



## **“Council Tax and Council Spending”**

### **Consultation Response from Merton Centre for Independent Living**

**November 2016**

This is a formal consultation response on behalf of Merton Centre for Independent Living. We are a local user-led disabled people’s organisation providing a range of services such as advice and advocacy to local disabled people.

Through our work we have direct and first-hand knowledge of what disabled people are experiencing on a day-to-day basis as a result of cuts to support in Adult Social Care (ASC), and in other areas of disabled people’s lives. Our sound evidence base also allows us to extrapolate the likely impact of further cuts to services.

We will primarily refer to disabled people throughout this response, as our work is with disabled people, however, we recognise that older people also use ASC and will be facing very similar concerns as those described below.

In this response we will address the following:

- The current position of ASC following cuts
- The impact of future cuts to ASC
- The value and legitimacy of the consultation exercise
- Conclusions and recommended actions

In summary, disabled people in Merton are finding it extremely difficult to live independently due to cuts to ASC, particularly when combined with cuts in other areas of their lives too. Council plans for the year ahead, including further cuts, risk tipping disabled people into crisis. In addition, the consultation process has been divisive and undermines the relationship between disabled people and the Council.

## The current position of ASC following cuts in Merton

A report from Healthwatch Merton<sup>1</sup> showed that even before the dramatic cuts of £5 million planned for 2016/17 (the year we are currently in), the quality of existing services was reducing and that preventative work was made impossible by cuts to services. Disabled and older people felt that their wellbeing would be reduced and people's physical health would worsen. Families would be put under immense strain and social connections severed. Disabled and older people would be made vulnerable by these cuts and the ultimate consequence for some was that life was no longer worth living.

In addition, the Council's own Business Plan pointed out that the cuts to services which were being implemented for 2016/17 meant that Merton couldn't meet its statutory duties<sup>2</sup>.

At Merton CIL we have seen first-hand the multiple consequences of cuts to ASC through our work with local disabled people. This covers a diverse range of disabled people, reflective of our diverse society, and includes people with a support budget who are wanting to live a regular active life.

There are a number of problems with **assessments**, including difficulty accessing assessments, particularly for people who have a need, but don't have a formal diagnosis of impairment. There are long waits for assessments and the assessment process itself is lengthy. In some recent cases there has been a 2+ month wait between assessment and panel outcome. There is poor communication around how assessment decisions are made and the approach to reassessments is inconsistent with some people getting a full Care Act assessment and others getting a print out of a previous (non-Care Act) assessment and being asked to comment on it.

For people who receive a **personal budget**, these are not sufficient to meet people's needs and impose restrictions on people's lives such as fixed mealtimes, early bedtimes such as 8pm for a 40 year old man, and little provision for exercise, social lives or personal relationships. Reassessments are resulting in cuts to personal budgets with little justification of how this meets the Care Act.

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<sup>1</sup>[http://www.healthwatchmerton.co.uk/sites/default/files/hwm\\_asc\\_focus\\_groups\\_write\\_up\\_report.pdf](http://www.healthwatchmerton.co.uk/sites/default/files/hwm_asc_focus_groups_write_up_report.pdf)

<sup>2</sup><http://democracy.merton.gov.uk/documents/s6630/Budget%20and%20Business%20Plan%202015-19.pdf>

In one case, an active volunteer and community member was told he should consider cutting down on his activities - this is a breach of his rights.

Merton Council responded to a Freedom of Information request stating that nearly half of former ILF-users' care hours are being reduced<sup>3</sup>. As people's needs have not reduced, these cuts are not lawful. In addition, Merton received a £331,038 Former ILF Recipient grant in 2016/17 and another £320,137 is due from Central Government in 2017/18; where has this money gone? Why did the Council ringfence the ILF transition monies in 2015/16 but not in following years?

In one case we know of, there is a 20 per cent cut to someone's support, equivalent to nearly 2 days support a week. This is not uncommon and can be described as a life-limiting cut to support. Given that Merton CIL is in contact with only half of former ILF users, we are concerned for the wellbeing of those people who have not received advocacy support.

