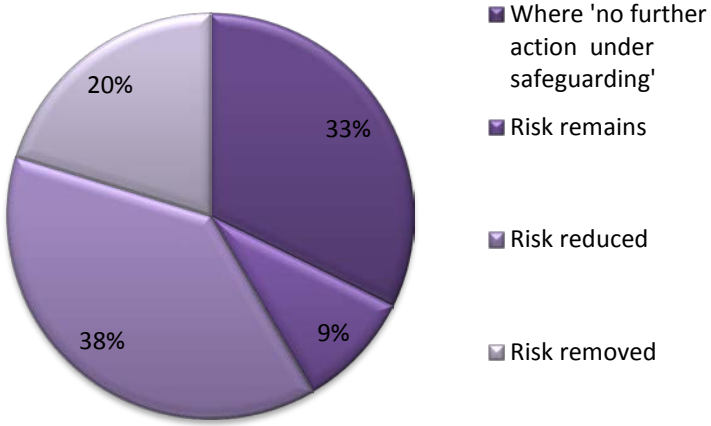
Norfolk



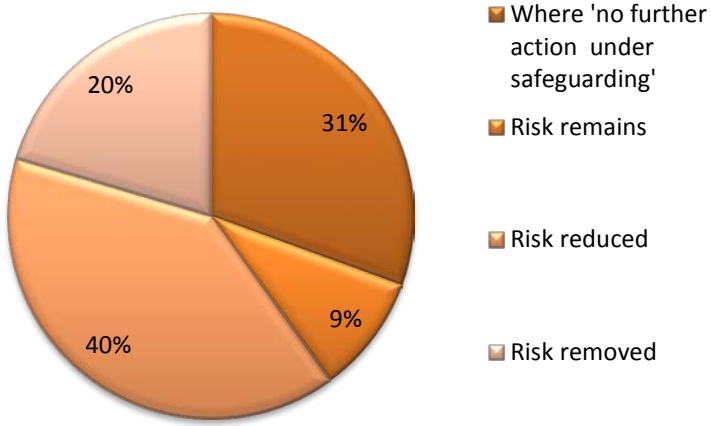
Desired outcome:

'People are protected as far as possible from avoidable harm, disease and injuries'

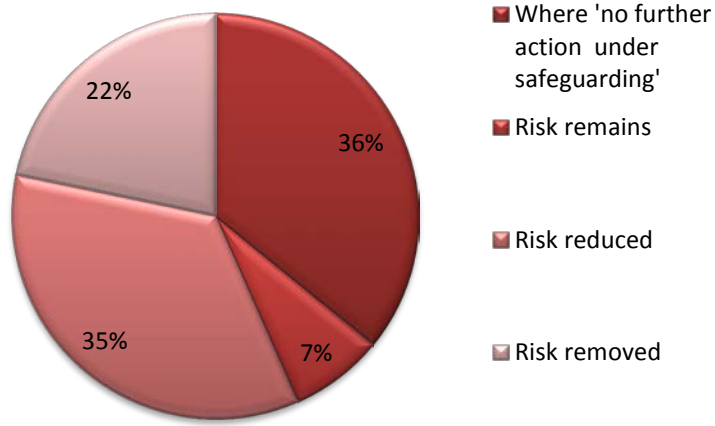
Family Group



East of England



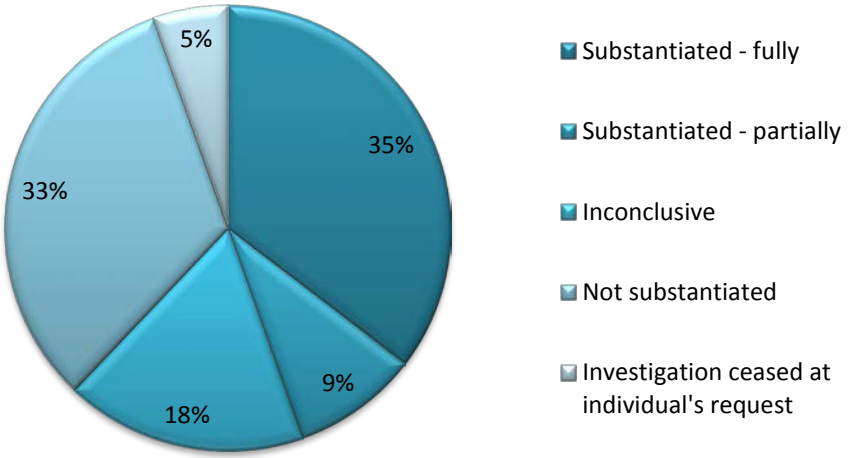
England

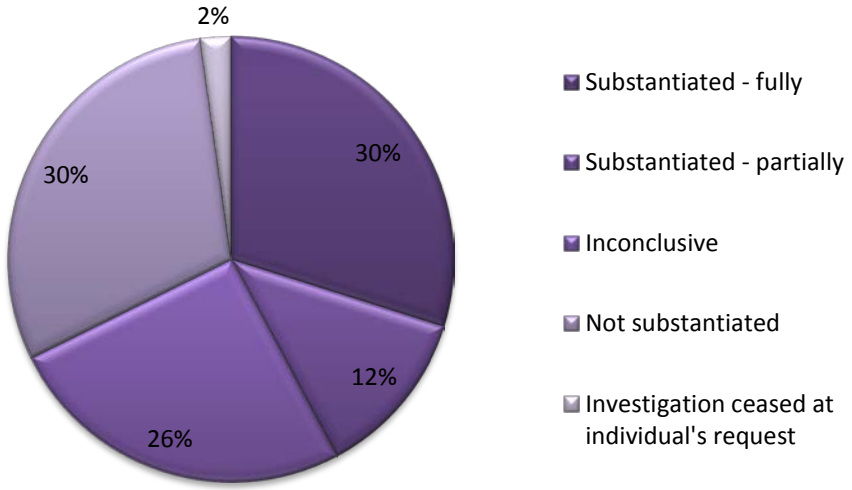


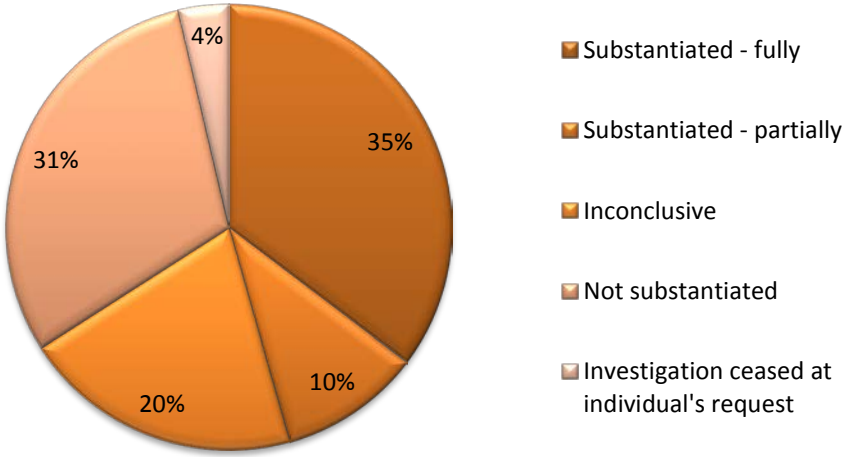
NASCIS SAR Data Set 2013/14. The 2013-14 reporting period is the first year of the SAR collection. Before this time, safeguarding data were gathered in the Abuse of Vulnerable Adults (AVA) collection which has now been discontinued.

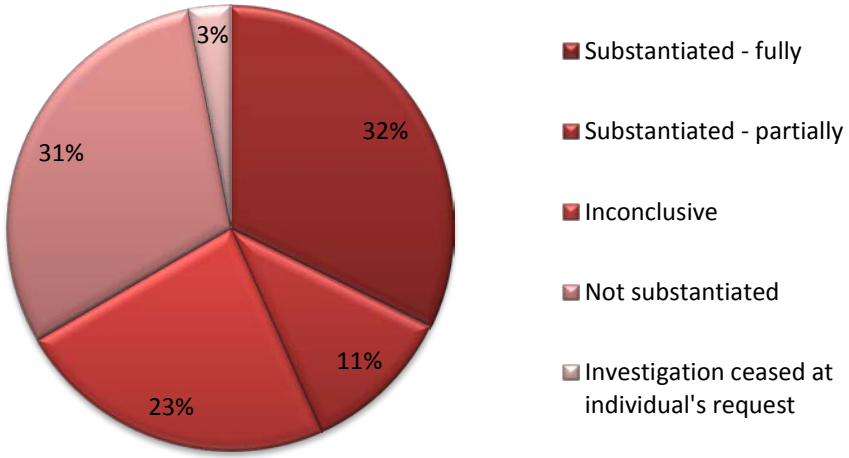
Norfolk | East of England | Family Group | England

Safeguarding Referrals – breakdown between those referrals with a substantiated risk and other outcomes









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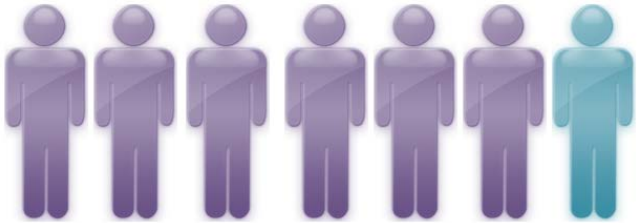
Norfolk
East of England
Family Group
England

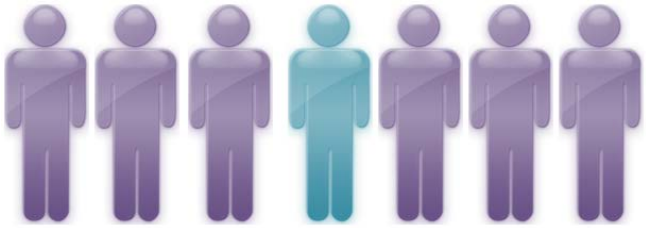
Norfolk's place in the family group 2013/14

Ahead of the pack



- Social Care related **quality of life** (ASCOF 1A)
- People using services who have **control over their daily life** (ASCOF 1B)
- Proportion of **service users receiving a review** (RAP SD1, RAP A1, RAP P1)
- Carer reported **quality of life** (ASCOF 1D)
- People with **learning disabilities in paid employment** (ASCOF 1E)
- Percentage of **service users who feel safe** (ASCOF 4A)
- **Delayed transfers of care** from hospital attributable to adult social care (ASCOF 2C Part 2)
- Overall **satisfaction of people who use services with their care and support** (ASCOF 3A)
- Older people **65+ offered reablement/ rehabilitation services** following discharge from hospital (ASCOF 2B Part 2)
- Proportion of people who use services who say that those services have made them feel **safe and secure** (ASCOF 4B)
- Proportion of people who use services who find it **easy to find information about services** (ASCOF 3D)

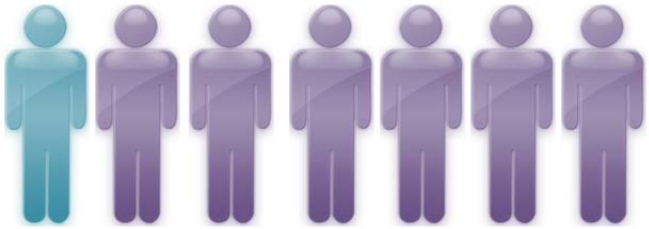
Middle of the pack



- People using services **receiving self-directed support** (ASCOF 1C Part 1)
- People using services **receiving cash payments** (ASCOF 1C Part 2)
- Carers **supported following a review** (RAP C2 & RAP P1)

- **Satisfaction of carers** with social services (ASCOF 3A)
- Proportion of people using services who say those **services have made them feel safe and secure** (ASCOF 4B)

Back of the pack



- People with **learning disabilities living in their own home** or with family (ASCOF 1G)
- People using **mental health services in paid employment** (ASCOF 1F)
- People using **mental health services living independently** with or without support (ASCOF 1H)
- Permanent **admissions of younger adults to residential and nursing care** (ASCOF 2A)
- Permanent **admission of older adults to residential and nursing care** (ASCOF 2A Part 2)
- **Delayed transfers of care from hospital** (ASCOF 2C Part 1)

Benchmarking 2013/14

Business Intelligence
Room 101
County Hall
Martineau Lane
Norwich
NR1 2DH

bi@norfolk.gov.uk

Source acknowledgements

National Adult Social Care Intelligence Service

Adult Social Care Committee

Item No. 10.

Report title:	**Adult Social Care Finance Monitoring Report Period Nine (December) 2014-15**
Date of meeting:	**9 March 2015**
Responsible Chief Officer:	**Harold Bodmer, Executive Director of Adult Social Services**

Strategic impact

This report provides the Committee with financial monitoring information, based on information to the end of December 2014. It provides a forecast for the full year, analysis of variations from the revised budget, with recovery actions to reduce the overspend and the forecast use of Adult Social Care (ASC) reserves.

Executive summary

As at the end of December 2014 (Period Nine) the forecast revenue outturn position for Adult Social Care for 2014-15 is an overspend of £5.900m, after recovery actions.

This is a decrease of £0.194m since the report to the Committee on 12 January for period eight, when an overspend of £6.094m after recovery actions was forecast. That report identified the intention to use £3.789m from the Legal Liabilities reserve to mitigate the level of overspend and identified further recovery actions to reduce that will hopefully achieve a balanced budget in 2014-15. The ASC Legal Liabilities reserve was created to cover the potential costs arising from the dismissal of the Hertfordshire County Council appeal regarding funding of aftercare under s117 of the Mental Health Act. These costs arise in the Purchase of Care budget.

Purchase of Care (PoC) continues to be the area of highest financial risk to the ASC budget. The Purchase of Care budget is used to fund packages of care for people, including Personal Budgets. The current forecast for net cost of PoC is for an overspend of £5.450m (gross cost of PoC less service user income). The revised budget reflects an additional £1m which was agreed by Members to support the phasing in of the 2014-17 savings in this area.

Adult Social Care reserves at 31 March 2014 stood at £13.353m. The service is forecasting a net use of reserves in 2014-15 of £1.694m to meet commitments and £3.789m to mitigate the level of overspend set out in this report. The 2014-15 forecast outturn position for reserves and provision is therefore £7.870m.

The 2014-15 Capital budget reflects the agreed programme for 2014-15 and slippage at 2013-14 outturn. The overall programme for the next two years has increased by the £236k to reflect net additional funding to support the planned capital spend. At period eight there are no forecast variations to the programme.

Recommendation:

Members are invited to discuss the contents of this report and in particular to note:

a) **The forecast revenue outturn position for 2014-15 as at Period Nine of an overspend of £5.900m**
b) **The recovery actions being taken to reduce the overspend**
c) **The current forecast for use of reserves**
d) **The forecast capital outturn position for the 2014-15 capital programme**

1 Proposal

1.1 Members have a key role in overseeing the financial position of Adult Social Services, including reviewing the revenue budget, reserves and capital programme.

1.2 This is the fourth monitoring report for 2014-15 and reflects the forecast position at the end of December 2014 (Period Nine).

2 Evidence

2.1 This is the fourth monitoring report for 2014-15 and the table below summarises the forecast outturn position at the end of December 2014 (Period Nine).

	Revised Budget	Forecast Outturn	Forecast Variance		Previously Reported
Summary	**£m**	**£m**	**£m**	**%**	**£m**
Management, Finance and Transformation	-3.994	-6.076	-2.082	52%	-2.087
Commissioning	75.040	75.571	0.531	1%	0.507
Business Development	4.589	4.629	0.040	1%	0.051
Human Resources	1.204	1.031	-0.173	-13%	-0.158
Safeguarding	235.533	246.322	10.789	5%	11.016
Prevention	10.075	10.894	0.819	8%	0.789
Service User Income	-72.832	-75.856	-3.024	4%	-3.024
Total Net Expenditure	**249.615**	**256.515**	**6.900**	**3%**	**7.094**
Recovery actions	0.000	-1.000	-1.000		-1.000
Total Net Expenditure after recovery actions	**249.615**	**255.515**	**5.900**	**3%**	**6.094**
Use of ASC Reserves	0.000	-3.789	-3.789		-3.789
ASC Total after use of reserves	**249.615**	**251.726**	**2.111**	**1%**	**2.305**

2.2 As at the end of December 2014 (Period Nine) the forecast revenue outturn position for 2014-15 is a £5.900m overspend for Adult Social Services.

2.3 The detailed position for each service area is shown at **Appendix A**, with further explanation of over and underspends at **Appendix B**.

2.4 The overspend is primarily due to the forecast for the net cost of Purchase of Care (PoC) where there is a forecast overspend of £5.450m.

2.5 **Purchase of Care**

2.5.1 The gross PoC budget was overspent in 2013/14 by £4.008m. PoC for Older People is the main budget with pressure, having a forecast overspend of £9.162m at the same time income from service users is expected to deliver an additional £3.344m over what was budgeted.

2.5.2 Also the PoC forecast anticipates only a partial achievement of budgeted savings from 2013/14 and 2014/15. In 2013/14 savings were not achieved for Mental Health where progress has been slower than expected to move people from residential care to living in the community.

2.5.3 In 2014/15 significant savings are budgeted for wellbeing, transport and Learning

Disabilities/Physical Disabilities packages which carry significant financial risks. The revised budget reflects an additional £1m of funding to phase in the 2014-17 savings for wellbeing and transport activities for people receiving support from Adult Social Care through a personal budget.

2.6 **Overspend Action Plan**

2.6.1 Services are required to take recovery actions to avoid or mitigate an overspend at the end of the year. This is a prior consideration before the use of reserves is considered. The following actions, which are estimated to save £2.000m in 2014/15, have been initiated by the Director to mitigate the overspend identified in the period six forecast.

2.6.2 The Department is aiming for a balanced position at the year end and is working to identify further savings that could be made and to review any money that does not appear to be committed at this stage of the financial year and which could be used to offset overspends elsewhere. The Overspend Action plan to date is shown below.

Action	**Amount £m**
The 2014/15 Norse Care rebate of £1m is proposed to be used to support the revenue budget instead of being transferred to the residential reserve for the transformation of residential care.	-1.000
Run-rate/Procurement Review	-1.000
	-2.000
Built into the forecast expenditure position	
Job freeze except for those funded by NHS and essential posts	-0.495
Heads of Social Care have been advised by the Director of restrictions being placed on their discretion to provide residential care resulting in tighter controls around spending above NCC rates and only agreeing most cost-effective solutions.	-0.510
Review of forecast service user contributions towards the cost of their non-residential care. This was understated compared to last year and current spend.	-2.107
Use of ASC ICT fund for ICT costs related to bringing the MH staff back to NCC and corporate funding of redundancies. Previously this had been forecast to come from ASC revenue budget.	-0.400
Norse Care utilisation	-0.500

2.7 **Reserves**

2.7.1 Adult Social Care reserves at 31st March 2014 were £13.353m. The service is forecasting a net use of reserves in 2014-15 of £1.694m to meet commitments and £3.789m to reduce budget overspend as set out in this report. The 2014-15 forecast outturn position for reserves and provision is therefore £7.870m. The projected use of reserves and provisions is shown at **Appendix C.**

2.8 **Capital Programme 2014-15**

2.8.1 The position of the capital programme as at Period 9 is shown at **Appendix D**. The programme has been reviewed and the budgets re-profiled across 2014-15, 2015-16 and 2016-17 to reflect when expenditure is now expected to be incurred. The revised 2014-15 forecast is in line with the reviewed 2014-15 budget and net funding increase of £236k. The reviewed budget for this financial year of £4.434m includes the capital programme agreed by County Council for Adult Social Care in 2014-15 of £9.060m, slippage on the 2013-14 programme at outturn of £1.492m and re-profiling for parts of the programme now expected to be completed in future years. The main priority for capital spending in Adult Social Care in 2014-15 continues to be the development of Housing With Care and Supported Housing provision.

3 Financial Implications

3.1 There are no decisions arising from this report. The financial position for Adult Social Services is set out within the paper and appendices.

4 Issues, risks and innovation

4.1 This report provides financial performance information on a wide range of services monitored by the Adult Social Care Committee. Many of these services have a potential impact on residents or staff from one or more protected groups. The Council pays due regard to the need to eliminate unlawful discrimination, promote equality of opportunity and foster good relations.

4.2 In making projections for the Purchase of Care budget of £216m a range of assumptions are used that include the trend in actual payments to date, commitments for planned care packages and known major costs not captured on commitment systems can lead to projections being accurate to +/-1% Steps are being taken to improve the accuracy of projections through a review of the timely entry and update of data in key systems and review of existing processes, this will result in improved quality of commitment and payment information resulting in an improvement in the accuracy of projections to +/-0.25%

5 Background Papers

5.1 There are no background papers relevant to the preparation of this report.

Officer Contact

If you have any questions about matters contained or want to see copies of any assessments, e.g. equality impact assessment, please get in touch with:

If you have any questions about matters contained in this paper please get in touch with:

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Adult Social Care 2014-15: Budget Monitoring November 2014 (Period Nine)

Summary	Revised Budget £m	Forecast Outturn £m	Forecast Variance £m	Forecast Variance %	Previously Reported £m
Management, Finance and Transformation	-3.994	-6.076	-2.082	52%	-2.087
Commissioning	75.040	75.571	0.531	1%	0.507
Business Development	4.589	4.629	0.040	1%	0.051
Human Resources	1.204	1.031	-0.173	-13%	-0.158
Safeguarding	235.533	246.322	10.789	5%	11.016
Prevention	10.075	10.894	0.819	8%	0.789
Service User Income	-72.832	-75.856	-3.024	4%	-3.024
Total Net Expenditure	**249.615**	**256.515**	**6.900**	**3%**	**7.094**
Recovery actions	0.000	-1.000	-1.000		-1.000
Total Net Expenditure after recovery actions	**249.615**	**255.515**	**5.900**	**3%**	**6.094**
Use of ASC Reserves	0.000	-3.789	-3.789		-3.789
ASC Total after use of reserves	**249.615**	**251.726**	**2.111**	**1%**	**2.305**

Service Detail

Commissioning					
Commissioning	1.250	1.216	-0.034	-3%	-0.055
Service Level Agreements	4.411	5.402	0.991	22%	0.966
ICES	2.601	2.600	-0.001	0%	0.006
Norse Care	32.551	32.491	-0.060	0%	-0.060
Supporting People	13.443	13.255	-0.188	-1%	-0.173
Learning Disabilities Partnership	5.594	5.594	0	0%	0.000
Independence Matters	13.247	13.247	0	0%	0.000
Other	1.943	1.766	-0.177	-9%	-0.177
Commissioning Total	**75.040**	**75.571**	**0.531**	**1%**	**0.507**

Safeguarding					
Purchase of Care					
Older People	98.818	107.980	9.162	9%	9.162
People with Physical Disabilities	23.773	23.847	0.074	0%	0.074
People with Learning Difficulties	80.901	79.408	-1.494	-2%	-1.494
Mental Health, Drugs & Alcohol	12.087	12.818	0.731	6%	0.731
S117 invoice from Suffolk County Council	0.000	0.520	0.520		0.520
Hired Transport	4.650	6.913	2.263	49%	2.263
Staffing and support costs	15.304	14.837	-0.467	-2%	-0.240
Safeguarding Total	**235.533**	**246.323**	**10.789**	5%	**11.016**

2014

Summary	Revised Budget £m	Forecast Outturn £m	Forecast Variance £m	Forecast Variance %	Previously Reported £m
Prevention					
Housing With Care Tenant Meals	0.673	0.692	0.019	3%	0.019
Personal & Community Support	1.143	1.163	0.020	2%	0.009
Norfolk Reablement First Support	5.403	5.779	0.376	7%	0.433
Service Development, including N-Able	0.908	1.331	0.423	47%	0.420
Other	1.948	1.899	-0.049	-3%	-0.016
Prevention Total	**10.075**	**10.864**	**0.789**	8%	**0.865**

Income from Service Users					
Older People	-59.789	-63.133	-3.344	6%	-0.584
People with Physical Disabilities	-2.243	-2.050	0.193	-9%	0.323
People with Learning Disabilities	-4.889	-4.719	0.170	-3%	0.260
Mental Health, Drugs & Alcohol	-4.523	-4.493	0.030	-1%	-0.160
Beds purchased by Health	-1.388	-1.461	-0.073	5%	-0.073
Service User Income Total	**-72.832**	**-75.856**	**-3.024**	4%	**-2.341**

Adult Social Care
2014-15 Budget Monitoring Period 9
Explanation of over and underspends

1. Management Finance and Transformation underspend of £-2.087m

The forecast underspend is due to the departmental retention of service budgets (-£1.714m) to enable effective targeting of resources to priorities and pressures during the year.

2. Commissioning overspend of £0.531m

The main over/underspends are:

Service level Agreements, with external providers, forecast overspend of £0.991m. The remaining savings on Service Level Agreements from the 2011-14 Big Conversation were not achieved in 2013-14 and a continuing shortfall is expected. Work is ongoing to identify where these savings can be made on an ongoing basis.

Norsecare forecast underspend of £-0.060m. Savings identified with the 2014-15 budget of £2m are now forecast to be achieved: £1.600m additional Norse Care rebate and £0.500m reduced planning bed purchases from other providers by using Norse Care beds.

3. Safeguarding overspend of £10.789m

The main over/underspends are:

Purchase of Care (PoC) overspent by £8.474m. The PoC budget was overspent in 2013-14 by £4.008m. PoC Older People is the main budget with pressure, having a forecast overspend of £9.162m, though this projected overspend needs to be considered alongside the projected additional income over budget to be received from self-funders and top up which is expected to have a positive variance of £3.344m.

As part of the Action Plan over the past four months efforts have been made to reduce the numbers of older people receiving a new permanent placements in a residential home and instead receiving an appropriate homecare package that still meets their needs. As a result of this action there has been an average net reduction of 5 permanent placements per week over the past 15 weeks, whilst this may appear a small reduction it is a very positive step. For the remainder of the year plans are in place to reduce the number of placements by on average of 15 per week, to reflect the average net reduction in the last three weeks of just over 13. It should be noted that in terms of national performance data Norfolk County Council is seen as an outlier in terms of the proportion of older people in residential placements. The table overleaf provides some detail on the actual movements.

	Placements at 1/4/14	12/10 to 25/1			1/4 to 12/10			year to 25/1/15			Placements at 25/1/15
		Change	Average Weekly change	%age change	Change	Average Weekly change	%age change	Change	Average Weekly change	%age change	
Older People Permanent Residential Placements	2,453	75	5.0	3.1%	59	2.1	2.4%	134	3.14	5.5%	2,319

Also the PoC forecast anticipates only a partial achievement of budgeted savings from 2013-14 and 2014-15. In 2013-14 savings were not achieved for Mental Health where progress has been slower than expected to move people from residential care to living in the community.

In 2014-15 significant savings are budgeted for wellbeing, transport and Learning Difficulties/Physical Disabilities packages which carry significant risks. The revised budget reflects an additional £1m of funding to phase in the 2014-17 savings for wellbeing and transport activities for people receiving support from Adult Social Care through a personal budget.

4. Prevention Overspend by £0.789m

The main over/underspends are:

Norfolk Reablement First Support overspent by £0.376m a £57k reduction from month 6. Overall the reasons for the overspends are due to demand led increased staffing costs and no budget allocation for enhancements or standby payment.

Service Development overspent by £0.423m, negligible movement from month 6. The 2013-14 savings target for Assistive Technology (N-Able) of £0.748m are forecast to not be achieved in 2014-15. Work is continuing to implement the saving and for N-Able to deliver a profit, which will deliver savings to the service. This overspend is partly offset by the cessation of a Service Level Agreement.

5. Income from Service Users underspent by £-3.024m

Budgeting income from service user contributions towards the cost of their care is difficult as service user contributions are based on their individual financial circumstances. The service saw a significant increase in income from service user contributions towards the end of 2013-14. The projected income is up by £683k from period 6 reflecting the amount of income from self-funders and top ups.

This area continues to be closely monitored for reporting to each Adult Social Care Committee. There is currently a review of forecast service user contributions towards the cost of their non-residential care and this has been adjusted as it appears to be understated compared to last year and current PoC spend.

Adult Social Care Reserves and Provisions

	Balance 1 April 2014	Usage 2014/15	Forecast Balance 31 March 2015
	£m	£m	£m
Doubtful Debts provision	0.952	0.000	0.952
Redundancy provision	0.103	-0.072	0.031
Prevention Fund - Living Well in Community	0.117	-0.117	0.000
Prevention Fund – General - As part of the 2012-13 budget planning Members set up a Prevention Fund of £2.5m. To mitigate the risks in delivering the prevention savings in 2012-13 and 2013-14, particularly around reablement and Service Level Agreements, and the need to build capacity in the independent sector.	0.533	0.000	0.533
Prevention Fund - Strong and Well	0.490	-0.240	0.250
Repairs and renewals	0.043	-0.015	0.028
IT reserve - For the implementation of various IT projects and IT transformation costs.	1.425	0.000	1.425
Residential Review - Required in future years for the Building Better Futures programme, including the transformation of the homes transferred to Norse Care on 1 April 2011.	2.330	0.000	2.330
ASC Legal Liabilities - Cabinet approved on 9 May 2011 the creation of the Adult Social Care Legal Liabilities reserve to cover the potential costs arising from the dismissal on Tuesday 15 February 2011 at the Court of Appeal of the appeal lodged by Hertfordshire County Council regarding the funding of aftercare under section 117 of the Mental Health Act. These costs appear in the Purchase of Care budget.	3.789	-3.789	0.000
Unspent Grants and Contributions- Mainly the Social Care Reform Grant which is being used to fund the Transformation in Adult Social Care.	3.571	-1.000	2.571
Total ASC reserves and provisions	**13.353**	**-5.233**	**8.120**

Adult Social Care Capital Programme 2014-15

Summary	2014/15		2015/16	2016/17
Scheme Name	Current Capital Budget	Forecast outturn at Period 9	Draft Capital Budget	Draft Capital Budget
	£'000s	£'000s	£'000s	£'000s
Adult Care - Unallocated Capital Grant	0	0	7,042	2,000
LPSA Domestic Violence	217	217	151	0
Failure of kitchen appliances	5	5	15	13
Adult Social Care IT Infrastructure	146	146	4	-
Improvement East Grant	5	5	23	-
Prospect Housing - formerly Honey Pot Farm	0	0	320	-
Great Yarmouth Dementia Day Care	235	235	150	-
Strong and Well Parnership - Contribution to Capital Programme	248	248	252	-
Bishops Court - King's Lynn	102	102	198	-
Rashes Green	15	15	0	-
Supported Living for people with Learning Difficulties	8	8	9	-
Redevelopment of Attleborough Enterprise Centre	28	28	14	-
Young Peoples Scheme - East	0	0	200	-
DoH - Extra Care Housing Fund (Learning Difficulties)	0	0	3	-
GT. YARMOUTH LD DAY SERVS-Certificate	19	19	0	-
Attleborough Community Hub CERF	17	17	0	-
Dementia Friendly Pilot - Wells	1	1	0	-
Dementia Friendly Pilot - Norse Care	95	95	0	-
Bowthorpe ASC Scheme	3,000	3,000	0	
Attleborough Windows	97	97	0	
Lakenfields	125	125	125	
Autism Innovation	19	19	0	
Cromer Road Sheringham (Independence Matters	2	2	198	
Winterbourne Project	50	50	0	
TOTAL	**4,434**	**4,434**	**8,704**	**2,013**

Adult Social Care Committee

Item No. 11.

