

	<p style="text-align: center;"><b>Executive</b> 26 May 2009</p> <p style="text-align: center;"><b>Report from the Director of Housing and Community Care</b></p>
<p style="text-align: right;">Wards affected: <b>None</b></p>	
<p style="text-align: center;"><b>Adult Social Care Review of Fees and Charges 2009/10</b></p>	

Forward Plan Ref: H&CC-08/09-26

1. Summary
  - 1.1 This report seeks agreement to a charge for a new service or increased fees and charges for some Adult Social Care (ASC) Community Services. All services have been reviewed with the aim of identifying opportunities for additional income (where there is no conflict with other council priorities) as required by the council's policy direction on fees and charges. The council generates income from such charges to enable it to provide the necessary level of services to some of the most vulnerable people in Brent.
  - 1.2 Generally (in line with council policy) fees and charges for ASC services fully cover the cost of providing the service. Client contributions paid by people living in residential and nursing homes are fixed by central government and the council has no discretion over them. This leaves a small number of opportunities for additional income. Three areas were identified following a review: Extra Care Sheltered social care charge, re-ablement care and day care. Recommendations are made for each service's charge. There is no proposal to introduce a charge for day care due to the uncertainty created by central government consultations over fees and charges (see 3.5 below).
  - 1.3 All clients are individually assessed for their ability to pay any charge for care. The Brent Council gives a minimum income guarantee that is set higher than the level of central government benefits. This guarantee means that 70% of service users pay nothing for their care. Section 3.7 provides further details. Service users with disabilities are given additional help and this is detailed in section 6.2 below.

## 2. Recommendations

- 2.1 That a new charge for the new re-ablement care service is introduced from Monday 6 July 2009 at the same rate as is currently charged for 1 hour of homecare (£17.48 per hour).
- 2.2 That the charge for social care in Extra Care Sheltered schemes is increased for new residents who take up tenancies on or after 6 July 2009 based on the criteria for admittance into Extra Care of 7 hours of homecare at the current homecare rate (£17.48 per hour X 7 hours = £122.36 per week).
- 2.3 That a transitional scheme is implemented for charging for social care services for residents of Extra Care Sheltered schemes where their tenancy starts before 6 July 2009 increasing the weekly charge by £10 per week. The aim of this transitional scheme is to bring existing tenants into line with the new charge over time but limiting their increase to £10 per week. This amount being added to each April by the same increment until the charge reaches the level payable by tenants who took up their tenancy on or after 6 July 2009.
- 2.4 To await the decision of central government on charging for community care services and then to consider options for social care in Brent and therefore not to introduce a charge for day care.
- 2.5 To instruct the Director of Housing and Community Care to make savings in the department's budget for 2009/10 to off-set any loss of income arising from lower fees and charges than assumed in the council's Budget and detailed at paragraph 4.3 below.

## 3. Background

- 3.1 Brent Council reviews the fees and charges for services annually. Its framework for budget setting assumes that fees and charges should always cover the cost of providing the service unless this conflicts with other council priorities.
- 3.2 Changes in ASC fees and charges (other than annual inflation up lifts) have been subject to public consultation following the council's *Community Engagement Strategy 2006/09*. Initial consultation on these current proposals was for 1 month: this was extended to three months following public comment that there had been inadequate time for responses in part because the consultation period included Christmas and New Year. The results of the consultation are summarised at Appendix A to this report. The results were in line with the 2007 consultation on fees and charges. A clear majority in both consultations of service users were against the proposed increase in fees and charges. In 2009 58% of respondents were against the proposals (as against 56% in 2007). In 2009 7% of respondents were in favour of the proposals (as against 14% in favour in 2007).
- 3.3 Re-ablement care