Now I have to pay extra if I wake up my carer to take me to the toilet in the night. If I am going out in the evening and having a drink, I have to decide if I should pay more money to get up in the night or if I should wear a [incontinence] pad instead  
(Merton CIL member)

For people whose support has been frozen following reassessment, increases in care costs mean that this is effectively a cut. We've also been made aware of a number of cases where people have been asked to pay more towards their care, even though they have not had an increase in their income; this is also effectively a cut.

In some cases this additional financial contribution, combined with higher care costs, has resulted in people being asked to pay more for their care than they receive in income such as benefits. This can lead to

<sup>3</sup> [https://www.inclusionlondon.org.uk/wp-content/uploads/2016/09/InclusionLondon\\_ILF\\_Report\\_2016.pdf](https://www.inclusionlondon.org.uk/wp-content/uploads/2016/09/InclusionLondon_ILF_Report_2016.pdf)

debt, and anxiety, quite apart from being contrary to Care Act guidance on Charging.

In an example, we have seen a disabled person who was so worried about their reduced package and getting into debt that they became depressed and were referred to counselling. However, the counselling venue was not accessible.

**Direct payments** users are not receiving the support or budget required to meet their employment obligations, such as not having a high enough personal budget to pay living wage, workplace pensions or to have adequate insurance. This is contrary to Care Act guidance, and as a result, direct payments users are losing their personal assistants (PAs) and finding it difficult to replace them because hourly rates have been frozen by the council for the last five years. In fact, Merton is in the lowest 25% of authorities nationally and one of the lowest in London in terms of the average amount it pays per hour for home care for older and disabled people - and all our neighbouring boroughs pay more.<sup>4</sup>

It is also not possible for direct payment users to hold money in reserve to cover issues such as sickness cover, contingency for differing week patterns, redundancy, etc as money is regularly clawed back by Merton.

In fact, we are aware of several situations where people who have received their personal budget have been unable to spend it because of the near impossibility of finding staff, and as a result have had the money clawed back – rather than, for example, having support to address the issue.

Where personal budgets are cut, there is no provision for direct payments users to manage the change as employers of PAs, for whom there is then no proper redundancy process, contrary to employment law.

There have also been cuts to residential and nursing care providers leading to similar issues around staff retention and being able to deliver quality care to people. This has been highlighted in a recent CQC report.<sup>5</sup>

<sup>4</sup> [http://www.ukhca.co.uk/pdfs/ukhca\\_homecare\\_deficit\\_2016\\_final.pdf](http://www.ukhca.co.uk/pdfs/ukhca_homecare_deficit_2016_final.pdf)

<sup>5</sup> <http://www.cqc.org.uk/content/state-of-care>

In yet another example, we are supporting someone who was safeguarded into a nursing home on a temporary basis following abuse, but we then had to raise a second safeguarding alert against what was supposed to be a place of safety due to a range of concerns including deprivation of liberty and failure to give medication appropriately.

This home was known by Merton to be considered one of the worst in the borough following an independent visit by Merton Seniors Forum through their Dignity in Care work<sup>6</sup> and is rated as requiring improvement by CQC.

Cuts to services including **staffing cuts** at day centres, and cuts to mental health services among others are also having a negative impact.

We are aware of a situation in a day centre for people with learning disabilities where there was a fight between 2 disabled adults and there were no staff available to intervene. This hadn't happened before staffing was reduced.

There are also now fewer excursions and more large group sessions – a return to the days of day centres as “holding pens” rather than “community centres”. Additionally, High Path Community Centre is being closed and possibly relocated, again without consultation, as Merton is selling the land to Harris Academy. The Council promised to let centre users know where the new location would be by the end of October. It is now November, and still no news.

The cuts to adult social care have also seen the loss of good social work staff due the pressures of the system. Relationships and expertise are lost which impacts on the quality of service and the direct support disabled people receive.

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<sup>6</sup><https://mertonseniorsforum.com/dignity-in-care/>

In fact, earlier this year we had a call from a social worker alleging that the situation in Merton was dangerous and putting people at risk due to low staffing levels, high sickness absence, loss of senior expertise and use of inexperienced locums.

Any negative impact on the disabled person, impacts **family carers** too. Such poor support for carers means that when resources are cut, such as community centres or adult education, as has happened locally, carers are pushed to breaking point and disabled people either end up in respite, or may no longer be able to live at home with their family.