Report title:	**The Care Act 2014**
Date of meeting:	**9 March 2015**
Responsible Chief Officer:	**Harold Bodmer, Executive Director of Adult Social Services**

Strategic impact

The Care Act consolidates existing legislation for adult social care in England into a single framework and introduces reforms to the way care and support will be accessed and funded in future. The Care Act is the biggest change in social care legislation since 1948. It became law on 15 May 2014.

There are some requirements of the Care Act that have to be implemented in April 2015 and some that have to be implemented in April 2016. This report asks Members to agree the Deferred Payments policy and also the Debt Recovery Policy for Adult Care Charges. Both policies have to be implemented in April 2015.

Executive summary

Norfolk's Deferred Payments policy will come into effect on 1 April 2015 and is based on the Care and Support (Deferred Payment) Regulations 2014. Deferred Payment Agreements have been introduced to prevent people from having to sell their home in their lifetime to pay for their care. In line with the Charging for Residential Accommodation Guide (CRAG), Norfolk has been operating a Deferred Payment Scheme since 1 October 2001. As CRAG is being repealed from April 2015, the proposed policy will replace the existing scheme.

In addition to this, Section 22 of the Health and Social Services and Social Security Act (HASSASSA) 1983 is revoked from 1 April 2015 which means that no new debts can be recovered under that provision. Therefore a Debt Recovery Policy for Adult Social Care Charges has been drafted which will form the basis for how Adult Social Care debts are pursued in the future. This policy is based on the guidance contained under Section 69 of the Care Act.

Recommendations:

Members are asked to agree the two policies attached:

- **Norfolk County Council Deferred Payments Policy (Appendix 1)**
- **Norfolk County Council Debt Recovery Policy for Adult Social Care Charges (Appendix 2)**

1 Background

1.1 The Care Act consolidates existing legislation for adult social care in England into a single framework and introduces reforms to the way care and support will be accessed and funded in the future. The Care Act is the biggest change in social care legislation since 1948. It became law on 15 May 2014.

1.2 Changes to the way Councils assess people for care, including new national eligibility criteria and a Universal Deferred Payment Scheme will commence in April 2015. Funding reforms including a Care Account, an increase to financial thresholds, and a cap on care costs will be brought in from April 2016.

1.3 There will be a significant impact for Norfolk County Council of the Act, especially given the number of older people in the County. The Act will increase demand on social care resources required to fund care, undertake additional assessments and to implement the legislation. Funding will be available to meet anticipated increase in costs but there is a high risk that this will be insufficient to meet the increase in costs.

1.4 Implications for Norfolk County Council (NCC) include:

a) Significantly more people being eligible for adult social care funding, especially given the number of older people in the County
b) Significant increase in number of people wanting social care assessments and financial assessments
c) More expenditure by NCC on packages of care
d) Potential impact on fees paid by NCC to providers, as less people will be funding their own care and more people will be funded by the Council
e) NCC will need to monitor the cost of peoples' eligible social care needs (including people who fund their own care), monitor when they are reaching their care cap and provide people with their annual account
f) Increase in request for deferred payments, which means NCC will have more debt
g) Potentially additional complaints
h) Additional resources required for implementation and in the future.
i) Huge potential cost impact to the local authority
j) Tight timeline

1.5 The national timelines are:

- May/June 2013 – Formal Bill
- Summer 2013 – Consultation with Local Authorities
- September 2013 – NCC sent response to consultation
- 15 May 2014 – Care Bill became the Care Act
- June 2014 - Consultation on draft regulations and guidance for April 2015
- September 2014 – NCC sent response to consultation
- October 2014 - Regulations introduced to Parliament and Guidance published
- **February 2015** - (originally timetabled for November/December 2014) - Consultation launched on draft regulations and guidance for the introduction of: the cap on care costs; extension to the means tests; and care accounts
- **April 2015** – Implementation of a number of requirements
- October 2015 - Regulations introduced to Parliament and Guidance published
- **April 2016** – Implementation of the Dilnot requirements

2 Proposals and Evidence

2.1 The Care Act 2014 places a duty on all local authorities to operate a Deferred Payments Scheme to allow persons to defer the sale of their home where it is needed to fund residential care fees. This is set out in the Care and Support (Deferred Payment) Regulations 2014. This will come into force on 1 April 2015.

2.2 The Care Act 2014 introduces a modern legal framework for the recovery of any

debts that may have accrued as a result of a local authority meeting a person's eligible care and support needs. This will come into effect from 1 April 2015.

3 Deferred Payments

3.1 NCC operates a Deferred Payments Scheme for people who do not want to sell their property when they move into residential care. The care fees accrue against the property and NCC secure this via a legal charge. The Council uses HASSASSA (Health and Social Services and Social Security Adjudications Act 1983) where someone who owns a property owes the Council money for residential care but refuses to engage with NCC. This means where a person does not pay their care fees, NCC can place a legal charge on their property in order to secure the amount due to the department. Whilst NCC have to inform the person of this, the Council can proceed with the charge without their consent.

3.2 Under the Care Act, Councils will have to operate a Universal Deferred Payments Scheme for people in residential care and also for those receiving care in supported living or housing with care. Also HASSASSA is being repealed from 1April 2015. As Councils are losing the provision of HASSASSA, NCC need to encourage as many people as possible to enter into a Deferred Payments Agreement as this will allow the person to defer the costs of care and will also safeguard the Council as any accruing care fees will be secured on the person's property. This will not affect those people who already have an existing Deferred Payments Agreement or a charge placed on the property under HASSASSA.

3.3 The key differences between the Universal Deferred Payment Scheme and the current NCC scheme are:

a) The Council can charge interest on any outstanding balance due to NCC. This is set nationally and is currently 2.65%. This will change again from 1 July 2015. Currently NCC only charges interest on an outstanding balance from 56 days after a person has died if the person has a Deferred Payment Agreement and the day after the person has died where the Council has placed a charge under the provision of HASSASSA

b) NCC can charge administration fees to recover the costs connected with the running of the Deferred Payments Scheme.

c) There will be an equity limit on the amount that can be deferred. This is the value of the property less 10% less £14,250 (which is the current lower threshold). This is new and will protect the Council as it will act as a buffer to cover any amounts of interest which accrue against the value of the property and also protects against changes in house prices. The Council will need to review the value of the property on an annual basis to make sure the level of equity hasn't significantly changed

d) The Deferred Payments Scheme is, in effect, a loan and therefore before NCC approve any deferred payment agreement we will want to ensure any future debt is secure. At the moment NCC offer Deferred Payments and check the level of security in the property before we proceed. The Council also sometimes places legal charges on properties under the provisions of HASSASSA as outlined above and whilst this will result in a legal charge being placed on the property, in some cases there may be doubt as to the level of security. With the new scheme these issues will no longer exist as NCC are stipulating in the Deferred Payments criteria that where the property is unregistered (with the Land Registry Office), before the Council will proceed with the Deferred Payments Agreement, the property must first be

registered thus ensuring any debt to NCC is secured on the property

e) The Care Act states that anybody entering into the Deferred Payment Scheme will be allowed to retain up to £144.00 per week to cover the costs of maintaining and insuring the property. This is considerably more than the current fixed cost allowed of £40.00 per week (in addition to the Personal Expenses Allowance of £24.40 per week and the Savings Credit disregard of £5.75 per week)

f) If the Deferred Payments Agreement is terminated because the person has died, the amount owed to NCC under a deferred payment agreement falls due 90 days after the person has died. After this 90 day period, if the Council concludes active steps to repay the debt are not being taken, NCC can enter into legal proceedings to reclaim the amount due to it. Currently the Council will liaise with Executors to establish how the sale of the property is progressing but NCC very rarely enforces a sale. The Act will give Councils more powers in this respect

g) NCC will offer Deferred Payments to those people in Supported Living or Housing with Care as well as those people living in residential care (as agreed at Adult Social Care Committee in January 2015). Currently NCC only offer Deferred Payments to people in residential care

4 Debt Recovery

4.1 Norfolk County Council already has a debt recovery process which the Council follows to recover any amounts due to the authority. In addition to this the Council has to date been able to use the provisions under the Health and Social Services and Social Security Adjudication Act (HASSASSA) 1983 to recover Adult Social Care debts. HASSASSA is being revoked from 1 April 2015 and no new debts can be recovered under that provision.

4.2 The Care Act introduces a new modern framework to recover Adult Care Debts which replaces HASSASSA. Ultimately the Care Act enables a local authority to make a claim to the County Court for a judgment in order to recover the debt., This however can only be used once more consultative processes have been followed including mediation and/or negotiation for staged payments.

4.3 Initially a local authority must offer a person the option of a Deferred Payment Agreement (DPA) in order to recover the debt wherever the person could be offered a DPA. Councils can only make an application to the court should this be refused. Therefore the proposal is that Norfolk expands it's DPA criteria to include those people moving into Supported Living and Housing with Care (as well as those moving into Residential Care). This will help with the debt recovery process moving forward.

4.4 The Care Act introduces an extended time frame by which Councils can chase care debts. This increases the period of recovery from three years to six years. However, it is very specific in that where there are any debts outstanding as at 31 March 2015, if legal proceedings have not commenced within the three year limitation period, the debt must be written off. An exercise is currently in progress to establish the potential impact of this change and to undertake appropriate steps to mitigate any potential losses.

4.5 The Council's corporate debt recovery policy is currently being reviewed to take account of these legislative changes and the Debt Recovery Policy for Adult Social Care Charges will form an appendix to that document.

5 Financial Implications

5.1 There will be a financial impact to NCC from extending it's offer of deferred payments to people in Housing With Care and Supported Living along with the national publicity campaign which could increase the numbers asking for Deferred Payments. If the number of people having deferred payments increases, there will be an increase in the amount of money owing to Council and also an impact on the authority's cash flow. Any increase in numbers should be offset to some extent by the Council being able to charge interest and administration charges during the life of the agreement.

5.2 There may be an amount of debt which needs to be written off (in line with the guidance in the Care Act) however, as the limitation period increases from three years to six in the future, this will allow NCC more time to pursue outstanding care charges due to the authority in the future.

5.3 There are also significant financial implications to NCC from the requirements of the Care Act that have to be implemented in April 2016, which have been mentioned earlier in the report including: more people being eligible for social care funding and the Council having to fund more packages of care; more people asking for social care – and financial assessments; and more administrative costs. Further reports on the 2016 requirements, including the potential costs and funding, will be brought to the Adult Social Care Committee once an analysis of the draft regulations and guidance on these aspects of the Care Act has taken place.

6 Issues, risks and innovation

6.1 There are no other key issues and risks, other than contained elsewhere in the report, to bring to the attention of the Committee.

Officer Contact

If you have any questions about matters contained in this paper or want to see copies of any assessments, eg equality impact assessment, please get in touch with:

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Norfolk County Council

Deferred Payments Policy

Contents

1. Legal Status

1.1 The Care Act 2014 places a duty on all local authorities to operate a Deferred Payments Scheme to allow persons to defer the sale of their home where it is needed to fund residential care fees. Please refer to The Care and Support Deferred Payment) Regulations 2014. This will come into force on 1st April 2015.

1.2 This policy is made having due regard to the Statutory Guidance issued by the Secretary of State. Norfolk will apply the guidance contained in the Care and Support Statutory Guidance 2014, save where the contrary is indicated in this policy. The policy is made having regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010, together with the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

1.3 Where this policy leaves a discretion to the Council, Norfolk County Council (NCC) will exercise that discretion in the following way:

- The discretion will be applied so as to ensure as far as possible the individual will contribute to the cost of their care and support in accordance with the Care and Support Statutory Guidance.

- Where a discretion has been exercised, the assessment will include a note of the written reasons why the discretion has been exercised in the way it has.

- The assessment will also include the initials of the person who has exercised the discretion along with those of the manager who will have approved this.

1.4 The Care Act 2014 section 34 subsection 4 states that “Regulations under subsection (1) may, in particular prohibit a local authority from entering into, or permit it to refuse to enter into a deferred payment agreement unless it obtains adequate security for the payment of the adults deferred amount. These regulations are enacted in Regulation 4 of the Care and Support (Deferred Payments) Regulations 2014.

1.5 Deferred payment agreements should prevent people from having to sell their home in their lifetime to pay for their care.

1.6 It allows deferred payments to be offered to people who decide to sell their home by way of “bridging finance” i.e. to enable the person to delay paying their care fees until a later date.

1.7 The Act allows deferred payments to be offered to people who have incurred a debt in relation to their residential care fees. The Council has also decided to offer deferred payments in respect of supported living fees. However, deferred payments will not be available where the supported living accommodation is purchased freehold or on a long lease exceeding 21 years.

1.8 It also allows local authorities further discretion to offer the deferred payment scheme where otherwise a person might be required to sell their home to pay for care.

1.9 The Act allows local authorities to charge interest on deferred costs and administrative charges connected with the running of the Deferred Payments Scheme (DPS).

2. Eligibility Criteria

2.1 Norfolk County Council will offer a deferred payment to people who meet the criteria as set out below:

- Anyone whose needs are to be met by provision of care in a care home or in Supported Living (subject to paragraph 1.7 above);

- Anyone who has less than (or equal to) £23,250 in assets excluding the value of their home (i.e. in savings and other non-housing assets); and

- When the person's home is not occupied by a spouse or dependent relative as defined in NCC's charging policy. This is because the property will be disregarded in the financial assessment.

In addition to the above:

- The person, for whatever reason, does not wish to sell the property or is unable to sell it quickly enough to meet the full cost of their care.

  The person must have a beneficial interest in the property (please see section 4.4 regarding other forms of security).

- There must be enough equity in the property to pay back the amount that has been deferred.

- NCC will only enter into a Deferred Payment Agreement (DPA) where it is able to place a Land Registry charge on the property. Where the property is unregistered, NCC will require the person or their representative to ensure the property is registered before it will enter into a DPA or provide sufficient evidence of unregistered title to satisfy that the property may be registered upon the legal charge being completed. This will be the usual evidence of title deeds that would be accepted on a sale or mortgage transaction.

- The adult or their legal representative must consent to the agreement and the deferred payment must be signed by a person with capacity to make the decision or their legal representative.

- The amount being deferred must be sustainable.

Example of a person meeting the eligibility criteria:

Lucille develops a need for a care home placement. She lives alone and is the sole owner of her home. Her home is valued at £165,000, and she has £15,000 in savings. Lucille meets the criteria governing eligibility for a deferred payment.

3. Refusing a deferred payment agreement

3.1 There will be occasions where NCC will refuse a DPA.

These include where:-

- There is insufficient equity in the property to meet the costs of care;
- NCC is not satisfied that our interest is secure;
- We are unable to obtain a legal charge by way of a mortgage on the property;
- The person lacks capacity and there is no appointed deputy to make such a decision. Please refer to 4.8 below for the action which should be taken in such cases.
- The person does not agree to the terms and conditions of the agreement e.g. the requirement to insure and maintain the property.

3.2 There will also be occasions where the person chooses not to take advantage of the DPS. In these cases the person will be informed that they will be expected to pay the full cost of their care and will be invoiced as such.

3.3 If they then fail to pay their invoices this will be dealt with via NCC's debt recovery process.

4. Information and advice

4.1 Under the Care Act, NCC like all other local authorities has a responsibility to provide information and advice about deferred payment schemes. In order to be able to make well-informed choices, it is essential that people access appropriate information and advice before entering into a DPA.

4.2 It is also important that people are kept informed about their DPA throughout the course of the agreement, and that they (and the personal representative of their estate where appropriate) receive the necessary information upon termination of the agreement.

4.3 DPAs are often made during a time that is demanding for a person and their loved ones and therefore they may need additional support during this period. NCC

has a role in providing this support and facilitating their transition, particularly if the transition to care is rapid and/or at an unexpected point.

4.4 NCC will provide information in a way which is clear and easy to understand and compliant with the requirements of the Equality Act 2010. The information will include the following:

- Any fees being deferred must still be paid back at a later date, for example through the sale of the home (potentially after the individual's death);

- The types of security that NCC is prepared to accept. In the first instance this will be a first legal charge on the property, however where this is not achievable then we will consider at our discretion in individual circumstances the following:-
  - Acceptance from a third-party guarantor to settle the outstanding charge. This is subject to the guarantor having / offering an appropriate form of security;
  - A solicitor's undertaking letter;
  - A valuable object such as a painting or other piece of art; or
  - An agreement to repay the amount deferred from the proceeds of a life assurance policy.

In each case, consideration of the above will be based on whether it offers adequate security and whether it is reasonable, affordable and practical for NCC to accept it as such, including the terms of any agreements required to give effect to this including whether such an agreement can be practicably offered without breaching consumer credit legislation.

4.5 In addition to the above the person will be made aware that the total amount they can defer will be governed by an equity limit which may change if the value of their security changes.

4.6 They will be given a projected limit of what the person's equity will cover and how their care costs will change over time.

- The circumstances where we either will or may cease to defer further amounts;

- An explanation as to how interest will be charged on any amount deferred and confirmation that the person will be liable to pay administrative charges;

- Any costs including property valuations, administration charges and interest chargeable will be contained in a public list of charges;

- An explanation as to what happens on termination of the agreement, how the loan becomes due and the options for repayment;

- What will happen if the person does not repay the amount due;

- The criteria governing eligibility for a DPA;

- The requirements that must be adhered to during the course of the DPA including insuring and maintaining the property;

- The impact that a DPA may have on the person's income, their benefit entitlements, and how charging will work;

- An overview of some potential advantages and disadvantages of taking out a DPA, and an explanation of other available options for paying for care that the person may wish to consider;

- The existence of the 12-week disregard for residential care which will afford those who qualify for it some additional time to consider their options in paying for care;

- If the person is paying a top-up what might happen if the person reaches the equity limit i.e. we may not be willing to fund their top-up, and the person may need to find other ways to pay for it or be prepared for a change in their care package;

- When to seek Independent Financial Advice regarding what is the best option for the person moving forward.

4.7 The person will be advised that one of the requirements of the DPA is that the property is adequately insured. If the person does not have insurance they will be advised that they need to have this to be accepted onto the scheme. They will also be informed that NCC offers an Insurance Service which they can consider.

4.8 Where the person is unable to enter into a DPA, due to lack of capacity; and there is no one empowered to support them, in the first instance we will look for a family member to apply to the Court of Protection for a Deputyship order.

If there is nobody able or suitable to take on this responsibility, NCC will look to apply for Deputyship for the person. Once NCC receives legal authority to act for the person, they will enter in the Deferred Payments Agreement or an equivalent arrangement on the person's behalf.

Whilst Deputyship is being obtained NCC will pay the provider and send regular invoices detailing the charges to be paid to the person applying for deputyship. If the deputyship is obtained and the responsible party has not paid we will seek to recover the outstanding debt via a court order.

In such cases NCC will ask the person applying for Deputyship to sign a letter of undertaking agreeing to pay the care fees to NCC once Deputyship has been awarded.

5. Deferred Payments and the 12 Week Disregard

5.1 Where it is necessary to sell the property to fund the care , i.e. any other available resources are below the upper capital limit (£23,250), then a 12 week property disregard will be automatic for those in residential care and the DPS will be available subject to the appropriate eligibility criteria.

5.2 During the 12 week disregard, NCC will use this time to provide information and advice on the DPS and will discuss with the person how they plan to use, insure and maintain their property once they have signed up to the DPA.

5.3 NCC will ensure that there is a smooth transition to the DPS by the 13th week of residential care.

5.4 During the 12 week period the person will be assessed on their income and capital assets (not including their property) and will be allowed to retain the Personal Expenses Allowance of £24.40 per week.

5.5 The 12 week disregard will not apply to those in Supported Living as the property will be included as a capital asset from the date the person takes up the tenancy nor will it apply to those already in residential care who may need to access local authority support.

6. How much can be deferred?

6.1 A person can defer all of their care costs including any top up payment; subject to any contribution the person has to make from their income. Before agreeing to the DPA, NCC will consider whether a person can provide adequate security to cover the amount being deferred.

6.2 If the person is considering a top-up, NCC will consider whether the amount or size of the deferral requested is sustainable given the equity available from their chosen form of security. A discussion of sustainability will take place in all cases to ensure the person is aware of how much care their chosen form of security would afford them. They will also be advised of what will need to happen once they are unable to meet the costs of the top-up.

7. Contributing to care costs from other sources

7.1 A person may meet the costs of their care and support from a combination of any of four primary sources:

- Income including pension income;
- Savings or other assets they might have access to, this might include any contributions from a third party;
- A financial product designed to pay for long-term care; or

- A deferred payment agreement which enables them to pay for their care at a later date out of assets (usually their home).

7.2 The costs involved in maintaining the property e.g. insurance and repairs must be met by the person. The Department of Health guidelines and regulations state that an amount of up to £144.00 per week should be allowed to be retained by the person towards the upkeep of their property, if they want it. This is called the Disposable Income Allowance. NCC will therefore ensure the actual amount being allowed is discussed and agreed with the person as part of the Deferred Payments process.

7.3 Once a DPA is in place, the person may want to pay more towards their deferred payment than what has been agreed. NCC is willing to accept any payment over and above what has been agreed as this would then help reduce the overall debt to NCC.

7.4 Once the property is sold and the person is no longer in the DPS, whatever amount has been agreed as the Disposable Income Allowance will revert to the Personal Expenses Allowance which is currently £24.90 per week.

Example of contributing towards care costs:

Lucille identifies a care home placement that meets her care and support needs, costing £540 per week. She has an income provided by her pension of £230 per week.

Lucille decides not to rent her home as she intends to sell it within the year.

Based on this provisional estimate of her care costs, Lucille would contribute £86.00 per week (£230 –£144) from her income, and her weekly deferral would be £454.00.

8. Valuation of property

8.1 Before we can proceed with a DPA, NCC will require a current valuation of the persons' property. NCC will arrange this and the cost of the valuation passed onto the person. This is to ensure that there is sufficient equity in the property to cover the amount being deferred.

8.2 In some cases the person may decide to have an independent valuation as well as one arranged by NCC. If the independent assessment finds a substantially differing value to NCC's valuation, we will discuss this with the person and agree on an appropriate value to be included in the financial assessment.

8.3 The equity limit for a property will be set at the value of the property minus 10%, minus £14,250 (for financial year 2015/16, which is the lower capital limit) and the amount of any encumbrance secured on it. Please note that when eventually the property is sold, NCC will deduct the actual costs of sale when assessing the person's capital.

8.4 Wherever possible NCC will want to ensure that we have the first charge on the property, however where this is not possible (e.g. because there is an outstanding mortgage on the property) we will agree to a second charge being placed, where there is sufficient equity for this, to ensure the care fees are secured or to other forms of security as outlined at 4.4 above.

8.5 NCC will confirm to the person the value that is being included in the financial assessment and will also ask for an annual valuation of the property to ensure there is still sufficient equity in the property to secure the deferred amount. The valuation will be net of any outstanding loan or mortgage.

8.6 When the person's property is approaching or reaches the point at which they have deferred 70% of the value of the property (less any amount allocated to another legal charge or mortgage that has priority over the DPA), we will review the cost of their care with the person, discuss when the person might be eligible for any means tested support and any implications for any top-up they might currently have and consider jointly whether a DPA continues to be the best way forward.

8.7 NCC will not allow additional amounts to be deferred beyond the equity limit and will refuse to defer care costs beyond this. However, interest and administrative charges can still accrue beyond this point and be deferred.

Example of the Equity Limit:

Lucille decides to secure her deferred payment agreement with her house, which is worth £165,000.

The amount of equity available will be the value of the property minus ten percent, minus a further £14,250 (the lower capital limit).

£165,000 – £16,500 - £14,250 = £134,250

Therefore, her 'equity limit' for the total amount she could defer would consequently be £134,250, which would leave £30,750 in equity in her home.

9. Renting the property out

9.1 If a person decides to rent out their property during the course of their DPA, as NCC will already be allowing the person to retain a Disposable Income Allowance of up to £144.00 per week to cover costs such as maintenance of the property, insurance etc, we would expect any net rental income to be paid towards the care charges. Net rental income is income available to the person after deduction of any income tax applicable to it, and property agent management fees, but not deducting any insurance or other property maintenance as this should be covered by the Disposable Income Allowance.

10. Types of property ownership

Sole Ownership

10.1 This is where a person owns their property outright with no other owners.

Jointly owned property (Joint Tenants/Beneficial joint tenants)

10.2 Property held as joint tenants is where all co-owners have equal rights to the whole property. If one of the owners dies, the property automatically goes to the other owners. Ownership cannot be passed on in a will and the property can only be sold or re-mortgaged with the other owners' agreement.

Tenants in Common

10.3 This is where a person can own different shares of the property. Each owner can dispose of their share however they choose but the property can only be sold or re-mortgaged with the other owners' agreement.

10.4 In either of the above cases, to access the deferred payment scheme all parties will have to agree to the charge being placed on the property. The DPA will need to be signed by all of the owners.

10.5 If one of the owners refuses to sign the agreement, this does not mean that the property cannot be taken into account, it just means the deferred payment scheme cannot be accessed. It is crucial that the person or their representative is made aware of the implications i.e. that they will still be charged the full cost of their care.

10.6 If non-payment occurs then NCC's Debt Recovery Policy will be followed. Please refer to the Debt Recovery policy for further information.

11. Interest rate and administration charges

Interest rate

11.1 The Deferred Payments regulations will state the maximum interest rate that can be charged on deferred payments. NCC will apply this rate to any amounts being deferred.

11.2 The interest rate for deferred payments is based on the cost of government borrowing – more formally, the 15-year average gilt yield, as set out by the Office for Budget Responsibility twice a year (1st January and 1st July) in their Economic and Fiscal Outlook report.

11.3 On the basis of the current gilt rates (2.5 %), the interest rate will be 2.65% (when the default component is added in). This rate will be applicable from 1 April until 30 June 2015.

11.4 From 1 July – 31 December 2015, the rate will match the figures published with the 2015 Budget (likely to be published March 2015).

11.5 From 1 January 2016 – 30 June 2016, the rate will match the figures published with the 2015 Autumn Statement.

11.6 Compound Interest will be calculated on a daily basis and applied to the account every four weeks. Please note this only applies to those people who move into Residential Care or Supported Living after 1st April 2015. For anybody else who already has a Deferred Payment Agreement (with NCC) or a Legal Charge under the provisions of HASSASSA (Health and Social Services and Social Security Adjudication), interest will be applied as specified in the initial agreement".

11.7 Interest can accrue on the amount deferred even once someone has reached the 'equity limit'. It can also accrue after someone has died up until the point at which the deferred amount is repaid to NCC.

11.8 If NCC is in a position of being unable to recover the debt, we will look to pursue through the County Court system and will then charge the higher County Court rate of interest. This is currently charged at 8%.

Administration charges

11.9 NCC will charge an administration charge in relation to DPAs. There will be a set-up fee which will be an average of the following costs:

- Postage, printing and photocopying in relation to the agreement
- Staffing costs including overheads
- Land registry fees
- Legal costs
- Valuation fees and land search fees.

11.10 NCC will also pass on the actual costs incurred during and at the end of the Deferred Payment Agreement including any costs associated with revaluing the property, the cost of providing statements and any charges incurred in removing the legal charge from the property.

11.11 If the person holds insufficient funds to pay either the interest applied or the administration charge, this can be added to the amount being deferred.

12. The Legal Agreement

12.1 Where the person enters into a DPA, they will need to sign an agreement confirming that they wish to take advantage of the DPS and that all implications have been explained.

12.2 The complete process, timescales and policy of the council will be provided to the person in writing.

12.3 The Agreement will clearly set out all terms, conditions and information necessary to enable the person to ascertain his or her rights and obligations under the agreement.

12.4 NCC will ensure that people sign or clearly and verifiably affirm they have received adequate information on options for paying for their care and that they understand how the DPA works.

13. Periodic Statement of Accrued Debt

13.1 The person will be informed every six months of the current level of outstanding debt, reminded of the rate at which it is growing and given an estimate of the length of time their remaining assets will be sufficient to fund the full cost of their care.

13.2 In times of an economic downturn it is possible that property values will go down, possibly significantly, and this could impact on the self-funding period. Regular valuations of the property will be undertaken annually as outlined at 8.5 above.

14. Benefits Entitlement

14.1 As a self-funder the person is likely to be entitled to and should apply for Attendance Allowance or Personal Independence Payments if they are not already receiving either of these or Disability Living Allowance (care component). The Financial Assessment staff will ensure the person is made aware of this.

14.2 The person or their legal representative will also be advised that it is their responsibility to notify the Department for Works and Pensions (DWP) of any changes to circumstances.

14.3 Once the person is no longer being charged the full cost because either their property has been sold or we have worked out that the person has reached their maximum amount that can be deferred, the person or their legal representative will be informed to notify the DWP that they are no longer being charged the full cost of their care. This means that the Attendance Allowance, the care component of Disability Living Allowance or the Daily Living component of Personal Independence Payment will stop and there may be entitlement or increased entitlement to Employment Support Allowance (ESA) or Pension Credit dependent upon their age.

14.4 If the property has not been sold but we are no longer including this because the person has reached the maximum that can be deferred and claims for ESA or Pension Credit are rejected, the person will be advised to seek independent advice regarding their benefit entitlement from either a voluntary or statutory sector advice agency or the Welfare Rights Unit and in some cases, the person may be asked to submit a reconsideration request to the DWP.

15. Termination of agreement

15.1 A deferred payment agreement can be terminated in three ways:

a) at any time by the individual, or someone acting on their behalf, by repaying the full amount due (this can happen during a person's lifetime or when the agreement is terminated through the DPA holder's death);

b) when the property (or form of security) is sold and the authority is repaid; or

c) when the person dies and the amount is repaid to the LA from their estate.

Repaying the full amount due

15.2 A person may decide to repay the amount due to NCC from another source, or a third party may elect to repay the amount due on behalf of the individual. In either case, NCC should be notified of the person's/the third party's intention in writing, and we will then relinquish the charge on the property on receipt of the full amount due.

When the property is sold

15.3 If a person decides to sell their home, they should notify NCC during the sale process. The person will be required to pay the amount due to NCC from the proceeds of the sale and upon receipt of payment, NCC will relinquish the charge on the person's property.

The actual sale price will be used for the final calculation of the amount due to NCC.

When the person dies

15.4 If the deferred payment is terminated due to the person's death, the amount due to NCC must be either paid out of the estate or paid by a third party. A person's family or a third party may wish to settle the debt by other means of repayment (as may be the case if the family wants to avoid having to sell the property), and NCC will accept an alternative means of payment in this case, provided this payment covers the full amount due.