Re-ablement care is a new service for Brent Council. Re-ablement care supports clients to return to independent living; particularly after a hospital admission usually associated with poor health and limited social functioning. It is usually provided for up to 8 weeks: with clients who need on-going care transferred (after review) to regular homecare. Experience in other parts of the country suggests that successful schemes can return around half of the clients to independence within 8 weeks with appropriate use of aids and adaptations to the client's home. Brent wants to offer re-ablement care for the first time in 2009/10. The hourly charge proposed is the same as the current hourly charge for homecare. It is likely that it will be more complex to provide than homecare: prompting and supporting clients is harder than directly undertaking the tasks for the client. Re-ablement should complement the Intermediate Care services provided by the NHS that are targeted at people leaving hospital and again aiming to return them to independence after a period of support. It is not clear how many clients may use this service in 2009/10. Any charge for re-ablement care will be subject to Brent Council's minimum income guarantee: which means that approximately 70% of services users will pay nothing for this service. See 3.7 below.

### 3.4 Extra Care Sheltered Social Care

Extra Care Sheltered schemes are run in specialised groups or blocks usually with an on-site manager. The social care element provides a care team on site 24 hours a day and most packages for residents comprise a number of short visits throughout the day to enable them to complete daily living tasks such as getting up, dressing, bathing and eating. There are 114 Extra Care Sheltered units where the council has nomination rights for the tenancies. The tenancy is directly between the housing association and the tenant and Brent Council is not a party to this agreement. It is proposed to bring the charge for Extra Care Sheltered social care into line with the hourly rate charged for homecare. One of the criteria for admission to an Extra Care Sheltered scheme is that the person has assessed needs that require a minimum of 7 hours of homecare support per week to meet them. Therefore it is proposed that the charge should be the same as 7 hours of homecare at the current rate. It is proposed that the full new charge will be paid by clients taking up an Extra Care Sheltered tenancy on or after Monday 6 July 2009. It will be made clear to people considering taking a tenancy before that date what the charge will be so that they can exercise choice over whether to move in at that level of charge. The new charge is equivalent to the charge that is now being paid by a client receiving 7 hours of homecare and without this change such clients would have a reduction in charge while receiving the same amount of care after moving to an Extra Care Sheltered flat. It would be unfair for a client to be paying more at home for a similar service to a client in an Extra Care Sheltered scheme. It is recommended that the Executive agree a scheme of transitional arrangements for existing Extra Care Sheltered tenants with the increase being phased to give residents time to adjust to the new level of charges. Brent Council's policies ensure that approximately 70% of service users will be provided with free services. See paragraph 3.7 for details.

### 3.5 Day Care

Day care is provided via the council's own in-house day centres, places purchased under contract from suppliers in Brent and more specialist care purchased for individual clients (usually physically or learning disabled) mainly in day centres outside of Brent. The 2 largest groups of users are older people (with most having dementia) or learning disabilities (with a wide spectrum of needs including physical disabilities, autism, challenging behaviour). A smaller number of clients attend the council's physical disability day centre at New Millennium and its day centre for clients with mental health needs at Kingsbury. The council runs a number of schemes to support clients to return to work or participate in training for work: these schemes have complex funding and many clients only attend for short periods of time. A total of approximately 880 people receive one or more sessions of day care each week with the average client attending 3 times per week.

Currently there is no charge for day care in Brent. Many other councils charge. A sample of other London council's charges (in August 2008) is given in the table below:

<b>Council</b>	<b>Daily Charge</b>
Barnet	£0
Croydon	£24.50
Enfield	Up to the cost of buying the place with no limit on the charge
Haringey	£30
Kensington & Chelsea	£0
Merton	£6.50
Redbridge	£27 to £40
Southwark	£0 to £29.70
Sutton	£23
Waltham Forest	£33.86
Westminster	£0

There is a wide variation in whether a charge is made and in the level of the charge among London councils.

Day care in Brent costs between £38 per day up to £175 per day to provide. Most day care costs in the range £38 to £45 per day. Specialist day care for a very small number of learning disabled clients costs up to £175 per day. These clients would usually have challenging behaviour and require a dedicated care worker and for some clients two care workers dealing solely with them. Clients who are served lunch pay the standard Meals on Wheels charge.