In one example, we are aware of a disabled person who repeatedly went to the doctor for stomach pains, which were ignored until the point of the person needing hospitalisation. This resulted in an invasive operation and intensive aftercare was required at home. This fell to the family carer, with limited support from district nurses. There was no reassessment of either of their needs, despite the carer repeatedly asking for this. Both the disabled person and the family carer ended up in crisis as a result.

## The impact of future cuts to ASC in Merton

Merton Council has cut the Adult Social Care budget by £23,908,000 (£24 million) between 2011/12 – 2016/17<sup>7</sup>. At the same time, as support is being cut, more people need support. In particular, older people, people with dementia, and older people with learning disabilities, are all increasing in number in Merton.<sup>8</sup> This reflects the national picture<sup>9</sup>, however, it is particularly problematic for Merton which is already a low-spending borough on ASC.<sup>10</sup> In addition, Merton has a large (and statistically significant) gap in how disabled people rate their wellbeing compared to how non-disabled people rate their wellbeing. This should be an area of concern for the Council given the Wellbeing Principle at the heart of the Care Act.<sup>11</sup>

<sup>7</sup> ASC Budget Savings Consultation 2015-2019 (no online copy)

<sup>8</sup> ASC Budget Savings Consultation 2015-2019 (no online copy)

<sup>9</sup> <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/communities-and-local-government-committee/social-care/oral/42401.pdf>

<sup>10</sup> ASC Budget Savings Consultation 2015-2019 (no online copy)

<sup>11</sup> [http://www.merton.gov.uk/presentation\\_charts\\_merton\\_residents\\_2014\\_.pdf](http://www.merton.gov.uk/presentation_charts_merton_residents_2014_.pdf)

The current position is that there is a forecast overspend of over £7million<sup>12</sup> for ASC.

Given the already negative impact of cuts highlighted in the previous section, it is evident that this figure is better described not as an “overspend” but is rather as a reflection of the fact that the planned level of cuts to services to date were in fact totally unachievable when faced with the reality of statutory duties and what support people need. In fact, Merton CIL has on a number of occasions made the point that the planned level of cuts to ASC is not achievable.

We have also previously highlighted the cumulative impact of not only cuts to social care but also cuts to other local services including education and housing, which combined with the national austerity agenda is resulting in disabled people facing significant disadvantage across all areas of their lives.

The welfare benefit reforms that the government brought in through the Welfare Reform Act 2012 are having a significant and disproportionate negative impact on Disabled people, which seriously jeopardises Disabled people’s standard of living and reduces the level of social protection.<sup>13</sup> Cuts to benefits and Local Government together bear 50% of planned cuts in the Treasury Spending Review. Recently, four<sup>14 15 16 17</sup> different reports have concluded that the cuts associated with Welfare Reform have disproportionately impacted on disabled people. One report demonstrates that Welfare Reform targets people in poverty and disabled people. Disabled people who need to access both benefits and social care are affected 6 times more than non-disabled people resulting in an annual reduction in income of over £6,000 per person<sup>18</sup>.

<sup>12</sup> <http://democracy.merton.gov.uk/documents/s14554/Financial%20Monitoring.pdf>

<sup>13</sup> Evidence of Breaches of Disabled People’s Rights Under the UN Convention on the Rights of Persons with Disabilities, Inclusion London, 2015

<sup>14</sup> Wood C (2013) Destination Unknown: April 2013. London, Demos.

<sup>15</sup> Duffy S (2014) Counting the Cuts: what the Government doesn’t want the public to know. Sheffield, The Centre for Welfare Reform

<sup>16</sup> Reed H & Portes J (2014) Cumulative Impact Assessment: A Research Report by Landman Economics and the National Institute of Economic and Social Research (NIESR) for the Equality and Human Rights Commission. London, Equality and Human Rights Commission.

<sup>17</sup> Young J (with Nolan A) (2014) (Dignity and Opportunity for All: securing the rights of disabled people in the austerity era. London, Just Fair.