As the responsibility for paying the amount due to NCC will fall to the personal representative of the Estate, they can decide how the amount is to be paid; either from the person's estate (usually via the sale of the house or potentially via a life assurance policy) or from a third party source.

NCC will wait at least two weeks following the person's death before approaching the personal representative with a full breakdown of the total amount deferred.

Interest will continue to accrue on the amount owed to NCC after the individual's death and until the amount is repaid in full.

If the DPA is terminated through a person's death, the amount owed to NCC under a deferred payment agreement falls due 90 days after the person has died. After this 90 day period, if we conclude active steps to repay the debt are not being taken, for example if the sale is not progressing despite us actively seeking to resolve the situation (or we conclude the personal representative is wilfully obstructing sale of the property), we will enter into legal proceedings to reclaim the amount due to us. This is to enable us to protect the public purse.

In whichever circumstance an agreement is terminated, the full amount due to NCC must be repaid to cover all costs accrued under the agreement (including care costs, any interest accrued and any administrative or legal fees charged), and the person and/or the third party where appropriate, must be provided with a full breakdown of how the amount due has been calculated.

Once the amount has been paid, NCC will provide the individual with confirmation that the agreement has been concluded, and confirm that the charge against the property has been removed.

16. When will we stop deferring the care costs?

16.1 There will be circumstances when NCC will refuse to defer any more charges for a person who has an active deferred payment agreement. Circumstances when NCC may refuse to defer any more charges include:

(a) when a person's total assets fall below the upper threshold which is currently £23,250 and the person then becomes eligible for NCC support (in paying for their care);

(b) where a person no longer has a need for care in a care home or supported living accommodation;

(c) if a person breaches certain predefined terms of their contract (which will be clearly set out in the contract) and NCC's attempts to resolve the breach are unsuccessful.

16.2 NCC will also cease deferring further amounts when a person has reached the "equity limit" that they are allowed to defer (please see the section above 'how much can be deferred') or when a person is no longer receiving care and support in either a care home setting or in supported living accommodation.

16.3 This also applies when the value of the property has dropped and so the equity limit has been reached earlier than expected.

16.4 In any of the cases above, we will provide a minimum of 30 days, advance notice that further deferrals will cease and will also explain to the person how their care costs will need to be met in the future. Depending on their circumstances, the person may either receive local authority support in meeting the costs of their care, or may be required to meet their costs from their income and assets.

17. Continuing Healthcare

17.1 The deferred payment will not cease just because full continuing health care funding is awarded resulting in no funding being due from the local authority for care charges.

17.2 NCC will however, ask for voluntary payments to continue towards the debt that accrued prior to Continuing Health Care being awarded as this will reduce the amount of the debt set against the value of the property.

17.3 NCC will also continue to charge interest until the debt is cleared.

18. Complaints

18.1 A person may wish to make a complaint about any aspect of the Deferred Payment process. NCC will therefore make it clear what our complaints procedure is and provide information and advice on how to lodge a complaint.

18.2 All complaints relating to Deferred Payments should be referred to the Compliments and Complaints Team. Full details on how to do this and how complaints are handled are shown under the Compliments and Complaints section on NCC's website.

18.3 Complaints about deferred payments are subject to the usual Care and Support complaints procedure as set out in The Local Authority Social Services and NHS Complaints (England) Regulations 2009.

Norfolk County Council

Debt Recovery Policy – Adult Care Charges

Contents

1. Legal Status

1.1 The Care Act 2014 introduces a modern legal framework for the recovery of any debts that may have accrued as a result of a local authority meeting a person's eligible care and support needs. This will come into effect from 1st April 2015.

1.2 Section 22 of the Health and Social Services and Social Security Act (HASSASSA) 1983 is revoked from 1st April 2015 and no new debts can be recovered under that provision. New powers are provided under Section 69 of the Care Act that provides equal protection to both the local authority and the person.

1.3 Section 70 of the Care Act also provides a local authority with the power to recover charges from a third party where a person has transferred assets to them in order to avoid paying charges for care and support.

1.4 The reason for the change is that the powers under HASSASSA are unilateral. They allow a local authority to place a charge against a person's property but do not give the person from whom the recovery of the debt is being pursued the opportunity to seek alternative means for payment. The new powers under Section 69 of the Care Act provide equal protection for both the local authority and the person.

1.5 This policy is made having due regard to the Statutory Guidance issued by the Secretary of State. Norfolk County Council (NCC) will apply the guidance contained in the Care and Support Statutory Guidance 2014, save where the contrary is indicated in this policy. The policy is made having regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010, together with the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

1.6 NCC is aware that it is bound by the public law principle of acting reasonably at all times and must act in accordance with human rights legislation, as well as the wellbeing principle set out in the Care Act. Given this, we will consider all other reasonable avenues before utilising the powers provided under the Act.

1.7 Ultimately the Care Act enables a local authority to make a claim to the County Court for a judgment in order to recover the debt. As a first port of call, a local authority must offer a person the option of a deferred payment agreement (DPA) in order to recover the debt wherever the person could be offered a DPA, and can only make an application to the court should this be refused.

2. Approach to debt recovery

2.1 Where the person is assessed as needing care and support, they (or their representative) will be advised at the outset that care and support is a chargeable service.

2.2 The person or their representative will also be advised that everyone receiving care and support will be subject to a financial assessment to determine what the person can afford to pay towards their care and support.

2.3 The financial assessment will be carried out in a timely manner and the person or their representative will be notified in writing of the amount they have to pay along with the frequency of the invoicing and the payment methods. They will also be informed of their right to a review and what they should do if they disagree with their financial assessment.

2.4 The person or their representative will be asked to sign a declaration confirming the information they have provided is correct and also that they are agreeing to pay their assessed contribution towards their care and support.

2.5 Where the person or their representative defaults in paying the care charges, NCC will follow the debt recovery process as detailed below.

3. Debt recovery process

3.1 The point at which a debt becomes due continues to be the date at which the sum becomes due to NCC. Our invoices are raised with the terms “due now” however debt recovery action will commence when a debt has been outstanding for more than 31 days.
3.2 Where the debt becomes due, NCC Credit Control staff will follow the corporate debt recovery process, however for Adult Care debts, as well as reminder notices being issued, we will also attempt to contact the debtor by telephone and on some occasions will visit them.

3.3 As part of the contact with the person or their representative we will discuss the debt with them to try and establish how it has arisen.

3.4 If it is established that the debt is due to the person’s capacity or there are safeguarding concerns, the case will immediately be referred back to Adult Social Care staff.

3.5 If it is identified that any of the following apply the matter will be referred to the Financial Assessment team for the charge to be amended. Any amendments to the account will be actioned within 28 days and the person or their representative informed of this:-

- change in financial circumstances;
- the service hasn’t been delivered and the charge is incorrect;
- there has been an administrative error.

3.6 In some cases the person receiving care and support will be awaiting the outcome of an application for state benefits or they may have received less benefits than expected. The person will either be expected to make a part payment (based on other assessable income) pending the payment of benefits or a review of the financial assessment may be required where the benefit payments are less than initially expected. If the latter, the case will need to be referred to the Welfare Rights Unit in the first instance as an appeal to the Department for Work and Pensions (DWP) may be required.

4. Reasons for non-payment and recovery options

4.1 There is no attorney or deputy

In some cases the person will lack capacity and there will be no one with the authority to act on their behalf. In such cases a referral will need to be made to the allocated Social Worker or Social Work Team where there is not an allocated worker as consideration will need to be given as to who is best placed to manage the person's finances in the future.

4.2 The person states they cannot afford the charge

If a full financial assessment has been undertaken then the person should be able to afford the charge. Disputes may arise where the person has outgoings, such as credit card bills or loan repayments which are not an allowable expense. In these cases we may advise the person to seek independent financial advice or suggest they seek advice from the Citizens Advice Bureau, the National Debtline, Step Change Debt Charity or NCC's Welfare Rights Unit. Any of these will help the person to negotiate a repayment plan with creditors.

We would still expect the care charges to be paid, however we may need to consider an instalment option whilst any other debts are being negotiated.

4.3 The person has been a victim of financial abuse

During a safeguarding investigation, it may become clear that non-payment may have occurred due to the person having been the victim of financial abuse. As the Welfare Rights Unit will be working closely with the Safeguarding Team, they will liaise with Credit Control regarding the debt.

Where concerns of suspected financial abuse are identified during the debt recovery process, these should be referred to MASH (Multi Agency Safeguarding Hub).

There will be occasions where funds are not available to pay outstanding invoices and therefore a write off may be needed if misappropriated funds cannot be recovered.

4.4 The person believes they are entitled to Continuing Healthcare

Applications for Continuing Health Care are not always successful or backdated. Therefore until full Continuing Health Care (CHC) has been awarded, any debt relating to care and support will be pursued in line with the processes as outlined below.

5. Recovering the debt

5.1 In line with the Care Act 2014, wherever possible, NCC will have offered the person receiving care and support or their representative the option to enter into a DPA. Please refer to our Deferred Payments policy for further information.

5.2 Where the person does not meet the criteria for a DPA, we will try and negotiate an agreement to repay the debt with the person or their representative. This may include agreeing the creation of a voluntary legal charge over the person's assets to secure the debt. Where necessary we may advise the person to seek independent financial advice or suggest they seek advice from the Citizens Advice Bureau, the National Debtline, or Step Change Debt Charity.

5.3 If any debts are pursued in court proceedings, the court will expect the local authority to have exhausted any reasonable alternative dispute resolution avenues available to recover the debt, these may include mediation and/or arbitration. Where these are appropriate advice will be given by NPLaw on a case by case basis. However, it is important to note that proceedings must be actually issued in the County Court before the three or six year limitation period expires from when the debt became due.

5.4 For any new debts that occur after the commencement of the Care Act 2014, the time period to recover debts has been extended to six years from the date when the sum became due to the local authority.

6. Court proceedings

6.1 Where all reasonable efforts have been made to recover the debt owed, NCC will look to proceed to the County Court in order to recover the amount due.

6.2 Our Credit Control Team will work closely with NPLaw in order to progress the claim.

6.3 The issue of claim and other processes, including enforcement, attracts a court fee. Any fees including time spent on recovering the debt will be added to the overall amount charged to the person receiving care and support.

6.4 Once the court has issued the claim, a Notice of Issue will be sent to NCC and a copy of the claim will be sent to the person we are seeking to recover contributions from. The person will then have the options of not responding to the claim, admitting the full amount of the claim, or defending the claim.

6.5 If no response is received to the claim, or if the person admits part or the whole amount of the claim, and NCC accepts the part admission, we may request the court to enter judgment against the person. We will then commence enforcement proceedings if the person does not pay the judgment.

6.6 If the claim is defended or NCC does not accept the part admission, the claim will proceed to the next stage and further details are set out below.

6.7 If the person lacks capacity to conduct proceedings, i.e. they are a protected party, NCC can only issue and serve the claim. At this point, any person who lacks capacity to litigate will need to have a Litigation Friend appointed which involves a separate application. NCC will inform the Court that there is a need for a Litigation Friend. The role of the Litigation Friend is to represent the person in Court.

6.8 Where the person has a relevant attorney or deputy, that person may be appointed as a Litigation Friend with the permission of the Court. Ultimately it is the Court that will appoint the Litigation Friend.

6.9 Where a person does not have a relevant attorney or deputy, any of the following could apply to become a Litigation Friend:-

- a parent or guardian
- a family member or friend
- a solicitor
- a professional advocate, e.g. an Independent Mental Capacity Advocate (IMCA).

6.10 Once appointed they may raise any issue that the person would such as disputing the debt, seek alternative arrangements to repaying the debt or raise any other issues they consider relevant to the question of the debt.

6.11 If a claim is defended, it will be provisionally allocated to one of three tracks based solely on the value of the claim. These are:-

- The small claims track for claims under £10,000
- The fast track for claims of £10,000 - £25,000
- The multi-track for claims over £25,000.

At this point both NCC and the person or their representative will be directed to complete and return a Directions Questionnaire. If the case is allocated to the multi-track, the court will also require NCC to file a costs budget. Where the case is allocated to the small claims track and **both** parties indicate they wish to use the in house mediation scheme provided by the HM Courts and Tribunals Service (HMCTS) the mediator will contact the parties with a view to resolving the dispute.

If the parties do not wish to use the service or the claim is allocated to one of the other tracks, the claim will be sent to a County Court hearing centre. A preference can be indicated on the claim form and Directions Questionnaire.

6.12 On receipt at the County Court hearing centre the papers will be referred to a judge for directions. Depending on the value and complexity of the claim the judge will confirm or may change the track allocation. The court may give directions for case management of the proceedings and a hearing may be fixed. In some instances, a further listing and hearing fee will be payable.

7 Receiving a county court judgment or order

7.1 Once a final judgment or order has been made, it is not possible to add any further debts that may have accrued. Should debts continue to accrue, NCC will need to begin the debt recovery process afresh.

8 Enforcing the judgment or order

8.1 Where there is a court order or judgment for payment, but the person has not complied with it, NCC will enforce the order.

8.2 There are various methods of enforcement and NCC will consider which is the most appropriate taking into account the person's circumstances and our responsibilities to the person. The most appropriate are likely to be:-

- A warrant or writ of control;
- An attachment of earnings order;
- A third party debt order; or
- A charging order.

8.3 A warrant or writ of control essentially enables enforcement agents or officers to take control of goods from the person's home or business. If the order is for £5,000 or less, an application for a warrant of control may be made to the County Court. If the order is for over £5,000 we may apply to the High Court for a writ of control.

8.4 An attachment of earnings order allows for the periodic deduction of monies by the person's employer (where they are known). It cannot be used if a person is unemployed or self-employed. An application may also be made to the court for deductions to be made from other earnings such as a pension. Earnings are disregarded during the financial assessment of what a person can afford to contribute towards the cost of their care so in some instances, this may be an option.

8.5 A third party debt order will instruct a third party such as a financial institution that holds a bank or building society account for the person to pay out the available funds, less that financial institution's fees. The process will only be successful if there are monies in the account on the day the financial institution receives the court order. Third party debt orders may not be made where the account is held in the name of more than one person. Savings are taken into account in the financial assessment of what someone can afford to contribute towards the cost of their care and this may therefore be a suitable option in some cases.

8.6 A charging order places a charge on a property or other assets owned by the person in order to secure the debt. This means that, just as with a DPA, payment will only be realised when the property or assets are disposed of. A further claim must be made for an order for sale to enforce the charging order. Where a person owns their own property this is likely to be the most viable option for recovering the debt. It is similar to a DPA in that a charge is secured against the person's property but by order of the court. The charge is usually a first charge unless other charges such as a mortgage are already registered against the property.

9. Insolvency Act 1986

9.1 In some cases we may consider using Section 423 of the above act to recover debts where a person has transferred or sold their assets at a price that is lower than the market value, with the intention of putting those assets out of reach or prejudicing the interests of someone who may wish to bring a claim against that person.

10. Recovering from an estate

10.1 Where the person has died we will make a claim against the person's estate in order to recover the amount due for care fees. We will liaise with the Personal Representative as it is their responsibility as part of administering the estate to ensure that any outstanding debts are settled prior to an estate being distributed.

11. Complaints

11.1 A person may wish to make a complaint about any aspect of the debt recovery process or the fact that we have chosen to charge. NCC will therefore make it clear what our complaints procedure is and provide information and advice on how to lodge a complaint.

11.2 All complaints relating to our Debt Recovery Policy should be referred to the Compliments and Complaints Team. Full details on how to do this and how complaints are handled are shown under the Compliments and Complaints section on NCC's website.

11.3 Complaints about the level of charge levied by a local authority are subject to the usual Care and Support complaints procedure as set out in The Local Authority Social Services and NHS Complaints (England) Regulations 2009.

Adult Social Care Committee

Item No. 12.

Report title:	**Better Care Fund Pooled Fund Arrangements**
Date of meeting:	**9 March 2015**
Responsible Chief Officer:	**Harold Bodmer, Executive Director of Adult Social Services**

Strategic impact

The Better Care Fund (BCF) requires local authorities with responsibility for social services and clinical commissioning groups (CCGs) to create a pooled commissioning fund for the provision of integrated health and community care services, with a priority purpose of reducing unplanned admissions to hospital. The pooled fund must be secured through an agreement under section 75 of the National Health Service Act 2006.

Executive summary

In January 2015 the Committee received an update on the Better Care Fund and requested officers bring to the March Committee the proposal for the management of the pooled fund which is required from April 2015.

Council's officers have been working with the five clinical commissioning groups to prepare the formal agreement to underpin the pooled fund. The national guidance has been followed and the Council's audit has tested the arrangements. The following is proposed:

- The fund will be set initially at the minimum requirement of £56.381m of revenue funding and £6.080m of Capital funding
- In addition to this the Council will add £2.599m of revenue budget to cover its cost of the Integrated Community Equipment Stores (ICES) contract
- It is recognised that there will be benefits of pooling greater funds and expanding the pool will be a shared future consideration
- There will be five pooled funds, one with each of the clinical commissioning groups
- Norfolk County Council will hold the pooled funds and will provide administrative support, for which the Council will be reimbursed
- The governance of the pooled funds is set out in the section 75 agreement
- Risk is addressed in the section 75 agreement

Recommendations:

1. **Members are asked to approve the proposed approach to the Better Care Fund pooled fund under section 75 of the NHS Act.**
2. **Agree to delegate to the Executive Director Adult Social Services the responsibility to finalise the individual s75 agreements with each CCG**

1. Background

1.1 Since its inception in June 2013 the BCF has been known to be an ambitious driver towards the integration of health and social care. The Council has shown

its continued commitment to integration with its work alongside the five Norfolk based CCGs within the BCF, and through its wider integration of operational teams with local health providers.

1.2 As will be noted within this paper, a substantial investment is being made from the NHS into the social care system. This shows a real respect and understanding by CCGs of how the investment in social care can impact health expenditure for the positive. Nationally the 'protection of social care' has been a key condition embedded within the BCF.

The BCF has provided NCC and CCGs with a pathway to ensuring the local system invests funding to provide sustainability, whilst also allowing a level of focus on efficiency and effectiveness.

1.3 At the time of writing the January Committee report, the Norfolk BCF plan had been approved subject to addressing two conditions. We had submitted a revised plan in December to remove these conditions and are now pleased to confirm that the plan has now been fully approved.

1.4 It is important to note that the funding being transferred between health and social care is fully committed to existing areas of investment. As part of the 2014-17 budget planning process, members agreed a level of Putting People First savings that the BCF programme was required to deliver. The shift in funding therefore provides a foundation for social care to build upon by removing some of the requirement to meet future demographic and price inflation pressures through additional service reductions.

2. Proposals and evidence

2.1 The next stage in driving forward the BCF and formalising the funding arrangements is the creation of pooled funds. These pooled funds are underpinned by individual s75 agreements (section 75 of the NHS Act 2006) which provide the legal basis for the fund.

The technical guidance for the BCF from NHS England and the Local Government Association provides a clear requirement for s75 agreements to be established in order to deliver the framework for the pooled arrangements.

2.2 To provide for the local focus, centred around the CCGs, it is proposed that Norfolk will have five individual pooled funds.

2.3 In order to facilitate the individual dynamics and governance arrangements of each pool there is a practical requirement for five individual S75s to be created. This will represent a pool for each CCG to which NCC is a joint partner.

2.4 The approach proposed in this paper is targeted to meet the national condition of setting up pooled budgets, governed by s75 agreements, in a way that should mitigate some of the risks of cross partner liability. The methodology allows for both partners to receive their respective funding requirement from the BCF in 2015/16.

2.5 The level of funding being added to the pooled funds in 2015/16 is seen as a first step in pooling health and social care funding. As a future development, it is anticipated that the Committee will be asked to consider the expansion of the pool to create an 'enhanced pooled fund'.

2.6 In order to move towards this, during 2015/16 an increased level of transparency of both partners delivery costs will be shared via the usage of aligned budgets

and local partnership board reporting.

2.7 This will be a key step in understanding the local investment in social care and allow both partners to access the areas that would truly benefit from an integrated approach and/or pooled resource.

3. Financial Implications

3.1 **Flows into the pooled fund: Revenue**

3.1.1 The 15th January 2015 Committee paper outlined in detail the level of funding entering the pool (page 39-41).

3.1.2 The minimum level of revenue funding to enter the pool is £56.381m and will be provided by the CCGs:

a) West Norfolk CCG £11.443m
b) South Norfolk CCG £14.020m
c) Norwich CCG £12.245m
d) North Norfolk CCG £11.553m
e) Great Yarmouth and Waveney CCG £7.120m*
*please note this is just the Norfolk element of the CCG.

3.1.3 The levels of funding referred to in 3.1.2 include a ring fenced amount of £4.9m that will only be released into the pooled fund subject to the successful reduction of non-elective hospital admissions. Page 41 of the January report covers the details surrounding this funding stream.

3.1.4 Since the January report, it has been proposed that the Council should provide a revenue contribution to the pooled fund in the form of its Integrated Community Equipment Stores (ICES) Contract. The 15/16 net budget of £2.599m for ICES would be included as an enhanced contribution. The ICES contract is already an integrated health and social care service and has its own s75 to cover the service specifications. It therefore makes sense that this area be the first to be fully established with the BCF pool. Alongside this the inclusion of the Council funding enables the full service contract funding to be within the pool and therefore all invoices will be paid direct by the Council. By putting this financial arrangement in place it may yield a financially advantageous tax position for the health and social care system.

3.2 **Flows into the pooled fund: Capital**

3.2.1 The Capital funding of £6.080m will be provided via a grant payment to the Council direct and then transferred into the pooled funds.

3.3 **Flows from the pooled fund: Revenue**

3.3.1 Whilst the minimum funding flowing into the pooled fund was fixed, the level of funding being passed to each partner was open to local decision making.

3.3.2 Officers entered into local negotiations around the investment potential of social care. As noted in the January paper the results of these discussions provided the Council with £34.807m of funding for 2015/16.

3.3.3 The dialogue between officers and CCGs was centred around the following main themes:

a. £19.152m S256 funding:

In 2014/15 the Council is to receive this funding as part of direct contract with NHS England. At the October Health and Wellbeing Board the proposed usage of this funding was signed off after local agreements with CCGs. For 2015/16 this funding transfers to CCGs from NHS England and we have agreed that the Council will continue to receive this in full.

b. £4.300m Reablement:

The Council currently receives £1.3m from CCGs towards the cost of the adult social care reablement function. From 2015/16 this funding will be increased in order to maintain existing service levels and avoid service savings agreed under the Putting People First programme (ref 34: Work better with the NHS to deliver the Reablement and Swifts Services and look to share costs equitably).

c. £2.051m Carers

This funding transfers in order to enable us to continue to deliver support to carers both through provider contracts and personal budgets.

d. £2.204m Care Act

Part of the funding for the implementation of the responsibilities under the Care Act is provided within the BCF in addition to specific ring-fenced grants.

e. £7.100m Protection of Social Care

One of the national conditions attached to the BCF was the protection of social care. Whilst this specifically stated this was not necessarily funding, the combination of demographic pressures and central government funding reductions meant that a Putting People First saving was attached to the BCF (ref 18: Reducing hospital admissions by increasing investment in care for people most at risk). This investment will be directly correlated to the adult social care Purchase of Care budget, with the provision of effective packages of residential, nursing, domiciliary and day care pivotal in the avoidance of hospital admissions and delayed transfers of care.

3.3.4 Aside from the retention of the CCG ICES funding (retained in order to pay the provider direct), the remaining elements of the funding will be returned to the CCGs in order for them to be able to fund their own service lines.

3.4 **Flows into the pooled fund: Capital**

3.4.1 The £6.080m capital funding will be provided direct to NCC via a grant payment. This funding will be formed by:

a) Social Care Capital Grant - £2.327m

The Council currently receives this grant and it forms the primary funding of the capital programme within Adult Social Care.

In 2015/16 this grant transfers into the BCF and is increased from £2.292m to £2.327m.

As part of the implementation of the Care Act it has been indicated that an element of this funding (£50m nationally and £0.871m for Norfolk) should be used for this purpose, including IT systems.

b) Disabled Facilities Grant (DFG) - £3.753m

The DFG is funding that currently goes direct to lower-tier authorities. They

have the statutory duty on local housing authorities to provide DFG to those who qualify for it.

This statutory duty is to provide adaptations to the homes of disabled people, including in relation to young people aged 17 and under.

For 2015/16, this funding transfers to upper-tier authorities, via the BCF, so that the provision of adaptations can be incorporated in the strategic consideration and planning of investment to improve outcomes for service users.

The statutory duty remains with lower-tier authorities in 2015/16 and therefore each area will have to allocate this funding to their respective housing authorities (district councils in two-tier areas) from the pooled budget to enable them to continue to meet this duty.

The fixed allocations to each district are:

Breckland	0.535m
Broadland	0.414m
Great Yarmouth	0.567m
King's Lynn and West Norfolk	0.759m
North Norfolk	0.595m
Norwich	0.472m
South Norfolk	0.410m

4 Issues, risks and innovation

4.1 As noted in January the core elements of the agreement seek to cover:

a) Governance
b) Risk Share and Over/Underspends
c) Scheme and Project level information
d) Financial Contributions and Cashflow
e) Alignment of budgets outside of a pool
f) Hosting arrangements

4.2 **Governance**

4.2.1 Each s75 articulates the local governance relationship for the individual pooled funds. In order to give a clear focus and a local delivery mechanism, each pool will be managed by a designated Pooled Fund Manager. This role will be performed by the existing integrated post of Head of Commissioning for that locality.

4.2.2 The overall local performance of the BCF will be managed via new partnership boards between the Council and each of the CCGs. Each board will contain officers of the respective organisations.

4.2.3 The Health and Wellbeing Board (HWB) is the body responsible for developing the strategic plan for the BCF. In recognising this, each s75 will have the HWB at the head of its governance arrangement.

4.2.4 The Adult Social Care Committee retains its responsibility as the key decision making body for Adult Social Care within the Council.

4.3 **Risk Share and Over/Underspends**

4.3.1 When funds are pooled, a major financial risk is how to split over/underspends between the partners in the event of a variance from budget. In order to mitigate this risk, 2015/16 funding contributions from the pool to partners will be fixed. Each partner will receive its funding and use it as a contribution to enable it to meet its expenditure requirement. This mechanism will serve to shield the Council from potential CCG overspends and vice versa.

4.3.2 The exception to this rule will be the ICES contract whose invoices will be directly paid as noted above. The costs for ICES, whilst within each pool, will still be identifiable between health and social care using the same payment protocol currently in place. This will therefore mean it is clear to both partners who is liable in the event of an overspend.

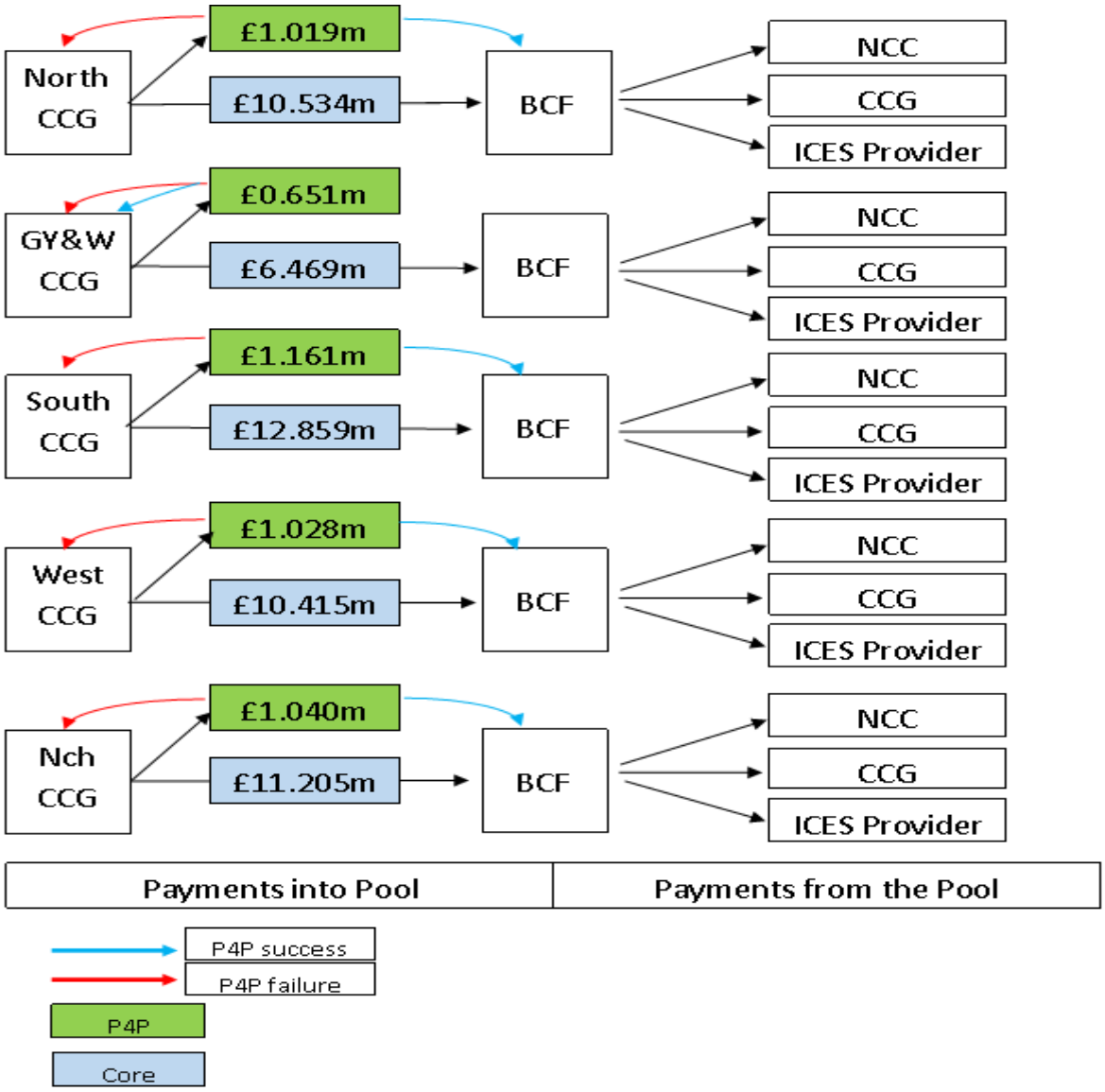
4.4 **Scheme and Project level information**

4.4.1 The BCF is to deliver transformation through locality based schemes. The s75 is set up to allow oversight of these schemes whilst allowing the flexibility to stop ineffective and start new proposals should the local partnership board deem it appropriate.

4.5 **Financial Contributions and Cashflow**

4.5.1 The amounts for the contributions into and out of the pool are outlined above. The mechanism for doing so will be quarterly invoicing between health and the pool and internal journaling between social care and the pool.

4.5.2 The following diagram outlines the revenue funding flows into and out of the five pooled funds. It also covers the scenario of both success and failure of the payment for performance metric.