### 3.6 Central Government Consultation on Fees and Charges

The Department of Health is currently consulting on the basis for charging for community social care services (as opposed to residential care service charges). The consultation document is called: *Fairer Contributions Guidance*. The aim is to address anomalies in charges for social care created

by the move to personal budgets. The consultation ended on 19 April 2009. Subsequently central government is likely to publish a circular instructing local authorities on charging or setting out some requirements and some areas of discretion for local authorities. The guidance is consulting on how service users will contribute to their personal care budget in future: with the aim of maintaining council's income from charges while being fair to those being asked to pay the charge. The Department of Health's preferred option is that service users pay a percentage of their personal care budget in charges. This has important implications for how charges are calculated and how they may impact on clients. It is best to illustrate this with a specific example.

Example: Brent makes charges (before application of the minimum income guarantee (see paragraph 3.7 below)) that amount to 80% of the cost of providing the care. It therefore decides to fix the percentage charge at 80% of the amount of a direct care payment.	
Mrs. Patel attends in-house day care 4 days per week currently and pays nothing.	Mrs Patel has heard about Direct Payments and wants to take up a DP for her care. If she is award a DP of £152 per week, she will be eligible to pay charges on 80% of the payment or £121.60 per week. Mrs. Patel has a private pension and the charge will be the full £121.60 per week. She would be significantly impacted by the change.
Ms. Snellgrove currently gets 14 hours of homecare each week and pays the full cost of £244.72 per week.	Ms. Snellgrove wants to transfer to a DP for her care. A DP of £166.11 is agreed, on which 80% is chargeable = £132.89 per week. Ms. Snellgrove will be considerably better off under these arrangements

These proposals are likely to have a significant impact in Brent and especially between clients. It is therefore recommended that the Executive awaits central government decisions on community care charging.

A second much broader consultation has been launched by Department of Health. It is called: *The care and support systems needs to change – we need to decide how*. A list of “big questions” is provided. They are:

1. On whether the respondent imagines they will need social care in the future
2. Who should be responsible for meeting these needs (me, family, wider society, the government, employer).
3. Whether there should be a review of care system
4. Whether the care system will require more resources in future
5. Whether social care services should be funded from taxation

The associated presentation makes it clear that the main drivers for this consultation are:

- A growing funding gap for social care
- Increasing demands for social care
- An ageing population / a population with growing care needs.

No date is given for the end of this consultation.

### 3.7 Brent Council's Minimum Income Guarantee

Brent Council gives a minimum income guarantee so that no client has to pay for care if their income that is lower than:

- Pension Credit plus 25% for clients over state pension age
- Income Support plus premiums plus 25% for clients under state pension age

At current benefit rates these are:

- £162.50 per week for someone aged 60 or above
- £131.50 per week for someone aged 25 to 39
- £114.81 per week for someone aged 18 to 24

In practice, with current income levels, this means that approximately 70% of community clients pay nothing towards the cost of their care, 25% pay something towards the cost of their care and 5% pay the full cost of their care.

Charges for residential and nursing places are not fixed by Brent Council but these charges are determined by the Department of Health and applied by Brent Council.

The council also operates a scheme to disregard any disability related expenditure when calculating a client's income for the purpose of charging. Many clients will be able to claim additional benefits towards their housing costs.

All clients are individually assessed by a social worker or a finance officer. Clients living at home are supported to apply for benefits to improve their standard of living. If a client is disabled then one of the benefits they may wish to claim and would be supported in doing so would provide additional income to address costs that arise from the disability.

## 4. Financial Implications

4.1 When the budget for Housing and Community Care was set it was assumed that a day care charge of £3.75 per day would be agreed along with an increase in the Extra Care Sheltered social care charge at the rate of £116.65 per week plus adjustment for inflation. This was estimated to yield £307,000.

4.2 The recommendations before the Executive will reduce this income. Not introducing day care charges will reduce income in 2009/10 by £85,000. The recommendation on Extra Care Sheltered social care charges has a transitional increase of £10 per week in order to protect existing service users. It is assumed that Extra Care Sheltered clients vacate their flats at a rate of

10% pa. The budget gap created by the transition option and allowing for the delayed start of the charge to 6 July 2009 will be:

- £10 transitional increase from 6 July 2009 for existing tenants and full increase for new tenants– budget shortfall of £99,000.