<sup>18</sup> Duffy S (2014) Counting the Cuts: what the Government doesn’t want the public to know. Sheffield, The Centre for Welfare Reform

As a consequence, Disabled people are facing disadvantage across key areas of their lives<sup>19</sup>, and are experiencing significant health inequalities<sup>20</sup>. Barriers to employment, accessing the community, poverty and homelessness follow.<sup>21</sup>

Within this context of disadvantage and discrimination against disabled people, the failure of Merton Council to draw in all of the funds to which it is entitled, such as the 2% ASC Precept, is, at best, described as short-sighted.

It should be remembered that the precept, worth around £2 million, could have been added to people's Council Tax bills without any impact on people's pockets, because a GLA precept was ending at the same time. This was known to the Council but the decision was still made not to add the precept, against the advice of the voluntary sector and many local residents who responded to petitions and surveys early in 2016.

Merton need to seriously look at themselves because whatever they're doing they're not doing it well  
(Merton CIL member)

Instead of applying the precept, a Mitigation Fund was set up using funding allocated from elsewhere and which was sold in as a fund for Council officers and the voluntary sector to access to ensure that people weren't being disadvantaged by the cuts. Very quickly after the budget was set in March 2016, it was made clear that this Mitigation Fund was in fact a reserve pot to off-set failure to meet cuts in ASC. At just £1.3million, this was clearly inadequate for the purpose.

In addition to more people needing support, a failure to draw in all the money to which the local authority is entitled, and a £7million+ overspend, **a further £2 million cut is planned from the ASC 2017/18 budget.** Given the existing concerns and impact of cuts to date, the idea that more should be cut, seems irresponsible.

<sup>19</sup> The Equality Act 2010: The Impact on Disabled People, House of Lords Select Committee on the Equality Act 2010 and Disability, 2016

<sup>20</sup> Is Britain Fairer? Equalities and Human Rights Commission, 2015

<sup>21</sup> Evidence of Breaches of Disabled People's Rights Under the UN Convention on the Rights of Persons with Disabilities, Inclusion London, 2015



The cuts currently planned in ASC for 2017/18 are<sup>22</sup>:

- £600,000 in "prevention" ie voluntary sector grants
- £100,000 in "staff savings"
- £456,000 in "commissioned services" including supporting people contracts
- £1,042,000 in "support packages" ie cuts of 5-15% on average per person

Although 2017/18 budget-setting is now taking place, none of these cuts are available for discussion or scrutiny in any of the papers, such as the latest business plan.<sup>23</sup> None of these £2million-worth of cuts for 2017/18 have undergone any consultation or scrutiny previously, as all of the discussions and consultation in the previous budget-setting process focussed on 2016/17 only, as was made extremely clear at the time.<sup>24</sup>

The Council's MTFS approach to budget-setting is creating a situation where only new, year-ahead cuts are being scrutinised. For cuts which were put in the budget in previous years, they were not discussed at the time and they don't come up for discussion again in Council papers. In this way, they Council can plan deep cuts 2 or 3 years ahead, and they never get discussed or scrutinised. It is exactly this process which is being used to hide £2 million worth of cuts to ASC next year. In a recent Judicial Review brought by a Merton CIL member, the Council insisted that cuts planned in previous years were provisional and not set in stone. This is clearly not the case given the way budgets are being set and scrutinised.

We have previously raised our concerns about the Councils failure to properly scrutinise cuts to services and the Council has failed to take any action on this matter. We are extremely concerned that cuts are going ahead without scrutiny or consultation, in particular as we appear to be nearing a tipping point in terms of the viability of services<sup>25</sup>. In short, everything we and our service users have experienced to date indicates that the Healthwatch Merton<sup>26</sup> report was an accurate predictor of the

<sup>22</sup> [http://www.merton.gov.uk/asc\\_budget\\_savings\\_consultation\\_2016-2019\\_easy\\_read\\_version\\_final.pdf](http://www.merton.gov.uk/asc_budget_savings_consultation_2016-2019_easy_read_version_final.pdf)

<sup>23</sup> <http://democracy.merton.gov.uk/documents/s14555/Business%20Plan.pdf>

<sup>24</sup> <http://www.merton.gov.uk/health-social-care/adult-social-care/adult-social-care-consultation.htm>