4.5.3 During the negotiations an agreement was reached with the Great Yarmouth and Waveney CCG which meant that additional savings needed to be delivered in order for the Council's requirement to be released.

The Council and the CCG agreed to work together in pursuit of savings of £1.6m. Thus far officers from Council, the CCG and colleagues from Suffolk County Council have been identifying savings opportunities to deliver the saving.

In the event that the full level of saving cannot be delivered, the Council will be exposed to a maximum funding shortfall of £0.325m.

4.6 **Alignment of budgets outside of a pool**

4.6.1 The agreement will make clear the necessity to share information on expenditure far wider than that contained within the pool itself. This process of alignment via a management accounts process should enhance both partners system wide knowledge of expenditure on health and social care.

4.7 **Hosting arrangements**

4.7.1 Norfolk County Council, as the only county wide partner, and therefore only partner involved in each agreement, has been selected as host.

4.7.2 This will mean that the Council is responsible for the collation of both financial and performance data in supporting the local partnership arrangements, as well as holding the actual revenue funding.

4.7.3 The Council will need to provide the financial accounts for the pooled fund and have it audited alongside its own statement of accounts.

4.8 **Additional assurance**

4.8.1 Legal

To provide a standard template the LGA and NHS England hired a legal company to provide a pro-forma for all HWBs to use (or have the option to use). This has been used as a framework for Norfolk and officers have worked with NPLaw to amend this to meet our local requirement.

4.8.2 Internal Audit

In order to provide the Council with additional assurance around the s75, we have utilised our internal audit function who have tested a draft of the agreement and provided some additional guidance.

4.8.3 Whilst considering the workings of the pooled fund, specific pooled fund guidance documents were consulted. One specific guidance paper was provided by HFMA (Healthcare Financial Management Association) with support from CIPFA (The Chartered Institute of Public Finance & Accountancy) and focused on the specific pooled arrangements for the BCF.

The Better Care Fund promotes innovation in the integration of health and social care, in which Norfolk has a good track record. The formation of the pooled funds provides a robust structure for the Council and CCGs to further develop integrated and sustainable services, allowing for greater flexibility in the use of funding.

Background papers

- January 2015 ASC Committee report (Page 37-42)
- Norfolk Better Care Fund plan
- Pooled budgets and the better care fund: hfma & CIPFA

Officer Contact

If you have any questions about matters contained in this paper please get in touch with:

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Adult Social Care Committee

Item No. 13.

Report title:	**Cost of Care and Developing the Market with the Independent Care Sector**
Date of meeting:	**9 March 2015**
Responsible Chief Officer:	**Harold Bodmer, Executive Director of Adult Social Services**

Strategic impact

The Council relies upon a market of primarily independent businesses for the provision of key adult social care and support services to vulnerable people for which it pays more than £260m a year. The promotion of an effective and efficient market in such services becomes a statutory responsibility from April and is essential in order to be confident that the market can continue to provide these services as commercially viable businesses within the funding available. This requires the Council to consider both the level of financial investment providers require and the relationship it develops with providers so that services can be provided on a sustainable basis.

Executive summary

The majority of the Council's contracts with independent providers for the provision of social care, including residential and nursing care, domiciliary care, day care and supported living, require the Council to consider the extent to which, if any, changes in costs of business should be reflected in fee levels. Contracts indicate that any changes will be implemented in April each year when adjustments are made to benefit payments.

Alongside this contractual provision, there is a separate statutory framework for residential and nursing homes which requires councils in setting their prices for such care to have regard to the actual costs of providing that care within the area, having regard to Best Value. This process does not have to be annual and can be carried out over any financial planning period the council chooses.

Norfolk County Council last considered the actual costs of residential care in 2012 and reached agreement with providers regarding the prices that the council was prepared to pay. Since that time we have reached further agreements with residential care providers as part of a cost of care process linked to the work carried out in 2012. Over the same period we have also determined fee uplifts for other providers linked to the contractual obligations described above.

Engagement with providers of residential and nursing care and pricing behaviour in those markets over the past year suggests that a more fundamental enquiry into costs of residential and nursing care is now required in order to enable the Council to establish the price it would usually expect to pay. Recent judicial decisions underline the importance of having such a process and a further report will be provided at the conclusion of that process which will enable members to determine future prices.

The Council has begun a procurement process in respect of our investment in home care which will establish the market price for those services, however, this process will take some time to complete.

In the meantime it is proposed, where there is a contractual obligation to consider uplift, to offer an uplift in fees of 1.5% for providers of residential care to older people reflecting greater pressures in this segment and 1% for other care providers. This uplift can be

contained within inflation adjusted budgetary provision.

The Council established a market development fund of £250k in 2013/14 to support provider led initiatives to help sustain the market. The fund was created from a top slice of the fee uplift and operated as a grant. This arrangement continued in 2014/15. In the light of new market development duties under the Care Act such arrangements need to be put on a more secure footing and it is proposed to consult with provider representatives on how best to continue to support sector led market development for the period 2016/17 to 2018/19 to coincide with the period covered by the next Market Position Statement. A further report will be brought to the Adult Social Care Committee on 11 May 2015 following the consultation.

Recommendations

The Committee is recommended to:

a) Consider and agree the proposal to raise provider fees by 1.5 % for providers of residential care for older people and 1% for other providers with effect from April 2015 to reflect net inflationary pressures in the market, contractual obligations and the Council's financial position

b) Consider and support the proposal to carry out a fundamental review of the cost of providing residential care bringing a report for consideration by the Adult Social Care Committee on 29 June 2015

c) Agree to the continuation of the market development fund pending further consideration at the 11 May Adult Social Care Committee of future arrangements for sector led support covering the remainder of 2015/16 and the period 2016/17 to 2018

1. Proposal

1.1 The proposal is to strengthen the relationship with the independent provider market to support partnership working in developing the market and facilitate the process of establishing fair prices for care services and in particular to:

a) Award an uplift in fees of 1.5% for providers of residential and nursing care services for older people and 1% for other providers reflecting net cost pressures in the care market, contractual obligations and the Council's financial position
b) Carry out a fundamental review of the cost of care in the residential care market including the cost of continuing health care in care homes working with Clinical Commissioning Groups and the market reporting to the Adult Social Care Committee on 29 June 2015

Continue the market development fund supporting sector led initiatives for 2015/16 pending consultation with providers about the best way to continue to support them over the next Market Position Statement period 2016/17 to 2018/19 bringing a report for consideration by the Adult Social Care Committee on 11 May 2015

2. Evidence

2.1 The Council has commercial contracts with over 500 independent businesses for the provision of social care and support services. These contracts typically contain provisions requiring the Council to consider the extent to which, if any, net cost pressures in the market justify an increase in provider fees.

2.2 The Council has to have regard to affordability in such considerations and decided not to award uplifts in 2009/10 or 2010/11. An award of 1% across all providers was made in 2011/12 and 2012/13.

2.3 A cost of care exercise was undertaken in 2012 resulting in agreement that providers of residential and nursing care for older people faced greater pressures than other providers and a differential uplift was awarded for 2013/14 resulting in increases of 2.3% for providers of residential and nursing care to older people and 1% for other providers. In 2014/15 this differential uplift was continued resulting in increases of 2.5% for providers of residential and nursing care and 1.2% for other providers.

2.4 Headline inflation figures in both the Retail Prices Index (RPI) and the Consumer Prices Index (CPI) show a downward trend from 2.5% and 1.8% respectively in April 2014 to 1.1% and 0.3% in January this year. Although these blended indices are not based on costs in care businesses and can, therefore, over or understate them, they do provide broad measures of inflation.

2.5 The inflation adjusted budget for 2015/16 enables the council to award a fee uplift after taking into account unavoidable cost pressures. Providers continue to experience greater pressure on prices in residential care for older people compared to other market segments. It is proposed, therefore, to continue with a differential market uplift providing an increase of 1.5% for providers of residential care for older people with an increase of 1% for other providers.

2.6 **Residential and nursing care**

2.6.1 Notwithstanding the proposal to award inflation linked increases in fee levels for residential and nursing care it has become clear during the current financial year that a significant proportion of prices taken by this market to provide care at the various levels of assessed need are out of line with the usual prices that the Council has previously determined it would expect to pay for such services.

2.6.2 In determining the price for residential care the Council is required to exercise that function under the National Assistance Act 1948 (Choice of Accommodation) Directions 1992 ('The Directions').

2.6.3 Under the Directions, where the Council has decided that residential accommodation should be provided for someone, the Council is only obliged to make those arrangements at the accommodation chosen by the person if, amongst other things, the cost of making those arrangements would not require the council to pay more than it would usually expect to pay having regard to the person's assessed needs.

2.6.4 This cost is known as the "usual cost" and is the basis upon which councils set the fees they would normally be prepared to pay to care homes.

2.6.5 Circular LAC (2004)20 (the Circular) is government guidance by which councils are bound. The Circular at paragraph 2.5.4 states that:

> …the usual cost should be set by councils at the start of a financial or other planning period, or in response to significant changes in the cost of providing care, to be sufficient to meet the assessed care needs of supported residents in residential accommodation…..In setting and reviewing their costs, councils should have regard to the actual costs of providing care and other local factors. Councils should also have due regard to Best Value requirements under the Local Government Act 1999….

2.6.6 Paragraph 3.3 goes on to say:

…When setting the usual cost(s) a council should be able to demonstrate that this cost is sufficient to allow it to meet the assessed care needs and to provide residents with the level of care services that they would reasonably expect to receive if the possibility of resident and third party contributions did not exist…

2.6.7 Norfolk County Council last commissioned work to look at the residential and nursing care markets in 2012 and it is now timely to revisit these markets to fully understand the key cost drivers. Officers have been engaged with Norfolk Independent Care, the Norfolk care providers' representative organisation, since the Autumn of last year to try to determine the best way forward.

2.6.8 At the same time officers have engaged with colleagues in the Clinical Commissioning Groups (CCGs) who have similar issues in the nursing home market in relation to continuing health care prices which are linked to the usual prices paid by the Council for residential care.

2.6.9 It is proposed, therefore, to establish a joint Council, CCG and provider working party under the chairmanship of the Chair of the Adult Social Care Committee to take forward the necessary work reporting initially to that committee in June 2015. The report is intended to enable the Committee to have due regard to the actual costs of care, local factors and its duty under Best Value in determining the usual prices it would expect to pay to meet assessed needs in residential care settings in Norfolk over the next three year period of 2015/16 to 2017/18 inclusive.

2.6.10 Whilst not in any way pre-empting the evidence about the actual costs of care it is important for the Committee and the Council to note that this could result in further financial pressure for the Council.

2.6.11 The process is expected to include the collection and analysis of market data relevant to the actual costs of care across all the key market segments linked to various levels of assessed need. This is likely to require independent external input from one or more organisations with expertise in this field.

2.6.12 This approach will strengthen the Council's position in the event of a legal challenge and provide the Council with relevant information and analyses to enable it to consider the actual costs of care in establishing the prices it would usually expect to pay for residential care in Norfolk having due regard to Best Value.

2.7 **Developing relationships with the provider market**

2.7.1 Positive relationships with the provider market upon which the Council relies for the vast majority of care services are recognised as of critical importance. Commissioners, practitioners, quality and contract management staff and others have always had regular contact with providers. The Council recognised some time ago that a relationship at a more strategic level with the sector enabling it to take an appropriate share of responsibility for its own development would be beneficial.

2.7.2 As a consequence a market development fund was established, commencing in 2013/14, financed by way of a £250k top slice from the money available for fee uplift across the market as a whole. Providers agreed that the funding would be held by Norfolk Care Link Ltd, a not for profit company limited by guarantee, founded by Norfolk Independent Care which is the main representative body for independent care providers in Norfolk. This arrangement was then continued throughout the 2014/15 year.

2.7.3 The market development fund has operated as a grant to support sector-led initiatives around key market development themes agreed with the council. At the strategic level the arrangement has been successful in promoting the development of good relations with the provider market supporting a partnership approach in facing the financial challenges posed to the market together.

2.7.4 At a tactical and operational level the arrangement has in particular supported:

a) Workforce development led by Norfolk and Suffolk Care Support
b) Business development led by two full time business development officers
c) Training and master classes for providers
d) A dedicated website and resources to support providers
e) Key care quality initiatives including Harm Free Care and the development of the Trusted Carer scheme and Code of Practice
f) Celebration and promotion of high quality care provision through the annual care awards and care conference

2.7.5 This arrangement has helped to place the Council in a strong position regarding the new statutory market development duties that will be placed upon it by the Care Act from 1 April 2015. These duties require the Council to take proactive steps to promote an effective and efficient market of care services which is resilient, sustainable and which provides consumers with a choice of high quality services.

2.7.6 Whilst the council values the partnership working that has taken place between the council and Norfolk Care Link Ltd, the Care Act clearly, sets out market development duties for the council and so we want to reframe our partnership to specifically reflect these new legal duties.

2.7.7 At the same time, and in addition to the arrangements described above, we wish to explore other ways in which the council can work with the market as a whole to help it successfully discharge the market development duties under the Act. To this end we intend to establish a market development reserve from existing resources to fund initiatives, incentives, innovation and new market development partnership arrangements focussed on securing an effective and efficient care market.

2.7.8 We are consulting with Norfolk Independent Care on potential revised partnership and funding arrangements that will support future market development initiatives. We are also consulting on the company structure and governance arrangements for Norfolk Care Link Ltd to reflect the partnership between the council and the care sector. This would involve the council having representation on the Norfolk Care Link Board and equal decision making power. One option under consideration is conversion of Norfolk Care Link to a not for profit Community Interest Company limited by guarantee. This arrangement would enable the purposes of the company to be reframed and aligned with the council's Care Act duties and would establish appropriate joint governance arrangements within which the company could operate.

2.7.9 Norfolk Independent Care will consult its members on these proposals at its March annual general meeting which will enable proposals to be brought back for consideration by the Adult Social Care Committee on 11 May 2015.

2.7.10 In the short term we will continue with the market development grant to ensure that Norfolk Care Link Ltd can continue its current work pending the outcome of the Norfolk Independent Care meeting in March.

2.7.11 Over the coming months we will also consult with service user representative groups and in particular bodies with a focus on workforce development and incorporate proposals for their participation in market development partnership working in the next Market Position Statement for approval by the Committee on 9 November 2015.

3 Financial Implications

3.1 After taking into consideration unavoidable cost pressures the inflation adjusted adult social care budget for 2015/16 enables the council to award an average fee uplift of 1.5% to providers of residential care for older people and 1% for other providers where there is a contractual obligation to consider fee uplift. The additional investments required can be contained within budgetary provision.

3.2 The cost of care exercise will require investment in externally provided expertise. It is anticipated that this will be in the order of £30k to £40k with the costs being shared between participating CCGs and the Council. The Council's share can be met by Care Act funding for 2015/16.

3.3 The Adult Social Care Committee will consider the evidence relating to actual costs of care, local factors and duties under Best Value at its meeting in June. It is not possible to predict the potential financial consequences of any eventual decision about fee levels at this time.

3.4 Funding for sector led market development has been supported by the market development grant funded through a top slice of the provider fee uplift. Norfolk Independent Care will consult its members on future funding arrangements and governance. A further report will be brought back to the Adult Social Care Committee on 11 May.

3.5 The market development reserve will be funded from within existing budgetary provision.

4. Issues, risks and innovation

4.1 **Legal Challenge**

There have been a number of challenges to council decisions on care funding by way of judicial review. A number of these challenges have been successful, most recently in the case of Torbay. It will be important to minimise the risk of any such challenge by ensuring that our processes to obtain relevant information about actual costs of care are sound and that the council's decision making in the light of the evidence it has considered is reasonable. Legal advice will be factored in throughout the process.

4.2 **Innovation**

The proposal to establish a market development reserve which can provide support for provider led innovation and enterprise, workforce development and new joint governance arrangements bringing the council and the market together under common purpose is a significant innovation which will put the Council in the forefront of market development thinking. The proposed Company arrangement will support co-produced market solutions and restructuring of the market to best meet need and achieve long term commercial viability and high quality care

services.

Officer Contact

If you have any questions about matters contained in this paper or want to see copies of any assessments, eg equality impact assessment, please get in touch with:

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Adult Social Care Committee

Item No. 14

Report title:	**Review of the Residential and Non-Residential Charging Policy Associated with War Veterans**
Date of meeting:	**9 March 2015**
Responsible Chief Officer:	**Harold Bodmer, Executive Director of Adult Social Services**

Strategic impact

This report provides the Committee with a review of the charging policy for Residential and Non-Residential care that is associated with War Veterans. The report considers the issues made by the Royal British Legion as part of the national campaign.

Executive summary

The national campaign launched by the Royal British Legion on perceived unfairness around the policy of determining how much War Veterans in receipt of compensation following an injury in service prior to 5 April 2005 pay for social care has gained considerable local and national press exposure. To respond to the questions being raised it was agreed to undertake a review of existing charging policies as they affect War Veterans.

Having completed the review of the policies, having considered the points made by the Royal British Legion and checked how neighbouring councils deal with the issues it was concluded that following points should be noted and the recommendation adopted.

Recommendations:

1. **Committee is asked to note that**
   a. **Any change in policy around War Veterans would cost approximately £400k annually to implement**
   b. **Neighbouring councils who responded to enquires have a similar if not identical charging policies in force with respect to War Veterans and have no plans to change these policies**
   c. **That any change in policy on charging is likely to lead to other groups raising similar requests**

2. **Committee is asked to recommend that**

   a. **There is no change in the current policies in charging with respect to War Veterans**

1.	Background
1.1	The Royal British Legion launched a national campaign in October 2013 that has more recently received extensive local and national press coverage which urges changes to charging policies around the treatment of War Veterans pensions and compensation to ensure consistency for all War Veterans in that all income derived from these sources is

	disregarded.
1.2	In calculating how much an individual pays for their care the current policies in place for charging for residential and non-residential care, fully disregards compensation received by War Veterans made under the Armed Forces Compensation Scheme (AFCS) but disregards only the first £10 of any pension awarded under the Armed Forces Pension Schemes (AFPS).
1.3	The current policies for charging for residential and non-residential care were only recently thoroughly reviewed to deal with the changes brought about by the Care Act. So there is confidence that the charging policies are robust and consistent with the current legal framework that covers not only the Care Act but other statutes in place. In addition the policies in place and applied in Norfolk County Council are broadly consistent with most councils across England.
1.4	To respond to the points made in the Royal British Legion's campaign the following table pulls out the key points

Comment or statement from Royal British Legion	**Current Charging Policy Treatment**
Military compensation is awarded as recompense for the pain, suffering and loss of amenity experienced by injured Service personnel and veterans; it should **not** be treated as normal income	Under current charging policies all Guaranteed Income Payments (GIP) made under AFCS are disregarded
Veterans who were injured in Service on or before 5 April 2005 receive a War Disablement Pension, and are known as War Pensioners. Should a War Pensioner have social care needs, they will routinely find that their local authority takes all but the first £10 per week of their military compensation to cover the costs of their care.	Pensions awarded to former military personnel under the Armed Forces Pension Schemes or war widows pensions are paid as a Welfare Benefit rather than a compensation. We will disregard £10 (in line with the guidance), any War Pension Mobility Allowance, Constant Attendance Allowance above the middle rate of care, any payments made for the spouse or dependent children and any supplementary pensions paid to war widows /widowers.
This is despite the fact that a veteran with a similar injury, but who was injured on or after 6 April 2005 and therefore receives compensation through the Armed Forces Compensation Scheme, is able to keep all of their compensation payments.	Under current charging policies, Guaranteed Income Payments made to veterans under the Armed Forces Compensation Scheme are fully disregarded
It is unfair that War Pensioners are treated differently to other injured veterans. It is also unacceptable that War Pensioners are treated less favourably than civilians who have been injured in the work place, who	We acknowledge this point however we are following the national guidelines and are applying the same approach as neighbouring authorities including Suffolk, Cambridgeshire and Thurrock.

	are able to place compensation awarded into a trust fund, which is exempt from means tests for social care. This last point is in clear breach of the Armed Forces Covenant, which states that Service personnel, veterans and their families should face no disadvantage as a result of Service.	
1.5	Specifically the policy paper from the Royal British Legion makes the following recommendation: "We urge the Government to amend the law to provide that local authorities must fully disregard both War Disablement Pensions and AFCS payments from income assessments carried out when means testing to determine how much an individual must pay towards their care costs, residential or otherwise; save for the additional attendance allowance paid to some War Pensioners to cover some of the costs of their care."	
1.6	Should any changes be considered either locally a full equality impact analysis should be undertaken as other groups could strongly argue that they are being treated unfairly or differently but also take into account the wider issues of what should and shouldn't be taken into account with respect to income disregard as well as benefit policies, pay and pensions. So there is a strong argument to resolve the problem at a national level that takes account the wider policy context of what income should be means tested and avoid the risk that local changes get out of step with the national position.	
1.7	It should be also be noted that anybody receiving non-residential care will be left with a minimum of £185.43 per week plus £15.00 per week to cover disability related expenses. For those receiving War Pensions this will be in addition to the disregard outlined above.	
2.	**Financial Implications**	
2.1	In the time available we have undertaken a high level review of the 100 War Veterans we are aware of and the approximate contribution they make to their care is £400k per annum.	
2.2	If any changes were made to the existing charging policies, £400k would have to be found to offset the loss in income.	
3.	**Background**	
3.1	Appended are the two charging policies for Residential (Appendix 1) and Non-Residential Care (Appendix 2) as well as the policy paper from the Royal British Legion. (Appendix 3)	

Officer Contact

If you have any questions about matters contained in this paper or want to see copies of any assessments, eg equality impact assessment, please get in touch with:

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Norfolk County Council

Residential Care Charging Policy

Contents

Norfolk County Council – Residential Care Charging Policy

1. Legal Status

1.1 The Care Act 2014 provides a single legal framework for charging and enables a Local Authority to charge a person when it is arranging to meet a person's care and support. This is set out in Sections 14 and 17 of the Care Act 2014. This charging policy for residential care comes into effect on 1st April 2015 and is based on the Care Act 2014 and the regulations under it including the Care and Support (Charging and Assessment of Resources) Regulations 2014. This policy replaces the Charging for Residential Accommodation Guide (CRAG) and covers residential and nursing care only.

1.2 This policy is made having due regard to the Statutory Guidance issued by the Secretary of State. Norfolk will apply the guidance contained in the Care and Support Statutory Guidance 2014, save where the contrary is indicated in this policy. The policy is made having regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010, together with the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

1.3 Where this policy leaves a discretion to the Council, Norfolk County Council (NCC) will exercise that discretion in the following way:

- The discretion will be applied so as to ensure as far as possible the individual will contribute to the cost of their care and support in accordance with the Care and Support Statutory Guidance.
- Where a discretion has been exercised, the financial assessment will include a note of the written reasons why the discretion has been exercised in the way it has.
- The assessment will also include the initials of the person who has exercised the discretion along with those of a manager who will have approved this.

1.4 The overarching principle is that people should only pay what they can afford to pay and this will be based on a means-test financial assessment unless the person has more than the upper capital limit (which is currently set at £23,250 as at 2015). Some people will be entitled to free care and this is set out at 1.9 below.

1.5 If the person has more than the upper capital limit, they will be expected to pay the full cost of their care until their capital falls below the upper capital limit. We will not generally arrange care for people with more than £23,250 but will provide them with advice and information and signpost them accordingly. The only exception is where there are safeguarding issues or where the person lacks capacity and there is nobody else able to help them.

1.6 NCC will not charge more than the cost that we incur in meeting the assessed needs of the person.

1.7 NCC's charging policy will ensure that people are not charged more than it is reasonably practicable for them to pay. The policy is comprehensive, to reduce variation in the way people are assessed and charged and is clear and transparent, so people know what they will be charged.

1.8 The financial assessment will be based on the person's income and capital only and their share of any joint income and capital. We do not assess couples or civil partners jointly.

1.9 NCC charges for all types of residential and nursing care with the exception of the following:-

- Intermediate care including reablement (for up to six weeks).
- Care and support provided to people with Creutzfeldt-Jacob Disease.
- After-care services/support provided under section 117 of the Mental Health Act 1983.
- Any service or part of the service which the NHS is under a duty to provide. This includes Continuing Health Care and the NHS contribution to Registered Nursing Care.
- Any services which a local authority is under a duty to provide through other legislation may not be charged for under the Care Act 2014.
- Assessment of needs and care planning may also not be charged for, since these processes do not constitute "meeting needs".
- Where the stay is in a planning bed – NCC will not charge for the first two weeks.

1.10 Where NCC is meeting needs by arranging a care home, we are responsible for contracting with the care home. We are also responsible for paying the full amount, including where a 'top-up' fee is being paid. We will invoice the person for their contribution towards the cost of the care as worked out in the financial assessment. We will also invoice for any top-up.

2. The financial assessment

2.1 NCC will carry out a financial assessment to determine what the person can afford to pay. The financial assessment looks across all of a person's assets – both capital and income in accordance with the regulations and guidance.

2.2 In a financial assessment income and capital will either be disregarded (ignored), partly disregarded or included in the calculation.

2.3 There is an upper capital limit of £23,250 and a lower capital limit of £14,250. Please note these amounts are as at April 2015.

2.4 Where a person's resources are below the lower capital limit, £14,250, they will not need to contribute to the cost of their care and support from their capital i.e. the contribution will be based on their income only.

2.5 Every person who receives a financial assessment will be given a written record of the assessment which will explain how the assessment has been carried out, what the charge will be and how often it will be made, and when it will be reviewed. The

review will generally take place on an annual basis but this may vary according to individual circumstances.

2.6 If the person lacks the mental capacity to take part in the financial assessment, NCC will consult with any of the following people who have:

- Enduring Power of Attorney (EPA)
- Lasting Power of Attorney (LPA) for Property and Affairs
- Lasting Power of Attorney (LPA) for Health and Welfare
- Property and Affairs Deputyship under the Court of Protection or
- Any other person dealing with that person's affairs (e.g. someone who has been given appointeeship by the Department for Work and Pensions (DWP) for the purpose of benefits payments).

2.7 People who lack capacity to give consent to a financial assessment and who do not have any of the above people with authority to be involved in their affairs, may require the appointment of a Property and Affairs Deputyship. Family members can apply for this to the Court of Protection or we can apply if there is no family involved in the care of the person. While this takes some weeks, it then enables the person appointed to access information about bank accounts and financial affairs. A person with dementia for example will not be 'forced' to undertake a financial assessment or to sign documents they can no longer understand. In such cases NCC will work with an EPA, an LPA or a Deputy instead. In those circumstances, the EPA, LPA or Deputy will take on the financial responsibilities of the person receiving care and will be liable to pay their care fees on their behalf once they have access to their funds.

2.8 In the financial assessment, the person's capital is taken into account unless it is subject to one of the disregards set out in 5.20 below. The main examples of capital are property and savings. Where the person receiving care and support has capital at or below the upper capital limit (currently £23,250), but more than the lower capital limit (currently £14,250), they will be charged £1 per week for every £250 in capital between the two amounts. This is called "tariff income". For example, if a person has £4,000 above the lower capital limit, they are charged a tariff income of £16.00 per week towards the cost of their care.

2.9 In assessing what a person can afford to pay, NCC will take into account the person's income with the exception of earnings from current employment. Please refer to section 7 for further information relating to income.

2.10 Where the person has refused a financial assessment or NCC has been unable to carry out a full financial assessment because of the person's refusal to cooperate, we will assume the person has financial resources in excess of the upper limit and will charge them the full cost of their care.

3. Light touch financial assessments

3.1 The Care Act enables Local Authorities to operate light touch financial assessments in certain circumstances. Whilst these are not currently in operation, we will be looking at the financial assessment process during 2015 to establish

circumstances where we can put this into practice. The Residential Charging Policy will therefore be changed accordingly to reflect any such changes.

4. Temporary and short term residents

4.1 Following an assessment of a person's eligible care and support needs a decision may be taken that the person would benefit from a temporary stay in a care home. This could be for a number of reasons such as providing respite care to a carer or to provide a period of more intense support owing to an additional, but temporary, care need.

4.2 The financial assessment of what they can afford to contribute to the cost of their care will be based on the individual resources of the person, however, we will give regard to any partner or spouse remaining at home and ensure they are left with at least a basic level of income support or pension credit to which they may be entitled in their own right i.e. their applicable amount.

Who is a temporary resident?

4.3 A temporary resident is defined as a person whose need to stay in a care home is intended to last for a limited period of time and where there is a plan to return home. The person's stay will be unlikely to exceed 52 weeks, or in exceptional circumstances, unlikely to substantially exceed 52 weeks. A decision to treat a person as a temporary resident must be agreed with the person and/or their representative and written into their care plan.

4.4 In some cases a person may enter a care home with the intention of a permanent stay but a change in circumstances could result in it being temporary. In such cases we will treat the person as temporary from the date of admission for the purposes of charging.

4.5 Similarly a stay which was initially intended to be temporary could become permanent. In such cases, the financial assessment of the person as a permanent resident should only be from the date that their care plan is amended and agreed with the person and/or their representative.

Charging

4.6 NCC will complete a financial assessment and charge the person receiving short term or temporary care in line with the Residential Charging policy.

Capital

4.7 The person's main or only home will be disregarded for temporary residents where the person:

(a) Intends to return to that property as their main or only home and it remains available to them or
(b) Has taken steps to dispose of the home in order to acquire one that is more suitable and intends to return to that property.

4.8 Any other capital assets will be treated in the same way as for permanent residents.

Income and earnings

4.9 Both income and earnings should be treated in the same way as for permanent residents, as set out below. However, any additional amounts the person may need so they can maintain their home during their temporary stay so that it is in a fit condition for them to return to will also be disregarded. Such expenses may include, but are not limited to ground rent, service charges, water rates or insurance premiums.

4.10 In the financial assessment:

- Where Attendance Allowance, Disability Living Allowance or Personal Independence Payments are being received, these will be completely disregarded. However, as the eligibility for these benefits cease after four weeks of local authority support, we will consider the impact on the person's ability to maintain their home.
- Where a stay in a care home is temporary, the amount of Income Support or Pension Credit a person receives will usually remain the same as they will be treated as normally residing in their own home. However, any severe disability premium or enhanced disability premium that may have been included will no longer be paid if the Disability Living Allowance or Attendance Allowance or Personal Independence Payment has ceased. The Severe Disability Premium is included as income in the financial assessment.
- There are special rules for Income Support and income related Employment Support Allowance where one member of a couple enters a care home for a temporary period. This will be taken into account in considering what a person can afford to pay.
- If Housing Benefit is paid to the person, this will be disregarded as they will still be responsible for meeting any costs associated with their main or only home.
- We will also disregard any other payment the person receives in order to meet the cost of their housing and/or to support independent living. For example this may include payments to provide warden support, emergency alarms or cleaning costs where the person or someone in the household is unable to do this themselves.
- We will consider whether any payments to support the cost of housing and/or independent living are sufficient to cover the person's commitments during their temporary stay for example this might be as these costs were

being met from the person's earnings and where these stop we will calculate the additional cost and disregard this amount to ensure the person has enough money to maintain these costs.

- Where a person is sub-letting their property, the income will be disregarded where the person occupies the property as their main or only home and they intend to return to the property.
- Alternatively a person may have a boarder living in their property. A boarder is someone for whom at least one cooked meal is provided. Where a person has income from a boarder, the first £20.00 of the income will be ignored plus half of any balance over £20.00.

Example of additional expenses for a temporary resident:

John lives at home alone and after receiving surgery is currently receiving temporary residential care as part of his rehabilitation. John worked two days a week in the local supermarket when he was living at home and is hoping to return to work when he is better.

John needs to be able to pay his rent and water rates whilst he is in residential care and also needs to pay the rental agreement on his mobile phone. The mobile phone is essential as part of John's independence and John uses his earnings to cover the cost of this.

As John's period of care is temporary, NCC will allow any payments that John needs to make to cover his rent and water rates in his financial assessment. It will also allow John's mobile phone rental whilst he is in temporary care and no longer earning the money that would normally cover this cost.

This will be kept under review.

5. Capital

5.1 A person with assets above the upper capital limit will be deemed to be able to afford the full cost of their care. Those with capital between the lower and upper capital limit will be deemed as able to make a contribution, known as "tariff income", from their capital. Any capital below the lower capital limit will be disregarded.

What is Capital?

5.2 Capital refers to financial resources available for use and tends to be from sources that are considered more durable than money in the sense that they can generate a return.

5.3 The following list gives examples of capital. This list is intended as a guide and is not exhaustive.

(a) Buildings

(b) Land
(c) National Savings Certificates and Ulster Savings Certificates
(d) Premium Bonds
(e) Stocks and shares
(f) Capital held by the Court of Protection or a Deputy appointed by that Court
(g) Any savings held in Building Society Accounts and Bank Current Accounts, Deposit Accounts or special investment accounts. This includes savings held in the National Savings Bank; Girobank and Trustee Savings Bank; SAYE schemes; Unit Trusts; Co-operatives share accounts.
(h) Cash
(i) Trust funds (in certain circumstances).

5.4 It is important that people are not charged twice on the same resources. Therefore, resources will only be treated as income or capital but not both. If a person has saved money from their income then those savings will normally be treated as capital. However they should not be assessed as both income and capital in the same period. Therefore in the period when they are received as income, the resource will not be counted as capital.

Do we treat as income or capital?

5.5 In assessing a person's assets it may not be immediately clear where a resource is capital or income, particularly where a person is due to receive planned payments. In general, a planned payment of capital is one which is not in respect of a specified period and not intended to form part of a series of payments.

Examples of planned payments:

1. Tom receives a payment from a Trust established in the will of his late grandmother of £18,000. The money is paid into a building society account in his own name. The Trust is discretionary and there have been no other payments made from the Trust within the last year. The payment of this sum is treated as capital and Tom is treated as the beneficial owner of the whole amount.

2. Janet receives a payment of £500 from a Trust established in the will of her late father. The money is paid into a bank account in Janet's own name. Janet received a payment of £500 six months ago and again six months before that. In this instance, the payments recur periodically and form part of a series of payments. The payments of £500 are treated as income.

Who owns the capital?

5.6 A capital asset is normally defined as belonging to the person in whose name it is held, the legal owner. However, in some cases this may be disputed and/or beneficial ownership argued. Beneficial ownership is where someone enjoys the benefits of ownership, even though the title of the asset is held by someone else or

where they directly or indirectly have the power to vote or influence a transaction regarding a particular asset. In most cases the person will be both the legal and beneficial owner.

Where ownership is disputed, NCC will ask for written evidence to prove where the ownership lies. If a person states they are holding capital for someone else, NCC will ask for evidence of the arrangement, the origin of the capital and intentions for its future use and return to its rightful owner.

Examples of a capital dispute:

1. Arlene has £14,000 in a building society account in her own name. She says that £3,000 is set aside for her granddaughter's education. Unfortunately there is no deed of trust or other legal arrangement which would prevent Arlene using the whole amount herself. She is therefore treated as the beneficial owner of the whole amount.

2. Lisa has £10,000 in a bank account in her own name and shares valued at £6,500. She provides evidence to show that the shares were purchased on behalf of her son who is abroad and that they will be transferred to her son when he returns to the UK. Although Lisa is the legal owner, she is holding the shares in trust for her son who is the beneficial owner. Only the £10,000 is therefore treated as Lisa's capital.

5.7 Where a person has joint beneficial ownership of capital, except where there is evidence that the person owns an unequal share, the total value should be divided equally between the joint owners and the person should be treated as owning an equal share. Once the person is in sole possession of their actual share, they can be treated as owning that actual amount.

Example of joint ownership:

Claire is resident in a care home. She and her son Leon have £21,000 in a joint building society account. Claire has contributed £8,500 and Leon, £12,500. Each is treated as owning £10,500.

The joint account is then closed and Claire and Leon open separate accounts. Claire now has £8,500 in her account and so is assessed as owning £8,500.

In some cases a person may be the legal owner of a property but not the beneficial owner of a property. In other words, they have no rights to the proceeds of any sale. In such circumstances the property must not be taken into account.

How to calculate the value of capital

5.8 NCC will need to work out what value a capital asset has in order to take account of it in the financial assessment. Other than National Savings Certificates, the valuation must be the current market or surrender value of the capital asset, e.g. property, whichever is higher, minus:

(a) 10% of the value if there will be any actual expenses involved in selling the asset. This must be expenses connected with the actual sale and not simply the realisation of the asset. For example the costs to withdraw funds from a bank account are not expenses of sale, but legal fees to sell a property would be; and
(b) Any outstanding debts secured on the asset, for example a mortgage.

5.9 A capital asset may have a current market value, for example stocks or shares, or a surrender value, for example premium bonds. The current market value will be the price a willing buyer would pay to a willing seller. The way the market value is obtained will depend on the type of asset held.

If the person and the Financial Visiting Officer both agree that after deducting any relevant amounts set out in 5.8 above that the total value of the person's capital is more than the upper capital limit of £23,250 or less then the lower capital limit of £14,250 that it is not necessary to obtain a precise valuation. If there are any disputes, a precise valuation should be obtained. However, NCC will give consideration to how close the person is to the upper capital limit when deciding whether or not to obtain a precise valuation.

Where a precise valuation is required, a professional valuer should be asked to provide a current market valuation. Once the asset is sold, the capital value to be taken into account is the actual amount realised from the sale, minus any actual expenses of the sale.

5.10 Where the value of a property is disputed, the aim should be to resolve this as quickly as possible. NCC will try to obtain an independent valuation of the person's beneficial share of the property within the 12-week disregard period (please refer to the 12-week disregard section at 5.30). This will enable us to work out what charges a person should pay and will help the person, or their representative, to consider whether to seek a deferred payment agreement.

5.11 The value of National Savings Certificates (and Ulster Savings Certificates) is assessed in the same way as other capital assets. A valuation for savings certificates can be obtained by contacting the NS&I helpline on 0845 964 5000. An alternative method to get the value of National Savings Certificates is to use the NS&I online calculator (please see http://www.nsandi.com/savings-index-linked-savings-certificates#interest-calculator).

To enable an accurate value for the savings certificates the person must provide details of the certificate issue number(s); the purchase price and the date of purchase.

Assets held abroad

5.12 Where capital is held abroad and all of it can be transferred to the UK, its value in the other country will need to be obtained (this could be in the form of a letter from a property agent confirming the value) as it will be taken into account less any appropriate deductions as outlined in 5.8 above.

Where capital is held jointly, it should be treated the same as if it were held jointly within the UK. The detail will depend on the conditions for transfer to the UK.

5.13 Where the capital cannot be wholly transferred to the UK due to the rules of that country, for example currency restrictions, the person will need to provide evidence confirming this fact. Examples of acceptable evidence could include documentation from a bank, Government official or solicitor in either this country or the country where it is held.

5.14 Where some restriction is in place, the person will need to provide evidence showing what the asset is and the value of the asset. NCC will need to understand the nature and terms of the restriction so that should this change, the actual amount can then be revised accordingly.

Capital not immediately realisable

5.15 Capital which is not immediately realisable due to notice periods, for example National Savings Bank investment accounts, will be taken into account in the normal way at its face value. This will be the value at the time of the financial assessment but may need to be confirmed and adjusted when the capital is realised. If the person chooses not to release the capital, the value at the time of the assessment will be used and reassessed each year in the normal way.

Where the person receiving care and support inherits a sum of money, this will be included in the financial assessment from the date of entitlement.

Tariff Income

5.16 Where a person has assets between the lower and upper capital limits, tariff income will be applied. Tariff Income assumes that for every £250 of capital, or part thereof, a person is able to afford to contribute £1 per week towards the cost of their eligible care needs.

Example of tariff income:

Nora has capital of £18,100. This is £3,850 above the lower capital limit of £14,250. Dividing the £3,850 by £250 produces a figure of £15.40. When calculating tariff income, the amount is always rounded up. This therefore gives a tariff income of £16 per week.

Notional Capital

5.17 In some circumstances a person may be treated as possessing a capital asset even where they do not actually possess it. This is called notional capital.

Notional capital may be capital which:

- Would be available to the person if they applied for it;
- Is paid to a third party in respect of the person;
- The person has deprived themselves of in order to reduce the charge they have to pay for their care.

A person's capital should therefore be the total of both actual and notional capital.

5.18 Where a person has been assessed as having notional capital, the value of this must be reduced over time. The rule is that the value of notional capital must be reduced weekly by the difference between the weekly rate the person has been assessed to pay for their care and the weekly rate they would have paid if notional capital did not apply.

Example of diminishing notional capital:

Hayley is receiving care and support in a care home. She is assessed as having notional capital of £20,000 plus actual capital of £6,000. This means her assets are above the upper capital limit and she needs to pay the full cost of her care and support at £400 per week.

If she did not have the notional capital it would not affect her ability to pay. This is as she has an income of £124.40 and a personal allowance of £24.40 per week and would therefore be assessed as being able to pay £100 per week.

The notional capital should therefore be reduced by £300 per week – the difference between the sum Hayley is assessed to pay (£400) and would have paid without the notional capital (£100).

5.19 Where a person is benefiting from the 12-week property disregard (please refer to the 12-week disregard section on page 19 below) and has chosen to pay a "top-up" fee from their capital resources between the upper and lower capital limits, the

level of tariff income that applies during those 12 weeks is the same as it would be if the person were not using the capital to “top-up”.

Capital disregarded

5.20 The following capital assets will be disregarded:

(a) Property in specified circumstances (please see page 16 below).
(b) The surrender value of any Life insurance policy and or Annuity.
(c) Payments of training bonuses of up to £200.
(d) Payments in kind from a charity.
(e) Any personal possessions such as paintings or antiques, unless they were purchased with the intention of reducing capital in order to avoid care and support charges.
(f) Any capital which is to be treated as income or student loans.
(g) Any payment that may be derived from:
    i. The Macfarlane Trust;
    ii. The Macfarlane (Special Payments) Trust;
    iii. The Macfarlane (Special Payment) (No 2) Trust;
    iv. The Caxton Foundation;
    v. The Fund (payments to non-haemophiliacs infected with HIV);
    vi. The Eileen Trust;
    vii. The MFET Trust;
    viii. The Independent living Fund (2006);
    ix. The Skipton Fund;
    x. The London Bombings Relief Charitable Fund.
(h) The value of funds held in trust or administered by a court which derive from a payment for personal injury to the person. For example, the vaccine damage and criminal injuries compensation funds.
(i) The value of a right to receive:
    i. Income under an annuity,
    ii. Outstanding instalments under an agreement to repay a capital sum (money that is due to be repaid to the service user);
    iii. Payment under a trust where the funds derive from a personal injury;
    iv. Income under a life interest or a life-rent;
    v. Income (including earnings) payable in a country outside the UK which cannot be transferred to the UK;
    vi. An occupational pension;
    vii. Any rent. Please note however that this does not necessarily mean the income is disregarded. Please see below for guidance on the treatment of income.
(j) Capital derived from an award of damages for personal injury which is administered by a court or which can only be disposed of by a court order or direction.
(k) The value of the right to receive any income under an annuity purchased pursuant to any agreement or court order to make payments in consequence of

personal injury or from funds derived from a payment in consequence of a personal injury and any surrender value of such an annuity.

(l) Periodic payments in consequence of personal injury pursuant to a court order or agreement to the extent that they are not a payment of income and are treated as income (and disregarded in the calculation of income).

(m) Any Social Fund payment.

(n) Refund of tax on interest on a loan which was obtained to acquire an interest in a home or for repairs or improvements to the home.

(o) Any capital resources which the person has no rights to as yet, but which will come into his possession at a later date, for example on reaching a certain age.

(p) Payments from the Department of Work and Pensions to compensate for the loss of entitlement to Housing Benefit.

(q) The amount of any bank charges or commission paid to convert capital from foreign currency to sterling.

(r) Payments to jurors or witnesses for court attendance (but not compensation for loss of earnings or benefit).

(s) Community charge rebate/council tax rebate.

(t) Money deposited with a Housing Association as a condition of occupying a dwelling.

(u) Any Child Support Maintenance Payment.

(v) The value of any ex-gratia payments made on or after 1st February 2001 by the Secretary of State in consequence of a person's, or person's spouse or civil partner's imprisonment or internment by the Japanese during the Second World War.

(w) Any payment made by a local authority under the Adoption and Children Act 2002 (under section 2(6)(b) or 3 of this act).

(x) The value of any ex-gratia payments from the Skipton Fund made by the Secretary of State for Health to people infected with Hepatitis C as a result of NHS treatment with blood or blood products.

(y) Payments made under a trust established out of funds provided by the Secretary of State for Health in respect of persons suffering from variant Creutzfeldt-Jakob disease to the victim or their partner (at the time of death of the victim).

(z) Any payments under Section 2, 3 or 7 of the Age-Related Payments Act 2004 or Age Related Payments Regulations 2005 (SI No 1983).

(aa) Any payments made under section 63(6)(b) of the Health Services and Public Health Act 1968 to a person to meet childcare costs where he or she is undertaking instruction connected with the health service by virtue of arrangements made under that section.

(bb) Any payment made in accordance with regulations under Section 14F of the Children Act 1989 to a resident who is a prospective special guardian or special guardian, whether income or capital.

Example of disregarded capital:

Mr T is a former Far East prisoner of war and receives a £10,000 ex-gratia payment as a result of his imprisonment. He now requires care and support and has a total of £25,000 in capital. When calculating how much capital should be

taken into account, we will disregard the first £10,000 – the value of the ex-gratia payment. The normal capital rules are then applied to the remaining £15,000.

In this case, the first £14,250 would be completely disregarded in addition to the £10,000. Tariff income would therefore only be applied to the remaining £750 giving a charge of £3.

Property disregards

5.21 In the following circumstances the value of the person's main or only home will be disregarded:

(a) If the person's stay in residential or nursing care is temporary and they intend to return to that property and that property is still available to them; or they are taking reasonable steps to dispose of the property in order to acquire another more suitable property to return to.
(b) Where the person no longer occupies the property but it is occupied in part or whole as their main or only home by any of the people listed at 5.24 below, the mandatory disregard only applies where the property has been continuously occupied since before the person went into a care home (for discretionary disregards see 5.29 below):
    i. The person's partner, former partner or civil partner, except where they are estranged.
    ii. A lone parent who is the person's estranged or divorced partner.
    iii. A relative of the person (as outlined below) or member of the person's family who is aged 60 or over, or is a child of the resident aged under 18, or is incapacitated and has occupied the property as their main or only home since before the resident entered the care home.

5.22 For the purposes of the disregard a relative is defined as including any of the following:
(a) Parent (including an adoptive parent)
(b) Parent-in-law
(c) Son (including an adoptive son)
(d) Son-in-law
(e) Daughter (including an adoptive daughter)
(f) Daughter-in-law
(g) Step-parent
(h) Step-son
(i) Step-daughter
(j) Brother
(k) Sister
(l) Grandparent
(m) Grandchild
(n) Uncle
(o) Aunt

(p) Nephew
(q) Niece
(r) The spouse, civil partner or unmarried partner of a to k inclusive.

A member of the person's family is defined as someone who is living with the qualifying relative as part of an unmarried couple, married to or in a civil partnership.

5.23 For the purposes of the disregard the meaning of "incapacitated" is not closely defined. However, it will be reasonable to conclude that a relative is incapacitated if either of the following conditions apply:

(a) The relative is receiving one (or more) of the following benefits: incapacity benefit, severe disablement allowance, disability living allowance, personal independence payments, armed forces independence payments, attendance allowance, constant attendance allowance, or a similar benefit; or
(b) The relative does not receive any disability related benefit but their degree of incapacity is equivalent to that required to qualify for such a benefit. Medical or other evidence may be needed before a decision is reached.

5.24 For the purpose of the property disregard, the meaning of "occupy" is not closely defined. In most cases it will be obvious whether or not the property is occupied by a qualifying relative as their main or only home. However, there will be some cases where this may not be clear and NCC will therefore undertake relevant enquiries in order to reach a decision. An emotional attachment to the property is not sufficient for the disregard to apply.

5.25 Circumstances where it may be unclear might include where a qualifying relative has to live elsewhere for the purposes of their employment, for example a member of the armed services or the diplomatic service. Whilst they live elsewhere in order to undertake their employment, the property remains their main or only home. Another example may be someone serving a prison sentence. It would not be reasonable to regard the prison as the person's main or only home and they may well intend to return to the property in question at the end of their sentence. In such circumstances NCC will give consideration to the qualifying relative's length of sentence and the likelihood of them returning to the property. Essentially the qualifying relative is occupying the property but is not physically present.

Example of emotional attachment to a property:

Bea is 62 years old and lives with her family in Kent. Her father Patrick is a widower who has been living in the family home in Norwich that she and her sister grew up in and where she occasionally stays to help her father. Patrick has been assessed as having eligible care and support needs that are best met by moving into a care home.
Although Bea is over the age of 60, the family home is not her main or only home and the property is therefore not disregarded.

Example of occupying a property when not physically present:

Matt is 60 years old and has been living overseas for the past 10 years due to his job in the diplomatic service. When he is in England, he lives at the family home he grew up in. His father Ken has been assessed as having eligible care and support needs that are best met by moving into a care home.

In Ken's financial assessment, the value of his property is disregarded as his son Matt is a qualifying relative who occupies the property as his main or only home. Although Matt is not physically present at the property at the point Ken moves into the care home, his alternative accommodation is only as a result of his employment and the family home is his main home.

5.26 NCC will take account of the individual circumstances of each case; however, we will consider the following factors in reaching our decision:-

- Does the relative currently occupy another property?
- If the relative has somewhere else to live do they own or rent the property (i.e. how secure/permanent is it?)
- If the relative is not physically present is there evidence of a firm intention to return to or live in the property?
- Where does the relative pay council tax?
- Where is the relative registered to vote?
- Where is the relative registered with a doctor?
- Are the relatives belongings located in the property?
- Is there evidence that the relative has a physical connection with the property?

Discretionary disregard

5.27 There may be other occasions where NCC will use its discretion to apply the disregard. However, in doing so we will need to balance this discretion with ensuring a person's assets are not maintained at public expense. An example where it may be appropriate to apply the disregard is where it is the sole residence of someone who has given up their own home in order to care for the person who is now in a care home or is perhaps the elderly companion of the person.

12-week property disregard

5.28 In line with the guidance, NCC will disregard the value of a person's main or only home when the value of their non-housing assets is below the upper capital limit for 12 weeks in the following circumstances:

(a) When they first enter residential care as a permanent resident; or
(b) When a property disregard other than the 12-week property disregard unexpectedly ends e.g. the death of the person remaining in the former home.

Example of a 12 week property disregard:

Win and Ern have been married for 60 years and brought a home together. Eighteen months ago, Win moved into residential care as a result of dementia. During her financial assessment, the value of the home she shared with Ern was disregarded as Ern was over 60 years old and still lived in the property.

Ern has been in good health and there is no reason to anticipate a sudden change in circumstance. Unfortunately Ern suffers a heart attack and passes away, leaving the property to Win. There is no longer an eligible person living in the property, meaning its value can now be taken into account in what Win can afford to contribute to the cost of her care.

Given this was unplanned for, Win and her family need time to consider what the best option might be. The 12 week disregard would therefore be applied.

26-week disregard

5.29 In line with the guidance, the following capital assets will be disregarded for at least 26 weeks in a financial assessment. However, there may be occasions where NCC choose to apply the disregard for longer where it considers this appropriate. For example where a person is taking legal steps to occupy premises as their home, but the legal processes take more than 26 weeks to complete.

(a) Assets of any business owned or part-owned by the person in which they were a self-employed worker and has stopped work due to some disease or disablement but intends to take up work again when they are fit to do so. This will apply from the date the person first took up residence in the residential care home.
(b) Money acquired specifically for repairs to or replacement of the person's home or personal possessions provided it is used for that purpose. This should apply from the date the funds were received.
(c) Premises which the person intends to occupy as their home where they have started legal proceedings to obtain possession. This should be from the date legal advice was first sought or proceedings first commenced.
(d) Premises which the person intends to occupy as their home where essential repairs or alterations are required. This should apply from the date the person takes action to effect the repairs.
(e) Capital received from the sale of a former home where the capital is to be used by the person to buy another home. This should apply from the date of completion of the sale.
(f) Money deposited with a Housing Association which is to be used by the person to purchase another home. This should apply from the date on which the money was deposited.
(g) Grant made under a Housing Act which is to be used by the person to purchase a home or pay for repairs to make the home habitable. This should apply from the date the grant is received.

52-week disregard

5.30 In line with the guidance, the following payments of capital will be disregarded for a maximum of 52 weeks from the date they are received.

(a) The balance of any arrears of or any compensation due to non-payment of:

i. Mobility supplement
ii. Attendance Allowance
iii. Constant Attendance Allowance
iv. Disability Living Allowance / Personal Independence Payment
v. Exceptionally Severe Disablement Allowance
vi. Severe Disablement Occupational Allowance
vii. Armed forces service pension based on need for attendance
viii. Pension under the Personal Injuries (Civilians) Scheme 1983, based on the need for attendance
ix. Income Support/Pension Credit
x. Working Tax Credit
xi. Child Tax Credit
xii. Housing Benefit
xiii. Universal Credit
xiv. Special payments to pre-1973 war widows.

As the above payments will be paid for specific periods, they will be treated as income over the period for which they are payable. Any money left over after the period for which they are treated as income has elapsed will be treated as capital.

(b) Payments or refunds for:

i. NHS glasses, dental treatment or patient's travelling expenses;
ii. Cash equivalent of free milk and vitamins;
iii. Expenses in connection with prison visits.

Example of a disregard for 52 weeks:

During his financial assessment it is identified that Colin is eligible for Pension Credit but is not currently claiming this benefit. He is therefore assessed as being able to pay £75 per week towards the cost of his care.

Colin tells the local authority that he will apply for Pension Credit. It is explained to him that the level of what he can afford to contribute will be reassessed once he starts receiving the additional benefit. If the payments are backdated, his contributions to the cost of his care will also be backdated and he may therefore need to make an additional payment to meet any arrears. Colin therefore chooses to pay £90 per week. After six weeks, arrears of Pension Credit at £35 per week (£210) are received.

What Colin can afford to contribute is reassessed and he is now asked to pay £110 per week. As Colin has been paying £15 a week more than required, he only

owes £120 rather than the full £210 of Pension Credit arrears. The remaining £90 of arrears payments should therefore be treated as capital and disregarded.

2-year disregard

5.31 In line with the guidance, NCC will disregard payments made under a trust established out of funds by the Secretary of State for Health in respect of CJD to a member of the victim's family for 2 years from the date of death of the victim (or from the date of payment from the trust if later); or a dependent child or young person until they turn 18.

Other disregards

5.32 In some cases a person's assets may be tied up in a business that they own or part-own. Where a person is taking steps to realise their share of the assets, these will be disregarded during the process. However, the person will be required to show that it is their clear intention to realise the asset as soon as practicable. In order to show their intent, NCC will request the following information:

(a) A description of the nature of the business asset;
(b) The person's estimate of the length of time necessary to realise the asset or their share of it;
(c) A statement of what, if any, steps have been taken to realise the asset, what these were and what is intended in the near future; and
(d) Any other relevant evidence, for example the person's health, receivership, liquidation, estate agent's confirmation of placing any property on the market.

5.33 Where the person has provided this information to show that steps are being taken to realise the value of the asset, NCC will disregard the value for a period that it considers to be reasonable. In deciding what is reasonable we will consider the length of time of any legal processes that may be needed.

5.34 Where the person has no immediate intention of attempting to realise the business asset, its capital value will be taken into account in the financial assessment. Where a business is jointly owned, this will apply only to the person's share.

Treatment of investment bonds

5.35 The value of Investments bonds will generally be included in the financial assessment as a capital asset. The main exception to this will be where the bond includes one or more element of life insurance policies that contain cashing in rights for total or partial surrender. The value of these rights will generally be disregarded.

5.36 NCC recognises that Investment Bonds can be complex instruments, and it retains the discretion to consider the treatment of these on a case by case basis.

Capital treated as income

5.37 The following capital payments will be treated as income:

(a) Any payment under an annuity, however, any tax free lump sum not used to purchase an annuity is still treated as capital;
(b) Capital paid by instalment where the total of:
    i. The instalments outstanding at the time the person first becomes liable to pay for their care, or in the case of a person in temporary care whom we had previously decided not to charge, the first day on which we decide to charge; and
    ii. The amount of other capital held by the resident is over £16,000. If it is £16,000 or less, each instalment should be treated as capital.

Income treated as capital

5.38 The following types of income will be treated as capital:

(a) Any refund of income tax charged on profits of a business or earnings of an employed earner; any holiday pay payable by an employer more than four weeks after the termination or interruption of employment.
(b) Income derived from a capital asset, for example, building society interest or dividends from shares. This should be treated as capital from the date it is normally due to be paid to the person. This does not apply to income from certain disregarded capital.
(c) Any advance of earnings or loan made to an employed earner by the employer if the person is still in work. This is as the payment does not form part of the employee's regular income and would have to be repaid.
(d) Any bounty payment paid at intervals of at least one year from employment as:
    i. A part time fireman;
    ii. An auxiliary coastguard;
    iii. A part time lifeboat man;
    iv. A member of the territorial or reserve forces.
(e) Charitable and voluntary payments which are neither made regularly nor due to be made regularly, apart from certain exemptions such as payments from AIDS trusts. Payments will include those made by a third party to the person to support the clearing of charges for accommodation.
(f) Any payments of arrears of contributions by a local authority to a custodian towards the cost of accommodation and maintenance of a child.

Capital available on application

5.39 In some instances a person may need to apply for access to capital assets but has not yet done so. In such circumstances this capital will be treated as already belonging to the person except in the following instances:

(a) Capital held in a discretionary trust;
(b) Capital held in a trust derived from a payment in consequence of a personal injury;

(c) Capital derived from an award of damages for personal injury which is administered by a court;
(d) Any loan which could be raised against a capital asset which is disregarded, for example the home.

5.40 NCC will distinguish between:

(a) Capital already owned by the person but which in order to access they must make an application for. For example:
    i. Money held by the person's solicitor;
    ii. Premium Bonds;
    iii. National Savings Certificates;
    iv. Money held by the Registrar of a County Court which will be released on application; and
(b) Capital not owned by the person that will become theirs on application, for example an unclaimed Premium Bond win. This will be treated as notional capital.

5.41 Where we are including capital available on application as notional capital, we will only do so from the date at which it could be acquired by the person.

6. Personal Expenses Allowance (PEA)

6.1 NCC will leave the person with a specified amount of their own income so that the person has money to spend on personal items such as clothes and other items that are not part of their care. This is known as the Personal Expenses Allowance (PEA). This is in addition to any income the person receives from earnings.

6.2 The amount of PEA is varied annually and is set by Ministers. These changes are communicated by Local Authority Circulars and are binding.

6.3 The PEA is not a benefit but the amount of a person's own income that they must be left with after charges have been deducted. Where a person's affairs are managed by an appointee, attorney or deputy, it is their responsibility to ensure that the person receives their PEA. However, where a person has no income, NCC is not responsible for providing one. However, we will support the person to access any relevant state benefits or independent advocacy.

6.4 The purpose of the PEA is to ensure that a person has money to spend as they wish. It must not be used to cover any aspect of their care and support that have been contracted for by NCC and/or assessed as necessary to meet the person's eligible needs.

6.5 There may be some circumstances where it would not be appropriate for NCC to leave a person only with the personal expenses allowance after charges. For example:

(a) Where a person has a dependent child, NCC will consider the needs of the child in determining how much income a person should be left with after charges. This applies whether the child is living with the person or not.

(b) Where a person is paying half of their occupational or personal pension or retirement annuity to a spouse or civil partner who is not living in the same care home, NCC will disregard this money. This does not automatically apply to unmarried couples although we may exercise discretion in individual cases.
(c) Where a person is temporarily in a care home and is a member of a couple – whether married or unmarried – we will disregard any Income Support or Pension Credit awarded to pay for home commitments and will consider the needs of the person at home in setting the personal expenses allowance. We will also consider disregarding other costs related to maintaining the couple's home (see below).
(d) Where a person's property has been disregarded, NCC will ensure that the person is left with a Disposable Income Allowance of £144.00 per week, in line with the Guidance. This is to cover costs such as fixed payments (like mortgages, rent and Council Tax), building insurance, utility costs (gas, electricity and water, including basic heating during the winter) and reasonable property maintenance costs.
(e) Although NCC has discretion to vary a PEA, when considering this, we will always be mindful of the public purse and fairness to other people using our services.

Disposable Income Allowance

6.6 Where a person has a Deferred Payment Agreement in place, we will ensure that the person retains sufficient resources to maintain and insure the property in line with the Disposable Income Allowance (DIA). The DIA is a fixed amount of £144 per week. This is instead of the PEA.

NCC will require the person to contribute the rest of their income towards the cost of their care but will allow the person to retain as much of their DIA as they want to.

6.7 A person may choose to keep less of their income than the DIA. This might be advantageous to the person as they would be contributing more to the costs of their care from their income, and consequently reducing the amount they are deferring. However, this must be entirely at the individual's decision.

7. Income

7.1 Only the income of the cared-for person will be taken into account in the financial assessment. Where the person receives income as one of a couple, the starting presumption is that the cared-for person has an equal share of the income. However, NCC will consider the implications for the cared-for person's partner.

Example where benefits are being awarded to the service user as part of a couple: Beryl and Tom are married and Tom has recently moved to long term residential care. A Financial Visiting Officer (FVO) has been to see Tom and has identified that Pension Credit is still being paid to Beryl and Tom as a couple. The FVO has asked the Pension Service to register a new claim for both Beryl and Tom as single people now that Tom is in residential care. The FVO has worked

out how much Tom has to pay towards his care charges while Pension Credit is awarded jointly and how much he will be liable to pay when it is awarded to him in his own right.