<sup>25</sup> <http://www.parliament.uk/business/committees/committees-a-z/commons-select/communities-and-local-government-committee/inquiries/parliament-2015/adult-social-care-16-17/>

<sup>26</sup> [http://www.healthwatchmerton.co.uk/sites/default/files/hwm\\_asc\\_focus\\_groups\\_write\\_up\\_report.pdf](http://www.healthwatchmerton.co.uk/sites/default/files/hwm_asc_focus_groups_write_up_report.pdf)

issues facing local older and disabled people following cuts to ASC. As cuts deepen, the wellbeing, dignity, independence and life chances of disabled people are being eroded in Merton.

## **The value and legitimacy of the consultation exercise**

People are saying to me on the streets that they would be happy for council tax to be increased if it means protecting care services with older and vulnerable people  
(Merton CIL member)

Merton Council is conducting what has been called a consultation on 'Council Tax and Council Spending'. We have already expressed our concerns about this process, and about the rival consultation promoted by the Leader of the Council, on several occasions<sup>27</sup>.

One of our concerns is that the official consultation risks encouraging people to opt for a Council Tax freeze because of the way in which information is presented; specifically that disabled people are invisible within it, and there is no clear information given on what ASC is for or why it is important - contrary to what was promised by the Leader.<sup>28</sup> The information that is available, is misleading and confusing.

Spontaneous reactions to the consultation from our members included people asking why they were being compared to rubbish collection, why the precept was even part of the consultation, why it wasn't properly explained. Some members refused to complete the form at all because they felt it was misleading or "morally vague"

(Merton CIL Members Group November 2016)

I don't understand the difference between the options [1.99%, 2%, 3.99%] (Merton CIL member)

<sup>27</sup> To the Leader, the Cabinet Member for ASC, and Director of Social Care and Housing; at the Health and Social Care Forum and Scrutiny; on our website <http://www.mertoncil.org.uk/news/news-2016/council-tax-consultation-row-u/>

<sup>28</sup> <http://www.mertoncil.org.uk/news/news-2016/concerns-about-council-tax-con/>

I don't like this consultation. It makes me feel uncomfortable. I'm tired of seeing disabled people take the brunt of the cuts (Merton CIL member)

Quite apart from any moral argument and a breach of commitments made by the Council to have a fair debate, the appearance of a rival consultation<sup>29</sup> has additionally created significant confusion around the consultation process and the decision-making process. It is presented in such a way that a reasonable person would believe that this is a Merton Council publication, and therefore, official Merton Council view, and they are likely to believe that this is in fact the official consultation.

Despite being reassured<sup>30</sup> that the rival consultation responses won't be counted by the Council, we are very concerned that the distribution of this rival consultation has both undermined the official consultation, and created doubt around the findings of the official consultation; it may reduce responses overall, and residents may be influenced to respond asking for a freeze because they have been told that is what the Leader/Council wants. Certainly it appears that the outcome is pre-determined to not raise Council Tax given that the letter signed by the Leader refers is "strongly-minded not to increase your council tax"<sup>31</sup> and the official consultation says "we have frozen council tax since 2010 and promise to do so until March 2019".<sup>32</sup> It is extremely difficult to see the value of engaging in such a flawed process.

We hear the Leader saying he wants to keep promises but what's one more broken promise if it means protecting people? (Merton CIL member)

At Merton CIL we have been particularly concerned by the way in which the Council focuses very narrowly on budgets, as opposed to looking at the impact of spending and budget cuts. As we have repeatedly pointed

<sup>29</sup> <http://www.mertoncil.org.uk/assets/documents/councillors-rival-survey>

<sup>30</sup> Email from LBM CEO Ged Curran 27/10/2016

<sup>31</sup> <http://www.mertoncil.org.uk/assets/documents/councillors-rival-survey>

<sup>32</sup> <http://www.mertoncil.org.uk/assets/documents/review-of-council-tax-consulta>

out, pound for pound, a cut in support for disabled people has a far greater impact on people's lives, compared to a cut in street sweeping, for example. In fact, the way in which the Council's official consultation asks the public to rank services, as if rubbish collection was equivalent to supporting independence for disabled and older people, is deeply disturbing.