In working out how much Tom pays while Pension Credit is being paid jointly, the FVO has disregarded some of Tom's income to ensure that Beryl has sufficient money to meet her household costs (until she is awarded a higher level of Pension Credit).

Once Beryl is receiving the higher level of pension credit, Tom will be reassessed to pay more towards the cost of his residential care.

7.2 Income is net of any tax or National Insurance contributions.

7.3 Income will always be taken into account unless it is disregarded under the regulations. Income that is disregarded will either be partially disregarded or fully disregarded.

Earnings

7.4 In all cases, employed and self-employed earnings are fully disregarded in the financial assessment.

7.5 Earnings in relation to an employed earner are any remuneration or profit from employment. This will include:

(a) Any bonus or commission;
(b) Any payment in lieu of remuneration except any periodic sum paid to the person on account of the termination of their employment by reason of redundancy;
(c) Any payments in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
(d) Any holiday pay except any payable more than four weeks after the termination or interruption of employment;
(e) Any payment by way of a retainer;
(f) Any payment made by the person's employer in respect of any expenses not wholly, exclusively and necessarily incurred in the performance of the duties of employment, including any payment made by the person's employer in respect of travelling expenses incurred by the person between their home and the place of employment and expenses incurred by the person under arrangements made for the care of a member of the person's family owing to the person's absence from home;
(g) Any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);
(h) Any such sum as is referred to in section 112 of the Social Security Contributions and Benefits Act 1992 (certain sums to be earnings for social security purposes);
(i) Any statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;

(j) Any remuneration paid by or on behalf of an employer to the person who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because of illness;
(k) The amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001.

7.6 Earnings in relation to an employed earner do not include:

(a) Any payment in kind, with the exception of any non-cash voucher which has been taken into account in the computation of the person's earnings – as referred to above;
(b) Any payment made by an employer for expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
(c) Any occupational/personal pension.

7.7 Earnings in the case of employment as a self-employed earner means the gross receipts of the employment. This includes any allowance paid under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 to the person for the purpose of assisting the person in carrying on his business.

Earnings in the case of employment as a self-employed earner do not include:

(a) Any payment to the person by way of a charge for board and lodging accommodation provided by the person;
(b) Any sports award.

7.8 Earnings also include any payment provided to prisoners to encourage and reward their constructive participation in the regime of the establishment, this may include payment for working, education or participation in other related activities.

Benefits

7.9 NCC will take most of the benefits people receive into account. Those we will include and disregard are listed below.

7.10 Any income from the following benefits will be taken fully into account when considering what a person can afford to pay towards their care from their income:

(a) Attendance Allowance, including Constant Attendance Allowance and Exceptionally Severe Disablement Allowance
(b) Bereavement Allowance
(c) Carers Allowance
(d) Disability Living Allowance (Care component)
(e) Employment and Support Allowance or the benefits this replaces such as Severe Disablement Allowance and Incapacity Benefit
(f) Income Support
(g) Industrial Injuries Disablement Benefit or equivalent benefits

(h) Jobseeker's Allowance
(i) Maternity Allowance
(j) Pension Credit
(k) Personal Independence Payment (Daily Living component)
(l) State Pension
(m)Universal Credit
(n) Working Tax Credit.

7.11 Where any Social Security benefit payment has been reduced (other than a reduction because of voluntary unemployment), for example because of an earlier overpayment, the amount taken into account will be the gross amount of the benefit before reduction.

Annuity and pension income

7.12 An annuity is a type of pension product that provides a regular income for a number of years in return for an investment. Such products are usually purchased at retirement in order to provide a regular income. While the capital is disregarded, any income from an annuity will be taken fully into account except where it is:

(a) Purchased with a loan secured on the person's main or only home; or
(b) A gallantry award such as the Victoria Cross Annuity or George Cross Annuity.

For those who have purchased an annuity with a loan secured on their main or only home (as per (a) above), this is known as a 'home income plan'. Under these schemes, a person has purchased the annuity against the value of their home – similarly to a Deferred Payment Agreement and may be disregarded in the financial assessment.

7.13 In order to qualify for a disregard on the income, one of the annuitants must still be occupying the property as their main or only home. This may happen where a couple has jointly purchased an annuity and only one of them has moved into a care home. If this is not the case, the disregard will not be applied.

Where the disregard is applied, only the following aspects will be disregarded:

(a) The net weekly interest on the loan where income tax is deductible from the interest; or
(b) The gross weekly interest on the loan in any other case.

Before applying the disregard, the following conditions must be met:

(a) The loan must have been made as part of a scheme that required that at least 90% of that loan be used to purchase the annuity;
(b) The annuity ends with the life of the person who obtained the loan, or where there are two or more annuitants (including the person who obtained the loan), with the life of the last surviving annuitant;
(c) The person who obtained the loan or one of the other annuitants is liable to pay the interest on the loan;

(d) The person who obtained the loan (or each of the annuitant where there are more than one) must have reached the age of 65 at the time the loan was made;
(e) The loan was secured on a property in Great Britain and the person who obtained the loan (or one of the other annuitants) owns an estate or interest in that property; and
(f) The person who obtained the loan or one of the other annuitant occupies the property as their main or only home at the time the interest is paid.

Where the person is using part of the income to repay the loan, the amount paid as interest will be disregarded. If the payments the person makes on the loan are interest only and the person qualifies for tax relief on the interest they pay, the net interest will be disregarded. Otherwise, it will be the gross interest that is disregarded.

7.14 Where a person is in a care home and paying half of the value of their occupational pension, personal pension or retirement annuity to their spouse or civil partner NCC will disregard 50% of its value.

7.15 Reforms to defined contribution pensions come into effect from April 2015. The aim of the reforms is to provide people with much greater flexibility in how they fund later life. This may lead to changes in how people use the money in their pension fund. The rules for how to assess pension income for the purposes of charging are:

(a) If a person has removed the funds and placed them in another product or savings
(b) account, they will be treated according to the rules for that product;
(c) If a person is only drawing a minimal income, then NCC will apply notional income choosing not to draw income, or according to the maximum income that could be drawn under an annuity product. When applying maximum notional income, the actual income will be disregarded to avoid double counting;
(d) If a person is drawing down an income that is higher than the maximum previously payable under an annuity product, the actual income that is being drawn down will be taken into account.

Mortgage protection Insurance policies

7.16 Any income from an insurance policy is usually taken into account. In the case of mortgage protection policies where the income is specifically intended to support the person to acquire or retain an interest in their main or only home or to support them to make repairs or improvements to their main or only home it will be disregarded. However, the income must be being used to meet the repayments on the loan.

The amount of income from a mortgage protection insurance policy that should be disregarded is the weekly sum of:

(a) The amount which covers the interest on the loan; plus
(b) The amount of the repayment which reduced the capital outstanding; plus
(c) The amount of the premium due on the policy.

7.17 It should be remembered that Income Support, Employment and Support Allowance and Pension Credit may be adjusted to take account of the income from the policy.

Example of mortgage protection policy in payment:

Winifred has an outstanding mortgage and was making repayments of £180 per month to her lender until she suffered a stroke. Winifred has a mortgage protection policy which pays her the sum of £240 per month if she is unable to meet repayments due to ill health.

Winifred applies for Employment & Support Allowance. Winifred would usually be entitled to assistance with her mortgage but the amount she receives from her policy is greater than her mortgage. The mortgage protection policy is taken into account as income by the Department for Work & Pensions.

This reduces the amount of Employment & Support Allowance to which Winifred is entitled.

The financial assessment for her care will therefore only include the lower amount of Employment & Support Allowance paid to Winifred together with the excess income from the mortgage protection policy.

Other income that is fully disregarded

7.18 Any income from the following sources will be fully disregarded:

(a) Direct Payments
(b) Armed Forces Independence Payments and Mobility Supplement
(c) Child Support Maintenance Payments and Child Benefit
(d) Child Tax Credit
(e) Council Tax Reduction Schemes where this involves a payment to the person
(f) Disability Living Allowance (Mobility Component) and Mobility Supplement
(g) Christmas bonus
(h) Dependency increases paid with certain benefits
(i) Discretionary Trust
(j) Gallantry Awards
(k) Guardian's Allowance
(l) Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme
(m) Income frozen abroad
(n) Income in kind
(o) Pensioners Christmas payments
(p) Personal Independence Payment (Mobility Component) and Mobility Supplement
(q) Personal injury trust, including those administered by a Court
(r) Resettlement benefit
(s) Savings credit disregard
(t) Social Fund payments (including winter fuel payments)
(u) War widows and widowers special payments

(v) Any payments received as a holder of the Victoria Cross, George Cross or equivalent
(w) Any grants or loans paid for the purposes of education; and
(x) Payments made in relation to training for employment.
(y) Any payment from the:
    i. Macfarlane Trust
    ii. Macfarlane (Special Payments) Trust
    iii. Macfarlane (Special Payment) (No 2) Trust
    iv. Caxton Foundation
    v. The Fund (payments to non-haemophiliacs infected with HIV)
    vi. Eileen Trust
    vii. MFET Limited
    viii. Independent Living Fund (2006)
    ix. Skipton Fund
    x. London Bombings Relief Charitable Fund.

Charitable and voluntary payments

7.19 Charitable payments are not necessarily made by a recognised charity, but could come from charitable motives. The individual circumstances of the payment will need to be taken into account before making a decision. In general a charitable or voluntary payment which is not made regularly is treated as capital.

7.20 Charitable and voluntary payments that are made regularly will be fully disregarded.

Partially disregarded income

7.21 The following income is partially disregarded:

(a) The first £10 per week of the following:
    i. War Widows and War Widowers pension,
    ii. Survivors Guaranteed Income Payments from the Armed Forces Compensation Scheme (SGIP),
    iii. Civilian War Injury pension,
    iv. War Disablement pension and payments to victims of National Socialist persecution (paid under German or Austrian law).

(b) A savings disregard based on qualifying income is made to people as follows:

For individuals (as at 2014/15)
- Where a person is in receipt of qualifying income of less than £120.35 per week there will be no Savings Disregard made.
- Where a person is in receipt of qualifying income between £120.35 and £148.35 per week the savings disregard is made, which will equal the actual amount of the savings credit received or a sum of £5.75 whichever is less.
- Where a person is in receipt of qualifying income in excess of £148.35 per week, and a savings credit reward is in payment, a flat rate savings

disregard of £5.75 per week is made irrespective of how much the savings credit payment is.
- Where a person has qualifying income above the limit for receiving a savings credit reward (around £190.35 but could be higher if the person is severely disabled, has caring responsibilities or certain housing costs) a flat rate savings disregard of £5.75 is made.

For couples (as at 2014/15)

- Where a person is part of a couple (including a civil partnership) and is in receipt of qualifying income of less than £192.00 per week there will be no savings disregard made.
- Where a person who is part of a couple (including a civil partnership) and is in receipt of qualifying income between £192.00 and £226.50 per week the savings disregard is made, which will equal the actual amount of the savings credit received or a sum of £8.60 whichever is less.
- Where a person who is part of a couple (including a civil partnership) and is in receipt of qualifying income in excess of £226.50 per week, and a savings credit reward is in payment, a flat rate savings disregard of £8.60 per week is made irrespective of how much the savings credit payment is.
- Where a person who is part of a couple (including a civil partnership) and has qualifying income above the limit for receiving savings credit (around £278.25 but could be higher if the person is severely disabled, has caring responsibilities or certain housing costs) a flat rate savings disregard of £8.60 is made.

The values of £148.35 and £226.50 above represent the standard minimum guarantee for an individual and couple respectively. These amounts are increased to an appropriate minimum guarantee where individuals and couples qualify as severely disabled or as carers because of receipt of qualifying benefits.

Notional income

7.22 In some circumstances a person may be treated as having income that they do not actually have. This is known as notional income. This might include for example income that would be available on application but has not been applied for, income that is due but has not been received or income that the person has deliberately deprived themselves of for the purpose of reducing the amount they are liable to pay for their care. For guidance on deprivation of assets, please see page 34. In all cases NCC must satisfy itself that the income would or should have been available to the person.

7.23 Notional income should also be applied where a person has reached retirement age and has a personal pension plan but has not purchased an annuity or arranged to draw down the equivalent maximum annuity income that would be available from the plan. Estimates of the notional income can be received from the pension provider or from estimates provided by the Government Actuary's Department.

7.24 Where notional income is included in a financial assessment, it will be treated the same way as actual income. Therefore any income that would usually be disregarded will continue to be so.

7.25 Notional income will be calculated from the date it could be expected to be acquired if an application had been made. In doing so, NCC will assume the application was made when it first became aware of the possibility and take account of any time limits which may limit the period of arrears.

Example of notional income:

Andrew is 70 and is living in a care home. He has not been receiving his occupational pension to which he would have been entitled to from age 65. After contacting his former employer, they state Andrew will be paid the entire pension due from age 65. NCC will therefore apply notional income from age 65.

Example of notional income in relation to new pension flexibilities:

Ben has a pension fund worth £30,000. He has taken the opportunity to access this flexibly and as a result is only drawing down £5 a week as income at the point he begins to receive care and support.

The equivalent maximum annuity income would be £120 per week. For the purposes of the financial assessment, NCC will assume an income £120 per week.

7.26 There are some exemptions and the following sources of income will not be treated as notional income:

(a) Income payable under a discretionary trust;
(b) Income payable under a trust derived from a payment made as a result of a personal injury where the income would be available but has not yet been applied for;
(c) Income from capital resulting from an award of damages for personal injury that is administered by a court;
(d) Occupational pension which is not being paid because:
    i. The trustees or managers of the scheme have suspended or ceased payments due to an insufficiency of resources; or
    ii. The trustees or managers of the scheme have insufficient resources available to them to meet the scheme's liabilities in full.
(e) Working Tax Credit.

8. Deferred Payments

8.1 NCC operates a Deferred Payment Scheme for people in Residential Care. Deferred Payments are designed to prevent people from being forced to sell their home in their lifetime to meet the cost of their care. For further details relating to the Deferred Payments Scheme, please refer to our Deferred Payments Policy.

9. Choice of Accommodation – Third Party Payments and First Party "top-ups"

9.1 Where the care planning process has determined that a person's needs are best met in a care home, NCC will provide for the person's preferred choice of

accommodation, subject to certain conditions. Determining the appropriate type of accommodation will be made with the person/representative as part of the care and support planning process.

9.2 In some cases, a person may actively choose a setting that is more expensive than the amount identified for the provision of the accommodation in the Personal Budget. Where they have chosen a setting that costs more than this, an arrangement will need to be made as to how the difference will be met. This is known as an additional cost or 'top-up' payment and is the difference between the amount specified in the personal budget and the actual cost.

In such cases, NCC must arrange for them to be placed there, provided a third party, or in certain circumstances the person in need of care and support, is willing and able to meet the additional cost.

9.3 When entering into a contract to provide care in a setting that is more expensive than the amount identified in the personal budget, NCC is responsible for the total cost of that placement. This means that if there is a break down in the arrangement of a 'top-up', for instance if the person making the 'top-up' ceases to make the agreed payments, then we are liable for the fees until we have either recovered the additional costs we incur or made alternative arrangements to meet the cared for person's needs.

9.4 It is therefore really important that the person paying the top-up fully understands the implications of this choice and that they are aware that they will need to meet the additional cost of care for the full duration of the residential stay and that should this cost not be met, the cared for person may be moved to an alternative setting. We should also advise the person paying the top-up that they may want to seek independent financial advice before entering into a Third Party agreement.

9.5 We must also ensure that the person paying the 'top-up' is willing and able to meet the additional cost for the likely duration of the arrangement, recognising that this may be for some time into the future. Therefore the person paying the 'top-up' must normally enter into a written agreement with us, agreeing to meet that cost. The agreement is called a "Deed of Third Party Contribution".

We have adopted this arrangement because we consider it most suitable for the majority of cases and this is the Department of Health recommended best practice. However, we also recognise that in some cases, the individual circumstances of the case will mean that one of two different approaches is more suitable and we will consider, in our discretion, the following alternatives:

i. To treat the 'top-up' payment as part of the person's income and therefore recover the costs from the person concerned through the financial assessment.
ii. To agree with the third party paying the 'top-up' and the provider that payment for the 'top-up' element can be made directly to the provider with NCC paying the remainder.

An example of when the alternative (ii) above may be suitable could be where the person receiving care and support is receiving direct payments from NCC to pay for residential care.

9.6 The Deed of Third Party Contribution includes the following information:

- The weekly cost of the accommodation
- The amount specified for the accommodation in the person's personal budget;
- The additional amount to be paid;
- The frequency of the payments;
- To whom the payments are to be made;
- A statement on the consequences of ceasing to make payments;
- A statement on the effect of any increases in charges that a provider may make;
- A statement on the effect of any changes in the financial circumstances of the person paying the 'top-up';
- When the agreement will be reviewed.

First party 'top-ups'

9.7 The person whose needs are to be met by the accommodation may themselves choose to make a 'top-up' payment only in the following circumstances:

- Where they are subject to a 12-week property disregard;
- Where they have a deferred payment agreement in place; or
- Where they are receiving accommodation provided under S117 for mental health aftercare.

In such cases we will follow the same principle as outlined in 9.1 to 9.5 above, i.e. we will pay the home and invoice the person for the top-up.

Choice of accommodation and mental health after-care

9.8 The above also applies to those people who qualify for after-care under section 117A of the Mental Health Act 1983. However there is an exception in that the cared for person can meet the top-up costs themselves as they will not be contributing towards the cost of their care.

9.9 Regardless of who is meeting the additional costs 9.1 to 9.6 would still apply.

10. Deprivation of assets

10.1 People with care and support needs are free to spend their income and assets as they see fit, including making gifts to friends and family. This is important for promoting their wellbeing and enabling them to live fulfilling and independent lives. However, it is also important that people pay their fair contribution towards their care and support costs.

10.2 There are some cases where a person may have tried to deliberately avoid paying for care and support costs through depriving themselves of assets – either capital or income. There may also be valid reasons why someone no longer has an asset and therefore we must ensure all cases are fully explored before we consider whether deprivation has occurred.

10.3 Deprivation of assets means where a person has intentionally deprived or decreased their overall assets in order to reduce the amount they are charged towards their care. This means that they must have known that they needed care and support and have reduced their assets in order to reduce the contribution they are asked to make towards the cost of that care and support.

10.4 Where this has been done to remove a debt that would otherwise remain, even if that is not immediately due, this must not be considered as deprivation.

Example of where a debt has been removed that would otherwise remain: Jake took a second mortgage on his property to replace his roof and to update his central heating. He has £10,000 left outstanding on the 2nd mortgage and pays £100 per month. Jake has been receiving care and support in his own home but is due to move into residential care. Jake's father dies and leaves him £20,000. Jake uses £10,000 of this to pay the 2nd mortgage even though he has 10 years left to pay it. NCC would disregard the £10,000 used to pay the debt, but include the other £10,000 as capital.

10.5 Where NCC have evidence to support deprivation we will either charge the person as if they still possessed the asset or, if the asset has been transferred to someone else, may seek to recover the lost income or capital from the person to whom the asset has been transferred. Please see paragraph 10.16 below.

Has deprivation of capital occurred?

10.6 It is up to the person to prove to NCC that they no longer have the asset. If they are not able to, we will assess them as if they still had the asset. For capital assets, acceptable evidence of their disposal would be:

(a) A trust deed;
(b) Deed of gift;
(c) Receipts for expenditure;
(d) Proof that debts have been repaid.

10.7 A person can deprive themselves of capital in many ways, but common approaches may be:

(a) A lump-sum payment to someone else, for example as a gift;
(b) Substantial expenditure has been incurred suddenly and is out of character with previous spending;
(c) The title deeds of a property have been transferred to someone else;

(d) Assets have been put in to a trust that cannot be revoked;
(e) Assets have been converted into another form that would be subject to a disregard under the financial assessment, for example personal possessions;
(f) Assets have been reduced by living extravagantly, for example gambling;
(g) Assets have been used to purchase an investment bond with life insurance.

10.8 Deprivation will not be deliberate in all cases. The question of deprivation should only be considered where the person ceases to possess assets that would have otherwise been taken into account for the purposes of the financial assessment or has turned the asset into one that is now disregarded.

Example of where deprivation has not occurred:

1. Max has moved into a care home and has a 50% interest in a property that continues to be occupied by his civil partner, David. The value of the property is disregarded whilst David lives there, but he decides to move to a smaller property that he can better manage and so sells their shared home to fund this.

   At the time the property is sold, Max's 50% share of the proceeds could be taken into account in the financial assessment, but, in order to ensure that David is able to purchase the smaller property, Max makes part of his share of the proceeds from the sale available.

   In such circumstance, it would not be reasonable to treat Max as having deprived himself of capital in order to reduce his care home charges.

2. Emma gives her daughter Imogen a painting worth £2,000 the week before she enters a care home. The local authority should not consider this as deprivation as the item is a personal possession and would not have been taken into account in her financial assessment.

Example of where deprivation would be considered:

Looking at the example of Emma above, Emma had purchased the painting immediately prior to entering a care home to give to her daughter with £2,000 previously in a savings account, deprivation should be considered.

10.9 There may be many reasons for a person depriving themselves of an asset. Therefore NCC will always consider the following in the first instance:

(a) Whether avoiding the care and support charge was a significant motivation;
(b) The timing of the disposal of the asset. At the point the capital was disposed of could the person have a reasonable expectation of the need for care and support; and
(c) Whether the person had a reasonable expectation of needing to contribute to the cost of their eligible care needs

10.10 It would be unreasonable to decide that a person had disposed of an asset in order to reduce the level of charges for their care and support needs if at the time the disposal took place they were fit and healthy and could not have foreseen the need for care and support.

Example of assets to be considered: Mrs Kapoor has £18,000 in a building society and uses £10,500 to purchase a car. Two weeks later she enters a care home and gives the car to her daughter Juhie. If Mrs Kapoor knew when she purchased the car that she would be moving to a care home, then deprivation will be considered. However, all the circumstances must be taken into account so if Mrs Kapoor was admitted as an emergency and had no reason to think she may need care and support when she purchased the car, this should not be considered deprivation.

Has deprivation of income occurred?

10.11 It is also possible for a person to deliberately deprive themselves of income. For example, they could give away or sell the right to an income from an occupational pension. As for capital, it is up to the person to prove to NCC that they no longer have the income.

10.12 Where we consider that a person may have deprived themselves of income, we may treat them as possessing notional income. However in determining whether deliberate deprivation of income has occurred we will consider:

(a) Was it the person's income?
(b) What was the purpose of the disposal of the income?
(c) The timing of the disposal of the income. At the point the income was disposed of could the person have a reasonable expectation of the need for care and support?

10.13 In cases where income may have been converted into capital, this may be deemed as deprivation. We will determine what tariff income may be applied to the capital and whether the subsequent charge is less or more than the person would have paid had the charge being paid based on the income.

Investigations into whether deprivation has occurred

10.14 As part of investigating whether deprivation has occurred, in exceptional circumstances we will follow the organisational policy around the use of the Regulation of Investigatory Powers Act 2000 (RIPA).

10.15 In all other circumstances we will carry out an investigation by asking for and obtaining evidence to support the information given in the financial assessment.

What happens where deprivation of assets has occurred?

10.16 Where NCC decides that a person has deliberately deprived themselves of assets in order to avoid or reduce a charge for care and support, we treat that person as still having the asset for the purposes of the financial assessment and charge them accordingly.

10.17 If the person in depriving themselves of an actual resource has converted that resource into another of lesser value, the person will be treated as notionally possessing the difference between the value of the new resources and the one which it replaced. For example, if the value of personal possessions acquired is less than the sum spent on them, the difference should be treated as notional resource.

Recovering charges from a third party

10.18 Where the person has transferred the asset to a third party to avoid the charge, the third party is liable to pay NCC authority the difference between what it would have charged and did charge the person receiving care. However, the third party is not liable to pay anything which exceeds the benefit they have received from the transfer.

10.19 If the person has transferred funds to more than one third party, each of those people is liable to pay NCC the difference between what it would have charged or did charge the person receiving care in proportion to the amount they received. As with any other debt, NCC will use the County Court process to recover debts once other avenues have been exhausted.

Example of liability of a third party:

Mrs Tong has £23,250 in her savings account. This is the total of her assets. One week before entering care she gives her daughters Louisa and Jenny and her son Frank £7,750 each. This was with the sole intention of avoiding care and support charges.

Had Mrs Tong not given the money away, the first £14,250 would have been disregarded and she would have been charged a tariff income on her assets between £14,250 and £23,250. Assuming £1 for every £250 of assets, this means Mrs Tong should have paid £36 per week towards the cost of her care.

After 10 weeks of care, Mrs Tong should have contributed £360. This means Louisa, Jenny and Frank are each liable for £120 towards the cost of their mother's care.

11. Debt Collection

11.1 Where a person has accrued a debt to NCC, we will use our powers under the Care Act to recover that debt. For further information relating to debt collection, please refer to the NCC Debt Recovery Policy for Care Charges.

12. Financial Information and advice

12.1 Under section 4 of the Care Act local authorities have a duty to establish and maintain an information and advice service relating to care and support for adults and support for carers. Information and advice must be proportionate and accessible. This applies to financial information and advice and means that the person concerned (or their representative) must be able to understand any contributions they are asked to make and how they can pay.

12.2 NCC will therefore provide information to help people to understand care charges, (including how contributions are calculated), and means-tested support available, top-ups, and how care and support choices may affect costs.

12.3 NCC will also make people aware of independent financial advice, including flagging up the existence of regulated financial advice. This is to ensure that people have a better understanding of how their available resources can be used more flexibly to fund a wider range of care options. In these cases NCC will ensure that people are helped to understand how to access this advice.

12.4 There will be occasions where NCC can provide the advice and similarly where the person has to be referred elsewhere.

12.5 Such advice that NCC will provide will be limited to how to understand care charges; ways to pay; money management; making informed financial decisions and facilitating access to independent financial information and advice.

12.6 Where we recommend the person seeks independent financial advice, we will make the person aware which independent services may charge for the information and advice they provide. We will also describe the general benefits of independent information and advice and be explain the reasons why it may be beneficial for a person to take independent financial advice.

13. Complaints

13.1 A person may wish to make a complaint about any aspect of the financial assessment or the fact that we have chosen to charge. NCC will therefore make it clear what our complaints procedure is and provide information and advice on how to lodge a complaint.

13.2 All complaints relating to our Charging Policy should be referred to the Compliments and Complaints Team. Full details on how to do this and how complaint are handled are shown under the Compliments and Complaints section on Norfolk County Council's website.

13.3 Complaints about the level of charge levied by a local authority are subject to the usual Care and Support complaints procedure as set out in The Local Authority Social Services and NHS Complaints (England) Regulations 2009.

Norfolk County Council

Non-Residential Care Charging Policy

Contents

Norfolk County Council – Non-Residential Care Charging Policy

1. Legal Status

1.1 The Care Act 2014 provides a single legal framework for charging and enables a Local Authority to charge a person when it is arranging to meet a person's care and support. This is set out in Sections 14 and 17 of the Care Act 2014. This charging policy for non-residential care comes into effect on 1st April 2015 and is based on the Care Act 2014 and the regulations under it, including the Care and Support (Charging and Assessment of Resources) Regulations 2014. This policy replaces Norfolk County Council's Fairer Charging Policy and covers home care and other non-residential care. Where this policy refers to Supported Living, it also relates to Housing with Care.

1.2 This policy is made having due regard to the Statutory Guidance issued by the Secretary of State. Norfolk will apply the guidance contained in the Care and Support Statutory Guidance 2014, save where the contrary is indicated in this policy. The policy is made having regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010, together with the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

1.3 Where this policy leaves a discretion to the Council, Norfolk County Council (NCC) will exercise that discretion in the following way:

- The discretion will be applied so as to ensure as far as possible the individual will contribute to the cost of their care and support in accordance with the Care and Support Statutory Guidance.
- Where a discretion has been exercised, the financial assessment will include a note of the written reasons why the discretion has been exercised in the way it has.
- The assessment will also include the initials of the person who has exercised the discretion along with those of a manager who will have approved this.

1.4 The overarching principle is that people should only pay what they can afford to pay and this will be based on a mean-test financial assessment unless the person has more than the upper capital limit (which is currently set at £23,250 as at 2015). Some people will be entitled to free care and this is set out at 1.9 below.

1.5 If the person has more than the upper capital limit, Norfolk County Council (NCC) will arrange the care and support (if asked to do so) but there will be a charge for this arrangement. Also the person will be expected to pay the full cost of their care until their capital falls below the upper capital limit.

1.6 NCC will not charge more than the cost that we incur in meeting the assessed needs of the person.

1.7 NCC's charging policy will ensure that people are not charged more than it is reasonably practicable for them to pay. The policy is comprehensive, to reduce variation in the way people are assessed and charged and is clear and transparent, so people know what they will be charged. It also promotes wellbeing, social inclusion, and supports the vision of personalisation, independence, choice and control.

1.8 The financial assessment will be based on the person's income and capital only and their share of any joint income and capital. We do not assess couples or civil partners jointly. However we will give regard to any partner or spouse living in the same household to ensure they have enough money to live on.

1.9 NCC charges for all types of care and support with the exception of the following:

- Intermediate care including reablement (for up to six weeks).
- Community Equipment (aids and minor adaptations). Aids are provided free of charge. A minor adaptation is one costing £1,000 or less.
- Care and support provided to people with Creutzfeldt-Jacob Disease.
- After-care services/support provided under section 117 of the Mental Health Act 1983.
- Any service or part of service which the NHS is under a duty to provide. This includes Continuing Health Care and the NHS contribution to Registered Nursing Care.
- Any services which a local authority is under a duty to provide through other legislation may not be charged for under the Care Act 2014.
- Assessment of needs and care planning may also not be charged for, since these processes do not constitute "meeting needs".

1.10 Where NCC is meeting needs by arranging care, we are responsible for contracting with the care provider. We are also responsible for paying the full amount, including where a 'top-up' fee is being paid. We will invoice the person for their contribution towards the cost of the care as worked out in the financial assessment. We will also invoice for any top-up.

1.11 The only exception to 1.10 above is where a person chooses to buy some additional care and support which does not form part of the care package to meet the person's eligible needs. In such cases the person will need to make these arrangements themselves and NCC will not be responsible for meeting these costs, nor will the costs be allowed as a Disability Related Expense. Please see section 10 below for disability related expenses.

2. The financial assessment

2.1 NCC will carry out a financial assessment to determine what the person can afford to pay. The financial assessment looks across all of a person's assets – both capital and income in accordance with the regulations and guidance.

2.2 In a financial assessment income and capital will either be disregarded (ignored), partly disregarded or included in the calculation.

2.3 There is an upper capital limit of £23,250 and a lower capital limit of £14,250. Please note these amounts are as at April 2015.

2.4 Where the person has more than £23,250 and they ask NCC to arrange the care and support, we will apply an administration fee to cover our costs. This will be a fixed rate arrangement fee and will be no higher than the cost we have incurred in making the arrangements.

2.5 Where a person's resources are below the lower capital limit, £14,250, they will not need to contribute to the cost of their care and support from their capital i.e. the contribution will be based on their income only.

2.6 Every person who receives a financial assessment will be given a written record of the assessment which will explain how the assessment has been carried out, what the charge will be and how often it will be made, and when it will be reviewed. The review will generally take place on an annual basis but this may vary according to individual circumstances.

2.7 If the person lacks the mental capacity to take part in the financial assessment, NCC will consult with any of the following people who have:

- Enduring Power of Attorney (EPA);
- Lasting Power of Attorney (LPA) for Property and Affairs;
- Lasting Power of Attorney (LPA) for Health and Welfare;
- Property and Affairs Deputyship under the Court of Protection; or
- Any other person dealing with that person's affairs (e.g. someone who has been given appointeeship by the Department for Work and Pensions (DWP) for the purpose of receiving benefits payments).

2.8 People who lack capacity to give consent to a financial assessment and who do not have any of the above people with authority to be involved in their affairs, may require the appointment of a Property and Affairs Deputy. Family members can apply for this to the Court of Protection or we can apply if there is no family involved in the care of the person. While this takes some weeks, it then enables the person appointed to access information about bank accounts and financial affairs. A person with dementia for example will not be 'forced' to undertake a financial assessment or to sign documents they can no longer understand. In such cases NCC will work with an EPA, a LPA or a Deputy instead. In those circumstances, the EPA, LPA or Deputy will take on the financial responsibilities of the person receiving care and will be liable to pay their care fees on their behalf once they have access to their funds.

2.9 In the financial assessment, the person's capital is taken into account unless it is subject to one of the disregards set out in Section 7 below. The main examples of capital are property and savings. Where the person receiving care and support has capital at or below the upper capital limit (currently £23,250), but more than the lower capital limit (currently £14,250), they will be charged £1 per week for every £250 in capital between the two amounts. This is called "tariff income". For example, if a

person has £4,000 above the lower capital limit, they are charged a tariff income of £16 per week towards the cost of their care.

2.10 In assessing what a person can afford to pay, NCC will take into account the person's income with the exception of earnings from current employment. Please refer to Section 9 below for further information relating to income.

2.11 Where the person has refused a financial assessment or NCC has been unable to carry out a full financial assessment because of the person's refusal to cooperate, we will assume the person has financial resources in excess of the upper limit and will charge them the full cost of their care.

3. Light touch financial assessments

3.1 The Care Act enables Local Authorities to operate light touch financial assessments in certain circumstances. Whilst these are not currently in operation, we will be looking at the financial assessment process during 2015 to establish circumstances where we can put this into practice. The Non-Residential Charging Policy will therefore be changed accordingly to reflect any such changes.

4. Charging

4.1 These charging arrangements relate to meeting care and support needs outside of a care home. For example, care and support received in a person's own home and Supported Living.

4.2 Because a person who receives care and support outside a care home will need to pay their daily living costs such as rent, food and utilities, the charging rules ensure that the person will have enough money to meet these costs. After charging, a person will be left with the minimum income guarantee (MIG), equivalent to Income Support/Guaranteed Pension Credit plus a buffer of 25%.

4.3 In addition to 4.2, where a Carers Premium is in payment we will disregard this plus a 25% buffer.

4.4 Everyone will be allowed £15.00 per week to cover Disability Related Expenses. In some cases the cost of meeting the expenses will be more than £15.00. The additional cost can be considered but in doing so NCC will require evidence to support these costs. Please see section 10 below for more detailed information.

4.5 The financial assessment of the person's capital will exclude the value of the property which they occupy as their main or only home. The only exception to this is where the person is moving into Supported Living, in such cases the property will be included in the financial assessment. Any other capital will be treated as outlined under the capital section at Section 7 below.

5. Carers

5.1 The Care Act provides local authorities with the ability to charge carers for support provided them. NCC has taken the decision that it will not charge carers for support.

6. Requesting local authority support to meet eligible needs

6.1. People with eligible needs and financial assets above the upper capital limit may ask NCC to meet their needs. This could be for a variety of reasons such as the person finding the system too difficult to navigate, or wishing to take advantage of our knowledge of the local market of care and support services. Where the person asks NCC to meet their eligible needs for care other than in a care home setting, we will meet those eligible needs and we will charge a fixed rate administrative fee for arranging this care. This will be known as an Arrangement Fee. This will be in addition to the weekly full cost of care that the person will have to pay. The Arrangement fee will cover the costs of arranging the care including any negotiations and/or management of the contract with a provider and any administration costs incurred.

6.2 NCC will make people aware that they have the right to request our support to meet their needs, in certain circumstances, even when they have resources above the financial limits and would not be entitled to financial support with any charges. This only applies to care in a non-care home setting and there will be a cost for us arranging this.

NCC will also offer support to people in meeting their own needs and this will include providing information and advice on different options.

7. Capital

7.1 A person with assets above the upper capital limit will be deemed to be able to afford the full cost of their care. Those with capital between the lower and upper capital limit will be deemed as able to make a contribution, known as “tariff income”, from their capital. Any capital below the lower capital limit will be disregarded.

What is Capital?

7.2 Capital refers to financial resources available for use and tends to be from sources that are considered more durable than money in the sense that they can generate a return.

7.3 The following list gives examples of capital. This list is intended as a guide and is not exhaustive.

(a) Buildings
(b) Land

(c) National Savings Certificates and Ulster Savings Certificates
(d) Premium Bonds
(e) Stocks and shares
(f) Capital held by the Court of Protection or a Deputy appointed by that Court
(g) Any savings held in Building Society Accounts and Bank Current Accounts, Deposit Accounts or special investment accounts. This includes savings held in the National Savings Bank; Girobank and Trustee Savings Bank; SAYE schemes; Unit Trusts; Co-operatives share accounts.
(h) Cash
(i) Trust funds (in certain circumstances).

7.4 It is important that people are not charged twice on the same resources. Therefore, resources will only be treated as income or capital but not both. If a person has saved money from their income then those savings will normally be treated as capital. However they should not be assessed as both income and capital in the same period. Therefore in the period when they are received as income, the resource will not be counted as capital.

Do we treat as income or capital?

7.5 In assessing a person's assets it may not be immediately clear where a resource is capital or income, particularly where a person is due to receive planned payments. In general, a planned payment of capital is one which is not in respect of a specified period and not intended to form part of a series of payments.

Who owns the capital?

7.6 A capital asset is normally defined as belonging to the person in whose name it is held, the legal owner. However in some cases this may be disputed and/or beneficial ownership argued. Beneficial ownership is where someone enjoys the benefits of ownership, even though the title of the asset is held by someone else or where they directly or indirectly have the power to vote or influence a transaction regarding a particular asset. In most cases the person will be both the legal and beneficial owner.

Where ownership is disputed, NCC will ask for written evidence to prove where the ownership lies. If a person states they are holding capital for someone else, NCC will ask for evidence of the arrangement, the origin of the capital and intentions for its future use and return to its rightful owner.

Examples of a capital dispute:

1. Arlene has £14,000 in a building society account in her own name. She says that £3,000 is set aside for her granddaughter's education. Unfortunately there is no deed of trust or other legal arrangement which would prevent Arlene using the whole amount herself. She is therefore treated as the beneficial owner of the whole amount.

2. Lisa has £10,000 in a bank account in her own name and shares valued at £6,500. She provides evidence to show that the shares were purchased on behalf of her son who is abroad and that they will be transferred to her son when he returns to the UK. Although Lisa is the legal owner, she is holding the shares in trust for her son who is the beneficial owner. Only the £10,000 is therefore treated as Lisa's capital.

7.7 Where a person has joint beneficial ownership of capital, except where there is evidence that the person owns an unequal share, the total value should be divided equally between the joint owners and the person should be treated as owning an equal share. Once the person is in sole possession of their actual share, they can be treated as owning that actual amount.

Example of joint ownership:

Mary is receiving a package of home care. She and her son David have £21,000 in a joint building society account. Mary has contributed £8,500 and David, £12,500. Each is treated as owning £10,500.
The joint account is then closed and Mary and David open separate accounts. Mary now has £8,500 in her account and so is assessed as owning £8,500.

In some cases a person may be the legal owner of a property but not the beneficial owner of a property. In other words, they have no rights to the proceeds of any sale. In such circumstances the property must not be taken into account.

How to calculate the value of capital

7.8 NCC will need to work out what value a capital asset has in order to take account of it in the financial assessment. Other than National Savings Certificates, the valuation must be the current market or surrender value of the capital asset, e.g. property, whichever is higher, minus:

(a) 10% of the value if there will be any actual expenses involved in selling the asset. This must be expenses connected with the actual sale and not simply the realisation of the asset. For example the costs to withdraw funds from a bank account are not expenses of sale, but legal fees to sell a property would be; and
(b) Any outstanding debts secured on the asset, for example a mortgage.

Please note we will only include the value of the property in the financial assessment for non-residential care where the cared for person is moving into Supported Living or where the cared person owns another property as well as the home in which they live.

7.9 A capital asset may have a current market value, for example stocks or shares, or a surrender value, for example premium bonds. The current market value will be

the price a willing buyer would pay to a willing seller. The way the market value is obtained will depend on the type of asset held.

If the person and the Financial Visiting Officer both agree that after deducting any relevant amounts set out in 7.8 above that the total value of the person's capital is more than the upper capital limit of £23,250 or less then the lower capital limit of £14,250 that it is not necessary to obtain a precise valuation. If there are any disputes, a precise valuation should be obtained. However, NCC will give consideration to how close the person is to the upper capital limit when deciding whether or not to obtain a precise valuation.

Where a precise valuation is required, a professional valuer should be asked to provide a current market valuation. Once the asset is sold, the capital value to be taken into account is the actual amount realised from the sale, minus any actual expenses of the sale.

7.10 Where the value of a property is disputed, the aim should be to resolve this as quickly as possible. NCC will try to obtain an independent valuation of the person's beneficial share to enable us to work out what charges a person should pay and will help the person, or their representative, to consider whether to seek a deferred payment agreement if applicable.

7.11 The value of National Savings Certificates (and Ulster Savings Certificates) is assessed in the same way as other capital assets. A valuation for savings certificates can be obtained by contacting the NS&I helpline on 0845 964 5000. An alternative method to get the value of National Savings Certificates is to use the NS&I online calculator (please see http://www.nsandi.com/savings-index-linked-savings-certificates#interest-calculator).

To enable an accurate value for the savings certificates the person must provide details of the certificate issue number(s); the purchase price and the date of purchase.

Assets held abroad

7.12 Where capital is held abroad and all of it can be transferred to the UK, its value in the other country will need to be obtained (this could be in the form of a letter from a property agent confirming the value) as it will be taken into account less any appropriate deductions as outlined in 7.8 above.

Where capital is held jointly, it should be treated the same as if it were held jointly within the UK. The detail will depend on the conditions for transfer to the UK.

7.13 Where the capital cannot be wholly transferred to the UK due to the rules of that country, for example currency restrictions, the person will need to provide evidence confirming this fact. Examples of acceptable evidence could include documentation

from a bank, Government official or solicitor in either this country or the country where it is held.

7.14 Where some restriction is in place, the person will need to provide evidence showing what the asset is and the value of the asset. NCC will need to understand the nature and terms of the restriction so that should this change, the actual amount can then be revised accordingly.

Capital not immediately realisable

7.15 Capital which is not immediately realisable due to notice periods, for example National Savings Bank investment accounts, will be taken into account in the normal way at its face value. This will be the value at the time of the financial assessment but may need to be confirmed and adjusted when the capital is realised. If the person chooses not to release the capital, the value at the time of the assessment will be used and reassessed each year in the normal way.

Where the person receiving care and support inherits a sum of money, this will be included in the financial assessment from the date of entitlement.

Tariff Income

7.16 Where a person has assets between the lower and upper capital limits, tariff income will be applied. Tariff Income assumes that for every £250 of capital, or part thereof, a person is able to afford to contribute £1 per week towards the cost of their eligible care needs.

Example of tariff income: Nora has capital of £18,100. This is £3,850 above the lower capital limit of £14,250. Dividing the £3,850 by £250 produces a figure of £15.40. When calculating tariff income, the amount is always rounded up. This therefore gives a tariff income of £16 per week.

Notional Capital

7.17 In some circumstances a person may be treated as possessing a capital asset even where they do not actually possess it. This is called notional capital.
Notional capital may be capital which:

- Would be available to the person if they applied for it;
- Is paid to a third party in respect of the person;
- The person has deprived themselves of in order to reduce the charge they have to pay for their care.

A person's capital should therefore be the total of both actual and notional capital.

7.18 Where a person has been assessed as having notional capital, the value of this must be reduced over time. The rule is that the value of notional capital must be reduced weekly by the difference between the weekly rate the person has been assessed to pay for their care and the weekly rate they would have paid if notional capital did not apply.

Example of diminishing notional capital:

Mary is receiving care and support at home. She is assessed as having notional capital of £20,000 plus actual capital of £6,000. This means her assets are above the upper capital limit and she needs to pay the full cost of her care and support at £300 per week.

If she did not have the notional capital it would not affect her ability to pay. This is as she has a weekly income of £268.15 and a MIG of £189.00 per week and DRE's of £15.00 per week. Mary would therefore be assessed as being able to pay £64.15 per week (for 2015/16).

The notional capital should therefore be reduced by £235.85 per week – the difference between the sum Hayley is assessed to pay (£300 and the amount she would have paid without the notional capital (£64.15).

Capital disregarded

7.19 The following capital assets will be disregarded:

(a) Property in specified circumstances (see 7.20 below).
(b) The surrender value of any Life insurance policy and or Annuity.
(c) Payments of training bonuses of up to £200.
(d) Payments in kind from a charity.
(e) Any personal possessions such as paintings or antiques, unless they were purchased with the intention of reducing capital in order to avoid care and support charges.
(f) Any capital which is to be treated as income or student loans.
(g) Any payment that may be derived from:
   i. The Macfarlane Trust;
   ii. The Macfarlane (Special Payments) Trust;
   iii. The Macfarlane (Special Payment) (No 2) Trust;
   iv. The Caxton Foundation;
   v. The Fund (payments to non-haemophiliacs infected with HIV);
   vi. The Eileen Trust;
   vii. The MFET Trust;
   viii. The Independent living Fund (2006);
   ix. The Skipton Fund;
   x. The London Bombings Relief Charitable Fund.

(h) The value of funds held in trust or administered by a court which derive from a payment for personal injury to the person. For example, the vaccine damage and criminal injuries compensation funds.
(i) The value of a right to receive:
  i. Income under an annuity, however, any tax free lump sum not used to purchase an annuity is still treated as capital;
  ii. Outstanding instalments under an agreement to repay a capital sum (money that is due to be repaid to the service user);
  iii. Payment under a trust where the funds derive from a personal injury;
  iv. Income under a life interest or a life-rent;
  v. Income (including earnings) payable in a country outside the UK which cannot be transferred to the UK;
  vi. An occupational pension;
  vii. Any rent. Please note however that this does not necessarily mean the income is disregarded. Please see below for guidance on the treatment of income.
(j) Capital derived from an award of damages for personal injury which is administered by a court or which can only be disposed of by a court order or direction.
(k) The value of the right to receive any income under an annuity purchased pursuant to any agreement or court order to make payments in consequence of personal injury or from funds derived from a payment in consequence of a personal injury and any surrender value of such an annuity.
(l) Periodic payments in consequence of personal injury pursuant to a court order or agreement to the extent that they are not a payment of income and are treated as income (and disregarded in the calculation of income).
(m) Any Social Fund payment.
(n) Refund of tax on interest on a loan which was obtained to acquire an interest in a home or for repairs or improvements to the home.
(o) Any capital resources which the person has no rights to as yet, but which will come into his possession at a later date, for example on reaching a certain age.
(p) Payments from the Department of Work and Pensions to compensate for the loss of entitlement to Housing Benefit or Housing Benefit Supplement.
(q) The amount of any bank charges or commission paid to convert capital from foreign currency to sterling.
(r) Payments to jurors or witnesses for court attendance (but not compensation for loss of earnings or benefit).
(s) Community charge rebate/council tax rebate.
(t) Money deposited with a Housing Association as a condition of occupying a dwelling.
(u) Any Child Support Maintenance Payment.
(v) The value of any ex-gratia payments made on or after 1st February 2001 by the Secretary of State in consequence of a person's, or person's spouse or civil partner's imprisonment or internment by the Japanese during the Second World War.

(w) Any payment made by a local authority under the Adoption and Children Act 2002 (under section 2(6) (b) or 3 of this act).
(x) The value of any ex-gratia payments from the Skipton Fund made by the Secretary of State for Health to people infected with Hepatitis C as a result of NHS treatment with blood or blood products.
(y) Payments made under a trust established out of funds provided by the Secretary of State for Health in respect of persons suffering from variant Creutzfeldt-Jakob disease to the victim or their partner (at the time of death of the victim).
(z) Any payments under Section 2, 3 or 7 of the Age-Related Payments Act 2004 or Age Related Payments Regulations 2005 (SI No 1983).
(aa) Any payments made under section 63(6)(b) of the Health Services and Public Health Act 1968 to a person to meet childcare costs where he or she is undertaking instruction connected with the health service by virtue of arrangements made under that section.
(bb) Any payment made in accordance with regulations under Section 14F of the Children Act 1989 to a resident who is a prospective special guardian or special guardian, whether income or capital.

Example of disregarded capital:

Mr T is a former Far East prisoner of war and receives a £10,000 ex-gratia payment as a result of his imprisonment. He now requires care and support and has a total of £25,000 in capital. When calculating how much capital should be taken into account, we will disregard the first £10,000 – the value of the ex-gratia payment. The normal capital rules are then applied to the remaining £15,000.

In this case, the first £14,250 would be completely disregarded in addition to the £10,000. Tariff income would therefore only be applied to the remaining £750 giving a charge of £3.

Property and property disregards

7.20. The value of the person's main or only home will be disregarded where the person is receiving care in their own home.

7.21 Where the person moves into Supported Living the value of the former home will be included in the financial assessment.

Discretionary disregard

7.22 There may be occasions where NCC will use its discretion to disregard the property in other circumstances. However, in doing so we will need to balance this discretion with ensuring a person's assets are not maintained at public expense.

26-week disregard

7.23 In line with the guidance, the following capital assets will be disregarded for at least 26 weeks in a financial assessment. However, there may be occasions where NCC choose to apply the disregard for longer where it considers this appropriate. For example where a person is taking legal steps to occupy premises as their home, but the legal processes take more than 26 weeks to complete.

(a) Assets of any business owned or part-owned by the person in which they were a self-employed worker and has stopped work due to some disease or disablement but intends to take up work again when they are fit to do so. This will apply from the date the person first receives care and support.
(b) Money acquired specifically for repairs to or replacement of the person's home or personal possessions provided it is used for that purpose. This should apply from the date the funds were received.
(c) Premises which the person intends to occupy as their home where they have started legal proceedings to obtain possession. This should be from the date legal advice was first sought or proceedings first commenced.
(d) Premises which the person intends to occupy as their home where essential repairs or alterations are required. This should apply from the date the person takes action to effect the repairs.
(e) Capital received from the sale of a former home where the capital is to be used by the person to buy another home. This should apply from the date of completion of the sale.
(f) Money deposited with a Housing Association which is to be used by the person to purchase another home. This should apply from the date on which the money was deposited.
(g) Grant made under a Housing Act which is to be used by the person to purchase a home or pay for repairs to make the home habitable. This should apply from the date the grant is received.

52-week disregard

7.24 In line with the guidance, the following payments of capital will be disregarded for a maximum of 52 weeks from the date they are received.

(a) The balance of any arrears of or any compensation due to non-payment of:
   i. Mobility supplement
   ii. Attendance Allowance
   iii. Constant Attendance Allowance
   iv. Disability Living Allowance / Personal Independence Payment
   v. Exceptionally Severe Disablement Allowance
   vi. Severe Disablement Occupational Allowance
   vii. Armed forces service pension based on need for attendance
   viii. Pension under the Personal Injuries (Civilians) Scheme 1983, based on the need for attendance
   ix. Income Support/Pension Credit

x. Working Tax Credit
xi. Child Tax Credit
xii. Housing Benefit
xiii. Universal Credit
xiv. Special payments to pre-1973 war widows.

As the above payments will be paid for specific periods, they will be treated as income over the period for which they are payable. Any money left over after the period for which they are treated as income has elapsed will be treated as capital.

(b) Payments or refunds for:

i. NHS glasses, dental treatment or patient's travelling expenses;
ii. Cash equivalent of free milk and vitamins;
iii. Expenses in connection with prison visits.

Example of a disregard for 52 weeks:

During his financial assessment it is identified that Colin is eligible for Pension Credit but is not currently claiming this benefit. He is therefore assessed as being able to pay £75 per week towards the cost of his care.

Colin tells the local authority that he will apply for Pension Credit. It is explained to him that the level of what he can afford to contribute will be reassessed once he starts to receive the additional benefit. If the payments are backdated, his contributions to the cost of his care will also be backdated and he may therefore need to make an additional payment to meet any arrears. Colin therefore chooses to pay £90 per week. After six weeks, arrears of Pension Credit at £35 per week (£210) are received.

What Colin can afford to contribute is reassessed and he is now asked to pay £110 per week. As Colin has been paying £15 a week more than required, he only owes £120 rather than the full £210 of Pension Credit arrears. The remaining £90 of arrears payments should therefore be treated as capital and disregarded.

2-year disregard

7.25 In line with the guidance, NCC will disregard payments made under a trust established out of funds by the Secretary of State for Health in respect of CJD to a member of the victim's family for 2 years from the date of death of the victim (or from the date of payment from the trust if later); or a dependent child or young person until they turn 18.

Other disregards

7.26 In some cases a person's assets may be tied up in a business that they own or part-own. Where a person is taking steps to realise their share of the assets, these will be disregarded during the process. However, the person will be required to show that it is their clear intention to realise the asset as soon as practicable. In order to show their intent, NCC will request the following information:

(a) A description of the nature of the business asset;
(b) The person's estimate of the length of time necessary to realise the asset or their share of it;
(c) A statement of what, if any, steps have been taken to realise the asset, what these were and what is intended in the near future; and
(d) Any other relevant evidence, for example the person's health, receivership, liquidation, estate agent's confirmation of placing any property on the market.

7.27 Where the person has provided this information to show that steps are being taken to realise the value of the asset, NCC will disregard the value for a period that it considers to be reasonable. In deciding what is reasonable we will consider the length of time of any legal processes that may be needed.

7.28 Where the person has no immediate intention of attempting to realise the business asset, its capital value will be taken into account in the financial assessment. Where a business is jointly owned, this will apply only to the person's share.

Treatment of investment bonds

7.29 The value of Investments bonds will generally be included in the financial assessment as a capital asset. The main exception to this will be where the bond includes one or more element of life insurance policies that contain cashing in rights for total or partial surrender. The value of these rights will generally be disregarded.

7.30 NCC recognises that Investment Bonds can be complex instruments, and it retains the discretion to consider the treatment of these on a case by case basis.

Capital treated as income

7.31 The following capital payments will be treated as income:

(a) Any payment under an annuity, however, any tax free lump sum not used to purchase an annuity is still treated as capital;
(b) Capital paid by instalment where the total of:
   i. The instalments outstanding at the time the person first becomes liable to pay for their care, or in the case of a person in temporary care whom we had previously decided not to charge, the first day on which we decide to charge; and
   ii. The amount of other capital held by the resident is over £16,000. If it is £16,000 or less, each instalment should be treated as capital.

Income treated as capital

7.32 The following types of income will be treated as capital:

(a) Any refund of income tax charged on profits of a business or earnings of an employed earner; any holiday pay payable by an employer more than 4 weeks after the termination or interruption of employment.

(b) Income derived from a capital asset, for example, building society interest or dividends from shares. This should be treated as capital from the date it is normally due to be paid to the person. This does not apply to income from certain disregarded capital.
(c) Any advance of earnings or loan made to an employed earner by the employer if the person is still in work. This is as the payment does not form part of the employee's regular income and would have to be repaid.
(d) Any bounty payment paid at intervals of at least one year from employment as:
   i. A part time fireman;
   ii. An auxiliary coastguard;
   iii. A part time lifeboat man;
   iv. A member of the territorial or reserve forces.
(e) Charitable and voluntary payments which are neither made regularly nor due to be made regularly, apart from certain exemptions such as payments from AIDS trusts. Payments will include those made by a third party to the person to support the clearing of charges for accommodation.
(f) Any payments of arrears of contributions by a local authority to a custodian towards the cost of accommodation and maintenance of a child.

Capital available on application

7.33 In some instances a person may need to apply for access to capital assets but has not yet done so. In such circumstances this capital will be treated as already belonging to the person except in the following instances:

(a) Capital held in a discretionary trust;
(b) Capital held in a trust derived from a payment in consequence of a personal injury;
(c) Capital derived from an award of damages for personal injury which is administered by a court;
(d) Any loan which could be raised against a capital asset which is disregarded, for example the home.

7.34 NCC will distinguish between:

(a) Capital already owned by the person but which in order to access they must make an application for. For example:
   i. Money held by the person's solicitor;
   ii. Premium Bonds;
   iii. National Savings Certificates;
   iv. Money held by the Registrar of a County Court which will be released on application; and
(b) Capital not owned by the person that will become theirs on application, for example an unclaimed Premium Bond win. This will be treated as notional capital.

7.35 Where we are including capital available on application as notional capital, we will only do so from the date at which it could be acquired by the person.

8. Minimum Income Guarantee

8.1 NCC will ensure that a person's income is not reduced below a specified level after charges have been deducted. This will be at least the equivalent of the value of Income Support or the Guaranteed Credit element of Pension Credit plus a minimum buffer of 25%. This amount is currently £189.00 for 2015/2016.

8.2. The purpose of the minimum income guarantee is to promote independence and social inclusion and ensure that the cared for person has sufficient funds to meet basic needs such as purchasing food, utility costs or insurance. This amount is after any housing costs such as rent and council tax net of any benefits provided to support these costs – and after any disability related expenditure.

9. Income

9.1 Only the income of the cared-for person will be taken into account in the financial assessment. Where the person receives income as one of a couple, the starting presumption is that the cared-for person has an equal share of the income. However NCC will consider the implications for the cared-for person's partner.

9.2 Income is net of any tax or National Insurance contributions.

9.3 Income will always be taken into account unless it is disregarded under the regulations. Income that is disregarded will either be partially disregarded or fully disregarded.

Earnings

9.4 In all cases, employed and self-employed earnings are fully disregarded in the financial assessment.

9.5 Earnings in relation to an employed earner are any remuneration or profit from employment. This will include:

(a) Any bonus or commission;
(b) Any payment in lieu of remuneration except any periodic sum paid to the person on account of the termination of their employment by reason of redundancy;
(c) Any payments in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
(d) Any holiday pay except any payable more than four weeks after the termination or interruption of employment;
(e) Any payment by way of a retainer;
(f) Any payment made by the person's employer in respect of any expenses not wholly, exclusively and necessarily incurred in the performance of the duties of employment, including any payment made by the person's employer in respect of travelling expenses incurred by the person between their home and the place of employment and expenses incurred by the person under arrangements made for the care of a member of the person's family owing to the person's absence from home;

(g) Any award of compensation made under section 112(4) or 117(3) (a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);
(h) Any such sum as is referred to in section 112 of the Social Security Contributions and Benefits Act 1992 (certain sums to be earnings for social security purposes);
(i) Any statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;
(j) Any remuneration paid by or on behalf of an employer to the person who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because of illness;
(k) The amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001.

9.6 Earnings in relation to an employed earner do not include:

(a) Any payment in kind, with the exception of any non-cash voucher which has been taken into account in the computation of the person's earnings – as referred to above;
(b) Any payment made by an employer for expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
(c) Any occupational/personal pension.

9.7 Earnings in the case of employment as a self-employed earner mean the gross receipts of the employment. This includes any allowance paid under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 to the person for the purpose of assisting the person in carrying on his business.

Earnings in the case of employment as a self-employed earner do not include:

(a) Any payment to the person by way of a charge for board and lodging accommodation provided by the person;
(b) Any sports award.

9.8 Earnings also include any payment provided to prisoners to encourage and reward their constructive participation in the regime of the establishment, this may include payment for working, education or participation in other related activities.

Benefits

9.9 NCC will take most of the benefits people receive into account. Those we will include and disregard are listed below.

9.10 Any income from the following benefits will be taken fully into account when considering what a person can afford to pay towards their care from their income:

(a) Attendance Allowance**, including Constant Attendance Allowance and Exceptionally Severe Disablement Allowance
(b) Bereavement Allowance

(c) Carers Allowance
(d) Disability Living Allowance (Care component)
(e) Employment and Support Allowance or the benefits this replaces such as Severe Disablement Allowance and Incapacity Benefit
(f) Income Support
(g) Industrial Injuries Disablement Benefit or equivalent benefits
(h) Jobseeker's Allowance
(i) Maternity Allowance
(j) Pension Credit
(k) Personal Independence Payment (Daily Living component)
(l) State Pension
(m) Universal Credit.

** Please also refer to partially disregarded income at 9.2.

9.11 Where any Social Security benefit payment has been reduced (other than a reduction because of voluntary unemployment), for example because of an earlier overpayment, the amount taken into account will be the gross amount of the benefit before reduction.

Annuity and pension income

9.12. An annuity is a type of pension product that provides a regular income for a number of years in return for an investment. Such products are usually purchased at retirement in order to provide a regular income. While the capital is disregarded, any income from an annuity will be taken fully into account except where it is:

(a) Purchased with a loan secured on the person's main or only home; or
(b) A gallantry award such as the Victoria Cross Annuity or George Cross Annuity.

9.13 For those who have purchased an annuity with a loan secured on their main or only home (as per (a) above), this is known as a 'home income plan'. Under these schemes, a person has purchased the annuity against the value of their home – similarly to a Deferred Payment Agreement and this may be disregarded in the financial assessment.

9.14 In order to qualify for the disregard on the income, one of the annuitants must still be occupying the property as their main or only home. This may happen where a couple has jointly purchased an annuity and only one of them has moved into a care home. If this is not the case, the disregard will not be applied.

Where the disregard is applied, only the following aspects will be disregarded:

(a) The net weekly interest on the loan where income tax is deductible from the interest; or
(b) The gross weekly interest on the loan in any other case.

Before applying the disregard, the following conditions must be met:

(a) The loan must have been made as part of a scheme that required that at least 90% of that loan be used to purchase the annuity;
(b) The annuity ends with the life of the person who obtained the loan, or where there are two or more annuitants (including the person who obtained the loan), with the life of the last surviving annuitant;
(c) The person who obtained the loan or one of the other annuitants is liable to pay the interest on the loan;
(d) The person who obtained the loan (or each of the annuitant where there are more than one) must have reached the age of 65 at the time the loan was made;
(e) The loan was secured on a property in Great Britain and the person who obtained the loan (or one of the other annuitants) owns an estate or interest in that property; and
(f) The person who obtained the loan or one of the other annuitant occupies the property as their main or only home at the time the interest is paid.