They are comparing disabled people's lives to bin collection. I can't tell you how that makes me feel (Merton CIL member)

Furthermore, the overt focus on cost perpetuates the very negative rhetoric that disabled people are costly; it puts a value equation on our lives which then feeds into discussions of worth. Very quickly this becomes a discourse around scrounging and cheating, and inflames hate crime, which has been seen in national level debates.

Given the inclusion of the precept in the consultation, in essence, this is a process which asks residents to decide whether or not disabled people should be supported to live independent lives. We cannot imagine any other context where it would be deemed acceptable to hand such power to one group over another, and we don't find it acceptable here.

The Council is asking my neighbours to decide whether or not I should live independently and with dignity. They don't have that right! (Merton CIL member)

There are numerous examples of disabled people being invisible within this consultation process and there are strong indications that this is not merely an accidental omission, but rather an active decision on the part of Merton Council. Libraries, parks, leisure centres, waste collections, children and older people are all featured. Given that the precept in particular primarily concerns support for disabled people and older people, why no images of disabled people? Disabled people are only mentioned in the survey itself, and then only in the rankings.

The rival consultation goes further, listing the council's statutory duties, but not mentioning disabled people. It even highlights the fact that the average person is over £1,000 less well off due to austerity, but failing to mention that a disabled social care user is actually over £6,000 less well off. Why are disabled people being erased from the debate in this way?

## Conclusions and recommended actions

Merton CIL has been putting significant effort into working together with Merton Council for a number of years and creating an environment where disabled people are able to speak up and be heard.

The instances where disabled people's voices have been pushed aside by Merton this year alone, culminating in this divisive consultation process, take us further apart and makes it increasingly difficult for us to represent the views of our members and service users. This year's consultation has been a retrograde step in terms of engagement compared to last year. This year we had a reasonable expectation that cuts to services would be consulted on with local disabled people, and yet have been told that the Council has taken legal advice and decided not to.

At Merton CIL we have begun to ask ourselves, at what point does poor service and lack of engagement become discrimination against disabled people?

The level of cuts to services, the breaches of the Care Act and failure to understand the wellbeing principle, breaches of people's rights by Merton, some of which are described above, are not inevitable. While we acknowledge the cuts imposed by Central Government, Merton has always had a choice about how it distributes the money it has. Merton has a choice about how it raises income too.

Taking all of the above on board, looking ahead to 2017/18 our recommendations are to:

- Improve scrutiny processes by ensuring the full scale of cuts to services is available to debate
- Improve consultation processes

- Implement the 2% precept
- Remove the £2 million cut from ASC for 2017/18
- Ringfence the Former ILF Recipient Grant for former ILF recipients, in line with previous council policy
- As requested by the Leader,<sup>33</sup> identify “pots” of funding which could be used to support ASC; for example the £2 million expected savings from the move to Wheelie Bins across the borough
- Look to best practice from other Councils who have made different choices, such as cancelling homecare charging and setting up a local disabled people’s commission<sup>34</sup>, or having strength-based conversations with people, rather than the deficit model<sup>35</sup>
- Write-off the £7 million overspend (cover from reserves of £101million<sup>36</sup>) in order to bring in some stability to ASC and enable planning from a realistic starting point
- Take responsibility for ensuring that independence and dignity is a “doorstep issue” in Merton

## Abbreviations

ASC	Adult Social Care
CEO	Chief Executive Officer
CQC	Care Quality Commission
CIL	Centre for Independent Living
ILF	Independent Living Fund
GLA	Greater London Authority
LBM	London Borough of Merton
MTFS	Medium Term Financial Strategy
PA	Personal Assistant

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<sup>33</sup> <http://www.mertoncil.org.uk/assets/documents/call-in-letter>

<sup>34</sup> <https://www.lbhf.gov.uk/articles/news/2016/08/hf-council-launch-disabled-people-s-commission>

<sup>35</sup> <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/communities-and-local-government-committee/social-care/oral/42401.pdf>

<sup>36</sup> [http://www.merton.gov.uk/appendix\\_1\\_-\\_summary\\_accounts.pdf](http://www.merton.gov.uk/appendix_1_-_summary_accounts.pdf)