Where the person is using part of the income to repay the loan, the amount paid as interest will be disregarded. If the payments the person makes on the loan are interest only and the person qualifies for tax relief on the interest they pay, the net interest will be disregarded. Otherwise, it will be the gross interest that is disregarded.

9.15 Reforms to defined contribution pensions come into effect from April 2015. The aim of the reforms is to provide people with much greater flexibility in how they fund later life. This may lead to changes in how people use the money in their pension fund. The rules for how to assess pension income for the purposes of charging are:

(a) If a person has removed the funds and placed them in another product or savings account, they will be treated according to the rules for that product;
(b) If a person is only drawing a minimal income, then NCC will apply notional income choosing not to draw income, or according to the maximum income that could be drawn under an annuity product. When applying maximum notional income, the actual income will be disregarded to avoid double counting;
(c) If a person is drawing down an income that is higher than the maximum previously payable under an annuity product, the actual income that is being drawn down will be taken into account.

Mortgage protection Insurance policies

9.16 Any income from an insurance policy is usually taken into account. In the case of mortgage protection policies where the income is specifically intended to support the person to acquire or retain an interest in their main or only home or to support them to make repairs or improvements to their main or only home it will be disregarded. However, the income must be being used to meet the repayments on the loan.

The amount of income from a mortgage protection insurance policy that should be disregarded is the weekly sum of:

(a) The amount which covers the interest on the loan; plus
(b) The amount of the repayment which reduced the capital outstanding; plus

(c) The amount of the premium due on the policy.

9.17 It should be remembered that Income Support, Employment and Support Allowance and Pension Credit may be adjusted to take account of the income from the policy.

Example of mortgage protection policy in payment:

Winifred has an outstanding mortgage and was making repayments of £180 per month to her lender until she suffered a stroke. Winifred has a mortgage protection policy which pays her the sum of £240 per month if she is unable to meet repayments due to ill health.

Winifred applies for Employment & Support Allowance. Winifred would usually be entitled to assistance with her mortgage but the amount she receives from her policy is greater than her mortgage. The mortgage protection policy is taken into account as income by the Department for Work & Pensions.

This reduces the amount of Employment & Support Allowance to which Winifred is entitled.

The financial assessment for her care will therefore only include the lower amount of Employment & Support Allowance paid to Winifred together with the excess income from the mortgage protection policy.

Other income that is fully disregarded

9.18. Any income from the following sources will be fully disregarded:

(a) Direct Payments
(b) Armed Forces Independence Payments and Mobility Supplement
(c) Child Support Maintenance Payments and Child Benefit
(d) Child Tax Credit
(e) Council Tax Reduction Schemes where this involves a payment to the person
(f) Disability Living Allowance (Mobility Component) and Mobility Supplement
(g) Working Tax Credit
(h) Savings Credit
(i) Christmas bonus
(j) Dependency increases paid with certain benefits
(k) Discretionary Trust
(l) Gallantry Awards
(m) Guardian's Allowance
(n) Guaranteed Income Payments made to Veterans under the Armed Forces
(o) Compensation Scheme
(p) Income frozen abroad
(q) Income in kind
(r) Pensioners Christmas payments
(s) Personal Independence Payment (Mobility Component) and Mobility Supplement
(t) Personal injury trust, including those administered by a Court

(u) Resettlement benefit
(v) Savings credit disregard
(w) Social Fund payments (including winter fuel payments)
(x) War widows and widowers special payments
(y) Any payments received as a holder of the Victoria Cross, George Cross or equivalent
(z) Any grants or loans paid for the purposes of education; and
(aa) Payments made in relation to training for employment.
(bb) Any payment from the:
i. Macfarlane Trust
ii. Macfarlane (Special Payments) Trust
iii. Macfarlane (Special Payment) (No 2) Trust
iv. Caxton Foundation
v. The Fund (payments to non-haemophiliacs infected with HIV)
vi. Eileen Trust
vii. MFET Limited
viii. Independent Living Fund (2006)
ix. Skipton Fund
x. London Bombings Relief Charitable Fund.

Charitable and voluntary payments

9.19. Charitable payments are not necessarily made by a recognised charity, but could come from charitable motives. The individual circumstances of the payment will need to be taken into account before making a decision. In general a charitable or voluntary payment which is not made regularly is treated as capital.

9.20. Charitable and voluntary payments that are made regularly will be fully disregarded.

Partially disregarded income

9.21 The following income is partially disregarded:

- The first £10 per week of the following:
  - War Widows and War Widowers pension
  - Survivors Guaranteed Income Payments from the Armed Forces Compensation Scheme (SGIP)
  - Civilian War Injury pension.
  - War Disablement pension
  - Payments to victims of National Socialist persecution (paid under German or Austrian law).

Constant Attendance Allowance:

- Any amount of Constant Attendance Allowance above the highest rate of Disability Living Allowance Care Component or enhanced rate of Personal Independence Payment Daily Living Component will be disregarded. Any amount above the middle rate Disability Living Allowance Care Component or

standard rate of Payment Daily Living Component will be disregarded if NCC does not provide night care (see comment below).

- Where a person is receiving high rate of Attendance Allowance, Disability Living Allowance or Personal Independence Payments and NCC is not providing night time care, we will disregard the high rate in the financial assessment.

Example of 'no night time care' disregard:

Michael receives enhanced rate Payment Daily Living Component of £82.30 per week (April 2015 rate), but his Summary Support Plan does not include any care at night. Therefore, NCC will only count the standard rate Payment Daily Living Component of £55.10 (April 2015) in the financial assessment and disregard £27.20 per week of Michael's Payment Daily Living Component.

Notional income

9.22. In some circumstances a person may be treated as having income that they do not actually have. This is known as notional income. This might include for example income that would be available on application but has not been applied for, income that is due but has not been received or income that the person has deliberately deprived themselves of for the purpose of reducing the amount they are liable to pay for their care. For guidance on deprivation of assets, please see Section 13. In all cases NCC must satisfy itself that the income would or should have been available to the person.

9.23 Notional income should also be applied where a person who has reached retirement age and has a personal pension plan but has not purchased an annuity or arranged to draw down the equivalent maximum annuity income that would be available from the plan. Estimates of the notional income can be received from the pension provider or from estimates provided by the Government Actuary's Department.

9.24. Where notional income is included in a financial assessment, it will be treated the same way as actual income. Therefore any income that would usually be disregarded will continue to be so.

9.25. Notional income will be calculated from the date it could be expected to be acquired if an application had been made. In doing so, NCC will assume the application was made when it first became aware of the possibility and take account of any time limits which may limit the period of arrears.

Example of notional income:

Andrew is 70 and is living at home. He has not been receiving his occupational pension to which he would have been entitled to from age 65. After contacting his former employer, they state Andrew will be paid the entire pension due from age 65. NCC will therefore apply notional income from age 65.

Example of notional income in relation to new pension flexibilities:

Ben has a pension fund worth £30,000. He has taken the opportunity to access this flexibly and as a result is only drawing down £5 a week as income at the point he begins to receive care and support.
The equivalent maximum annuity income would be £120 per week. For the purposes of the financial assessment, NCC will assume an income £120 per week.

9.26. There are some exemptions and the following sources of income will not be treated as notional income:

(a) Income payable under a discretionary trust;
(b) Income payable under a trust derived from a payment made as a result of a personal injury where the income would be available but has not yet been applied for;
(c) Income from capital resulting from an award of damages for personal injury that is administered by a court;
(d) Occupational pension which is not being paid because:
   i. The trustees or managers of the scheme have suspended or ceased payments due to an insufficiency of resources; or
   ii. The trustees or managers of the scheme have insufficient resources available to them to meet the scheme's liabilities in full.
(e) Working Tax Credit.

10. Disability Related Expenditure

10.1 NCC will automatically allow everyone receiving non-residential care £15.00 per week towards the cost of their disability related expenditure (DRE).

10.2 There may be occasions when the DRE exceeds £15.00 per week. In such cases we can allow an additional amount but will require evidence of the actual spend. The additional DRE must be (a) related to the person's disability/illness and (b) greater than the national average spend for the same thing. NCC uses the Office of National Statistics "Detailed household expenditure by gross income decile group" as a guide to the average household expenditure.

10.3 Such DREs include the following:

(a) Payment for any community alarm system.
(b) Costs of any specialist items needed to meet the person's disability needs, for example:
   i. Specialist washing powders or laundry;
   ii. Additional costs of special dietary needs due to illness or disability (the person may be asked for permission to approach their GP in cases of doubt);
   iii. 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;

iv. Additional costs of bedding, for example, because of incontinence where they are not provided by or available from the NHS;
v. Any heating costs, or metered costs of water, (not already discounted) above the average levels for the area and housing type, occasioned by age, medical condition or disability;
vi. Reasonable costs of basic garden maintenance, cleaning, or domestic help, if necessitated by the individual's disability and where this is not included in the person's support plan;
vii. Personal assistant's costs, including any household or other necessary costs hygiene costs arising for the personal assistant in line with their care duties;
viii. Internet access for example for blind and partially sighted people.

11. Deferred Payments

11.1 NCC operates a Deferred Payment Scheme. Deferred Payments are designed to prevent people from being forced to sell their home in their lifetime to meet the cost of their care. The Deferred Payment Scheme is also open to those people moving into Supported Living. For further details relating to the Deferred Payments Scheme, please refer to our Deferred Payments Policy.

12. Choice of Accommodation – Third Party Payments and First Party "top-ups"

12.1. Where the care planning process has determined that a person's needs are best met in Supported Living or a Shared Lives Scheme, NCC will provide for the person's preferred choice of accommodation, subject to certain conditions. Determining the appropriate type of accommodation will be made with the person/representative as part of the care and support planning process.

12.2 In some cases, a person may actively choose a setting that is more expensive than the amount identified for the provision of the accommodation in the personal budget. Where they have chosen a setting that costs more than this, an arrangement will need to be made as to how the difference will be met. This is known as an additional cost or 'top-up' payment and is the difference between the amount specified in the Personal Budget and the actual cost.

In such cases, NCC must arrange for them to be placed there, provided a third party, or in certain circumstances the person in need of care and support, is willing and able to meet the additional cost.

12.3 When entering into a contract to provide care in a setting that is more expensive than the amount identified in the personal budget, NCC is responsible for the total cost of that placement. This means that if there is a break down in the arrangement of a 'top-up', for instance if the person making the 'top-up' ceases to make the agreed payments, then we are liable for the fees until we have either recovered the

additional costs we incur or made alternative arrangements to meet the cared for person's needs.

12.4 It is therefore really important that the person paying the top-up fully understands the implications of this choice and that they are aware that they will need to meet the additional cost of care for the full duration of the stay and that should this cost not be met, the cared for person may be moved to an alternative setting. We should also advise the person paying the top-up that they may want to seek independent financial advice before entering into a Third Party agreement.

12.5 We must also ensure that the person paying the 'top-up' is willing and able to meet the additional cost for the likely duration of the arrangement, recognising that this may be for some time into the future. Therefore the person paying the 'top-up' must enter into a written agreement with us, agreeing to meet that cost. The agreement is called a "Deed of Third Party Contribution".

We have adopted this arrangement because we consider it most suitable for the majority of cases and this is the Department of Health recommended best practice. However we also recognise that in some cases, the individual circumstances of the case will mean that one of two different approaches is more suitable and we will consider, in our discretion, the following alternatives:

- To treat the 'top-up' payment as part of the person's income and therefore recover the costs from the person concerned through the financial assessment.
- To agree with the third party paying the 'top-up' and the provider that payment for the 'top-up' element can be made directly to the provider with NCC paying the remainder.

12.6 The Deed of Third Party Contribution includes the following information:

- The weekly cost of the accommodation
- The amount specified for the accommodation in the person's personal budget;
- The additional amount to be paid;
- The frequency of the payments;
- To whom the payments are to be made;
- A statement on the consequences of ceasing to make payments;
- A statement on the effect of any increases in charges that a provider may make;
- A statement on the effect of any changes in the financial circumstances of the person paying the 'top-up';
- When the agreement will be reviewed.

First party 'top-ups'

12.7. The person whose needs are to be met by the accommodation may themselves choose to make a 'top-up' payment only in the following circumstances:

- Where they have a deferred payment agreement in place; or

- Where they are receiving accommodation provided under S117 for mental health aftercare.

In such cases we will follow the same principle as outlined in 12.1 to 12.6 above, i.e. we will pay the provider and invoice the person for the top-up.

Choice of accommodation and mental health after-care

12.8 The above also applies to those people who qualify for after-care under section 117A of the Mental Health Act 1983. However there is an exception in that the cared for person can meet the top-up costs themselves as they will not be contributing towards the cost of their care.

12.9 Regardless of who is meeting the additional costs 12.1 to 12.6 would still apply.

13. Deprivation of assets

13.1. People with care and support needs are free to spend their income and assets as they see fit, including making gifts to friends and family. This is important for promoting their wellbeing and enabling them to live fulfilling and independent lives. However, it is also important that people pay their fair contribution towards their care and support costs.

13.2 There are some cases where a person may have tried to deliberately avoid paying for care and support costs through depriving themselves of assets – either capital or income. There may also be valid reasons why someone no longer has an asset and therefore we must ensure all cases are fully explored before we consider whether deprivation has occurred.

13.3 Deprivation of assets means where a person has intentionally deprived or decreased their overall assets in order to reduce the amount they are charged towards their care. This means that they must have known that they needed care and support and have reduced their assets in order to reduce the contribution they are asked to make towards the cost of that care and support.

13.4 Where this has been done to remove a debt that would otherwise remain, even if that is not immediately due, this must not be considered as deprivation.

Example:

Jake took a second mortgage on his property to replace his roof and to update his central heating. He has £10,000 left outstanding on the 2nd mortgage and pays £100 per month. There is 10 years remaining on the 2nd mortgage and NCC are allowing as a housing expense.

Jake's father dies and leaves him £20,000. Jake uses £10,000 of this to pay the 2nd mortgage even though he has 10 years left to pay it. NCC would disregard the £10,000 used to pay the debt, but include the other £10,000 as capital

13.5 Where NCC have evidence to support deprivation we will either charge the person as if they still possessed the asset or, if the asset has been transferred to someone else, will seek to recover the lost income or capital from the person to whom the asset has been transferred.

Has deprivation of capital occurred?

13.6 It is up to the person to prove to NCC that they no longer have the asset. If they are not able to, NCC will assess them as if they still had the asset. For capital assets, acceptable evidence of their disposal would be:

(a) A trust deed;
(b) Deed of gift;
(c) Receipts for expenditure;
(d) Proof that debts have been repaid.

13.7 A person can deprive themselves of capital in many ways, but common approaches may be:

(a) A lump-sum payment to someone else, for example as a gift;
(b) Substantial expenditure has been incurred suddenly and is out of character with previous spending;
(c) The title deeds of a property have been transferred to someone else;
(d) Assets have been put in to a trust that cannot be revoked;
(e) Assets have been converted into another form that would be subject to a disregard under the financial assessment, for example personal possessions;
(f) Assets have been reduced by living extravagantly, for example gambling;
(g) Assets have been used to purchase an investment bond with life insurance.

13.8 Deprivation will not be deliberate in all cases. The question of deprivation should only be considered where the person ceases to possess assets that would have otherwise been taken into account for the purposes of the financial assessment or has turned the asset into one that is now disregarded.

Example of where deprivation has not occurred: Emma gives her daughter Imogen a painting worth £2,000 the week before she receives some home care. NCC will not consider this as deprivation as the item is a personal possession and would not have been taken into account in her financial assessment.

Example of where deprivation would be considered: Looking at the example of Emma above, had Emma had purchased the painting immediately prior to receiving home care, with £2,000 previously in a savings account, deprivation would be considered.

13.9 There may be many reasons for a person depriving themselves of an asset. Therefore NCC will always consider the following in the first instance:

(a) Whether avoiding the care and support charge was a significant motivation;
(b) The timing of the disposal of the asset. At the point the capital was disposed of could the person have a reasonable expectation of the need for care and support; and
(c) Whether the person had a reasonable expectation of needing to contribute to the cost of their eligible care needs?

13.10 It would be unreasonable to decide that a person had disposed of an asset in order to reduce the level of charges for their care and support needs if at the time the disposal took place they were fit and healthy and could not have foreseen the need for care and support.

Example of assets to be considered: Mrs Kapoor has £18,000 in a building society and uses £10,500 to purchase a car. Two weeks later she receives a package of care including home care and day care and gives the car to her daughter Julie. If Mrs Kapoor knew when she purchased the car that she would be receiving a package of care, then deprivation will be considered. However, all the circumstances must be taken into account so if Mrs Kapoor was assessed as needing care as an emergency and had no reason to think she may need care and support when she purchased the car, this should not be considered deprivation.

Has deprivation of income occurred?

13.11 It is also possible for a person to deliberately deprive themselves of income. For example, they could give away or sell the right to an income from an occupational pension. As for capital, it is up to the person to prove to NCC that they no longer have the income.

13.12 Where we consider that a person may have deprived themselves of income, we may treat them as possessing notional income. However in determining whether deliberate deprivation of income has occurred we will consider:

(a) Was it the person's income?
(b) What was the purpose of the disposal of the income?
(c) The timing of the disposal of the income? At the point the income was disposed of could the person have a reasonable expectation of the need for care and support?

13.13 In cases where income may have been converted into capital (and this is deemed as deprivation). We will determine what tariff income may be applied to the capital and whether the subsequent charge is less or more than the person would have paid had the charge being paid based on the income.

Investigations into whether deprivation has occurred

13.14 As part of investigating whether deprivation has occurred, in extreme circumstances we will follow the organisational policy around the use of the Regulation of Investigatory Powers Act 2000 (RIPA).

13.15 In all other circumstances we will carry out an investigation by asking for and obtaining evidence to support the information given in the financial assessment.

What happens where deprivation of assets has occurred?

13.16 Where NCC decides that a person has deliberately deprived themselves of assets in order to avoid or reduce a charge for care and support, we will treat that person as still having the asset for the purposes of the financial assessment and charge them accordingly.

13.17 If the person in depriving themselves of an actual resource has converted that resource into another of lesser value, the person will be treated as notionally possessing the difference between the value of the new resources and the one which it replaced. For example, if the value of personal possessions acquired is less than the sum spent on them, the difference should be treated as notional resource.

Recovering charges from a third party

13.18 Where the person has transferred the asset to a third party to avoid the charge, the third party is liable to pay NCC authority the difference between what it would have charged and did charge the person receiving care. However, the third party is not liable to pay anything which exceeds the benefit they have received from the transfer.

13.19 If the person has transferred funds to more than one third party, each of those people is liable to pay NCC the difference between what it would have charged or did charge the person receiving care in proportion to the amount they received.

As with any other debt, NCC will use the County Court process to recover debts once other avenues have been exhausted.

Example of liability of a third party:

Mrs Tong has £23,250 in her savings account. This is the total of her assets. One week before receiving care she gives her daughters Louisa and Jenny and her son Frank £7,750 each. This was with the sole intention of avoiding care and support charges.

Had Mrs Tong not given the money away, the first £14,250 would have been disregarded and she would have been charged a tariff income on her assets between £14,250 and £23,250. Assuming £1 for every £250 of assets, this means Mrs Tong should have paid £36 per week towards the cost of her care.

After 10 weeks of care, Mrs Tong should have contributed £360. This means Louisa, Jenny and Frank are each liable for £120 towards the cost of their mother's care.

14. Debt Collection

14.1. Where a person has accrued a debt to NCC, we will use our powers under the Care Act to recover that debt. For further information relating to debt collection, please refer to the NCC Debt Recovery Policy for Care Charges.

15. Financial Information and advice

15.1 Under section 4 of the Care Act local authorities have a duty to establish and maintain an information and advice service relating to care and support for adults and support for carers. Information and advice must be proportionate and accessible. This applies to financial information and advice and means that the person concerned (or their representative) must be able to understand any contributions they are asked to make and how they can pay.

15.2. NCC will therefore provide information to help people to understand care charges, (including how contributions are calculated), and means- tested support available, top-ups, and how care and support choices may affect costs.

15.3 NCC will also make people aware of independent financial advice, including flagging up the existence of regulated financial advice. This is to ensure that people have a better understanding of how their available resources can be used more flexibly to fund a wider range of care options. In these cases NCC will ensure that people are helped to understand how to access this advice.

15.4 There will be occasions where NCC can provide the advice and similarly where the person has to be referred elsewhere.

15.5 Such advice that NCC will provide will be limited to how to understand care charges; ways to pay; money management; making informed financial decisions and facilitating access to independent financial information and advice.

15.6 Where we recommend the person seeks independent financial advice, we will make the person aware which independent services may charge for the information and advice they provide. We will also describe the general benefits of independent information and advice and be explain the reasons why it may be beneficial for a person to take independent financial advice.

16. Complaints

16.1 A person may wish to make a complaint about any aspect of the financial assessment or we have chosen to charge. NCC will therefore make it clear what our complaints procedure is and provide information and advice on how to lodge a complaint.

16.2 All complaints relating to our Charging Policy should be referred to the Compliments and Complaints Team. Full details on how to do this and how complaint are handled are shown under the Compliments and Complaints section on Norfolk County Council's website.

16.3 Complaints about the level of charge levied by a local authority are subject to the usual Care and Support complaints procedure as set out in The Local Authority Social Services and NHS Complaints (England) Regulations 2009.

Caring for our future: Consultation on reforming what and how people pay for their care and support

Submission from The Royal British Legion: Social care disregards for War Pensioners

Introduction

1. We welcome this opportunity to feed into the Government's consultation on social care funding. Although there is much to say on the topic, many of those arguments are being made concisely by other organisations with a more concentrated social care policy remit (e.g. Age UK and Leonard Cheshire Disability). The focus of this briefing is on one issue of specific concern to many veterans and those who work in the Service charity sector: namely, the need for the Government to provide a full disregard of military compensation payments when means testing to determine how much an individual has to pay towards their care costs.

2. Military compensation should not be regarded as income. The Oxford Dictionary definition of income is "money received, especially on a regular basis, for work or through investments".[1] The Government appears to have accepted this in principle, since military compensation is fully disregarded when means testing for Universal Credit. As laid out in further detail below, we believe that social care means testing must be brought in line with other Government policies, and to avoid doing so represents a failure to deliver on the Armed Forces Covenant principle of 'no disadvantage'.

3. We do, however, accept that the additional attendance allowance paid to some War Pensioners, which *is* designed to cover some of the costs of care, could be included in local authorities' income assessments, to ensure that the state is not paying out twice for the same care needs. The remaining payments, however, should be fully disregarded

About The Royal British Legion

4. The Royal British Legion (the Legion) safeguards the welfare, interests and memory of those who are Serving or have Served in the Armed Forces. We are one of the UK's largest membership organisations and are recognised as the custodian of Remembrance. The Legion is the largest welfare provider in the Armed Forces and veterans charity sector. We provide financial, social and emotional support to millions of Service personnel and veterans, as well as their dependants. In 2011/12, we spent, on average, £1.6m per week on our health and welfare work. For further information, please visit www.britishlegion.org.uk.

5. According to research commissioned by the Legion in 2006, around 60 per cent of adults in the ex-Service community were then thought to be aged over 65 years – a total of five million people in the UK. This constitutes around half of the UK population over retirement age. By 2020, it is forecast that the 85+ age group of veterans will increase by almost 220 per cent, from 290,000 to 920,000. This is the result of the final National Service generation reaching old age at a time when life expectancy is increasing.[2]

6. The Legion provides long- and short-term care to older people from the ex-service community across the UK in our six registered care homes. All homes provide personal and nursing care, and some also provide dedicated dementia care and respite care. Lister House currently has a specially designed wing to meet the needs of beneficiaries between the ages of 18 and 64

years. We also provide a number of community-based support services, including a handy van service and a community dementia support service through our Admiral Nurses.

7. The Legion also provides a number of welfare services to wounded, injured and sick Service personnel and veterans, and other working age disabled individuals. As well as investing in the development of the Battle Back Centre at Lilleshall and MOD Personnel Recovery Centres, we also assist disabled beneficiaries with accessing state benefits to enable independent living, and with War Pensions and compensation claims.

Policy context

8. The Legion was the key player in the Government's decision in 2011 to enshrine the Armed Forces Covenant in statute. The Covenant is the nation's recognition of its moral obligation to members of the Armed Forces and their families, and establishes how they should be treated, stating that the Armed Forces and their families "deserve our respect and support, and fair treatment". The two key principles underlying the Covenant are:

    - **'No disadvantage':** the Covenant commits the Government to removing, where possible, disadvantage experienced as a result of Service. For example, when Service personnel and their families are posted somewhere new, they should not experience difficulty in getting their children into local schools.
    - **'Special treatment':** for personnel and veterans who are injured as a result of their Service, or for families bereaved by Service, it is sometimes appropriate for the principle of 'special treatment' to be applied e.g. the provision of higher grade prosthetics for those who lose limbs as a direct result of their Service.

9. Service personnel and veterans who are injured or develop an illness as a result of Service, wholly or partly, can access compensation from the MOD. Those injured prior to on or before 5 April 2005 are eligible to claim under the War Pensions Scheme. Those injured on or after 6 April 2005 can make a claim under the Armed Forces Compensation Scheme (AFCS).

10. The War Pension scheme provides regular payments to individuals dependent on the percentage of whole body injury, from 20 to 100 per cent. It also provides supplementary allowances to recipients. Many of these, such as the Constant Attendance Allowance, which provides for personal assistance at home, mirror the DWP payments of the same name. Those who develop these needs as a result of other illnesses or old age, and not the Service-induced condition for which they receive the War Pension, are not eligible for these additional allowances.

11. The AFCS pays a lump sum to all recipients and a non-taxable payment for life, known as the Guaranteed Income Payment (GIP), to the most severely injured. This scheme does not have additional supplements attached, but the Government has recently legislated to provide those with very high awards (50 per cent GIPs) automatic entitlement to a new benefit, the Armed Forces Independence Payment, which mirrors the new Personal Independence Payment (replacing Disability Living Allowance).

12. We recommend contacting the Service, Personnel and Veterans Agency at the MOD for further details of these schemes and their allowances.

13. Both compensation schemes are examples of the Armed Forces Covenant in action. Recognising that Armed Forces personnel take far greater risks with their health, as well as their lives, military compensation seeks to provide some recompense for the sacrifices made**. It is not, and should never be treated as, 'income'**. To do so would undermine the very

purpose of the scheme and, in treating military compensation in a different manner from compensation gained through civil litigation, would contradict the Armed Forces Covenant principle of 'no disadvantage'.

Social care disregards

14. It is not the purpose of the basic War Pension, nor the AFCS, to cover the costs of care needs which might arise from the Service-induced condition. Both are compensation payments for pain, suffering and loss of amenity; not occupational pensions or benefits. This is in part recognised by the Government's decision, in October 2012, to direct local authorities to exclude AFCS GIPs from social care means testing:

    "In recognition of the contribution made by armed forces personnel injured whilst on active service, from 29th October 2012, they will no longer need to use Guaranteed Income Payments (GIPs) paid under the Armed Forces Compensation Scheme (AFCS) to pay for care and support services arranged by local authorities."[3]

15. In contrast, when War Pensioners undergo the means testing process to determine how much they should pay towards their care costs, only the first £10 is disregarded. The rest is regarded as income. Why should social care means testing continue to regard all but the first £10 of War Pension payments as 'income', when Government policy elsewhere is clearly in favour of excluding it from this category? We see no justification for this disparity.

16. Parity between AFCS GIPs and War Pensions has already been achieved in relation to Universal Credit (UC), which rolls six different benefits into one payment. The means testing process for UC will fully disregard both AFCS GIPs and War Pensions, demonstrating that the Government recognises that neither should be viewed as 'income'.

17. When civilians pursue their employers for civil damages through the civil justice system, compensation is usually be awarded as a lump sum, which is then disregarded as income for the first year, and then must be placed in a trust fund to ensure continued disregard. Alternatively, they may receive regular payments to cover the costs of future care. This places War Pensioners at a disadvantage compared with many civilians who are injured at work; a) because their basic compensation payments are not calculated to cover the costs of care; and b) because only the first £10 of their compensation payments are disregarded, whereas, if they had received a large lump sum and placed it in a trust fund, it could be disregarded.

18. The £10 disregard is also inconsistent with local authorities' other means testing policies. Legion research found that almost every council uses its discretion to provide a full disregard of military compensation from means assessments for council tax and housing benefit.

19. We recognise that there are complexities involved in assessing War Pensioners, due to the payment of an additional attendance allowance to some disabled veterans. But we would argue that a veteran receiving a War Pension for a condition which did not lead to any additional care needs, and thus did not receive any extra allowances for these care needs, should not be forced to pay more towards their care costs on the basis of compensation payments which bear no relation to their care needs.

20. We do accept that the additional attendance allowance paid to some War Pensioners, which *is* designed to cover some of the costs of care, could be included in local authorities' income assessments, to ensure that the state is not paying out twice for the same care needs. The remaining payments, however, should be fully disregarded.

Case study

At the age of 34, Roger Day sustained a severe injury to his leg when deployed to the Falklands during the conflict of 1982, resulting in a below-knee limb amputation. He subsequently left the Army and took over his father's butcher's shop, spending the rest of his working life running the shop. He received a War Disablement Pension for his injuries, to recognise the sacrifices that he made, but had no additional care needs, so did not receive any extra allowances under the War Pension Scheme. He suffered pain and discomfort throughout his working life but, with the assistance of an NHS prosthesis, he was able to continue working in a physical job until he retired in 2011, at the age of 63.

Aged 65, Roger has recently been diagnosed with early-onset dementia and requires additional care at home. He has not yet reached the needs threshold for residential nursing care, but his family applied to the local authority for assistance with meeting his care needs at home. Under current arrangements, only the first £10 of his War Pension is disregarded, and the rest is included in his income assessment. Essentially, the money he is being paid to recognise the suffering caused by his Service-induced injury is being treated as 'income'. As a result, his income is considered high enough for him to be able to cover his own care costs in full, and his family must find another way of paying for his care. This represents a failure to deliver on the Armed Forces Covenant principle of 'no disadvantage'. [4]

Recommendation

We urge the Government to amend the law to provide that local authorities must fully disregard both War Disablement Pensions and AFCS payments from income assessments carried out when means testing to determine how much an individual must pay towards their care costs, residential or otherwise; save for the additional attendance allowance paid to some War Pensioners to cover some of the costs of their care.

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Further information:

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[1] www.oxforddictionaries.com/definition/english/income
[2] The Royal British Legion (2006). Profile and Needs of the Ex-Service Community 2005-2020: www.britishlegion.org.uk/media/33526/summary%20and%20cons.%20report.pdf
[3] Department of Health (2012). Local Authority Circular 03: www.gov.uk/government/uploads/system/uploads/attachment_data/file/213043/Local-Authority-Circular-DH201231.pdf
[4] This is a fictional case study and is included for illustrative purposes.