4.3 The total estimated budget shortfall for 2009/10 is therefore:

Recommendations	Budget shortfall 2009/10
<ul style="list-style-type: none"> <li>• £10 per week transitional increase in Extra Care Sheltered Care with 10% of clients on higher charge and no introduction of day care charges.</li> <li>• No charge for day care.</li> </ul>	£184,000

The department will have to identify savings of these amounts to stay within its cash limit for 2009/10.

No amount was included in the budget for income from the new service of reablement care. The charge recommended is at the level of the cost of providing the service and the impact on the budget in 2009/10 should be broadly neutral.

## 5. Legal Implications

5.1 Charging for adult non accommodation services is at the discretion of the Local Authority and is provided for in Section 17 Health and Social Services and Social Security Adjudications Act (HASSASSA) 1983. The section applies to day care and home care services which would include those services for which charges are proposed in this report. The Act enables the Local Authority to make a charge for a service they consider reasonable. What is *reasonable* requires the consideration of a number of matters including the Guidance, the outcome of informed consultation and the Council's resources. Local authorities must have procedures for reducing or waiving a charge where a person's means are insufficient for it to be reasonably practicable for him to pay the full charge. The Department of Health issued Guidance on this subject; 'Fairer Charging Policies for Home Care and Other Non Residential Social Services ' (most recently revised in 2003). The Guidance is issued under s7 Local Authority Social Services Act 1970 and is therefore binding. The Guidance is presently under review by the DOH following a consultation process earlier this year which focused on how to calculate individual contributions in relation to personal budgets.

As a public authority, the Council has general duties to promote equal opportunities relating to race, disability and gender and to remove discrimination. These duties are set out in the:

- Disability Discrimination Act 2005 (DDA 2005);
- Equality Act 2006;

- Equal Pay Act 1970;
- Race Relations (Amendment) Act 2000 (RRAA 2000);and
- Sex Discrimination Act 1975.

The DDA 2005 requires public authorities, when considering disabled people, to promote positive attitudes towards disabled people and take positive steps, even if that involves treating disabled people more favourably than others.

To provide guidance on the duty there is a Statutory Code of Practice. The general duty is not absolute but it does require authorities in respect of all their functions to give due regard to disability equality.

The core general duties are similar for race and gender i.e.:

- To promote equality of opportunity; and
- To eliminate harassment and unlawful discrimination.

5.2 The Race Relations Act 1976 (as amended) places a statutory duty on public authorities to work to eliminate unlawful discrimination, and to promote race equality in all its functions. There are three complementary parts to the general duty:

- Eliminating unlawful racial discrimination
- Promoting equal opportunities
- Promoting good relations between people from different racial groups

The Code of Practice issued under s71C Race Relations Act 1976 (as amended) is relevant and the council must have regard to it.

Accordingly, the Council is required to consider whether its proposal will have any adverse impact on particular client groups to whom these laws apply and to the need to promote equality. The Council must consider the extent of any impact, and how that impact can be mitigated, before reaching a decision on how to carry out its functions. In reaching a decision on whether, and if so how, to charge for the services set out in this report, the Council must properly have regard to and weigh in the decision making process, the outcomes of the Equalities Impact Assessment.



## 6. Diversity Implications

- 6.1 An Equalities Impact Assessment (EIA) has been undertaken. The EIA did not identify any adverse equality impacts that would arise from the implementation of this report's recommendations. The main impact identified is on service users who have a source of income other than state benefits: in the main this is people with occupational pensions. Most service users (typically around 70% but it varies slightly over time) pay nothing for their social care because their income is below the council's minimum income guarantee. Only 30% of services users contribute to the cost of their care. Approximately 5% of the total of service users pay the full cost of their care and the remaining 25% pay part of the cost of their care. Of those paying for their care (based on national data) the proportion who are women is lower (because of lower lifetime earnings) as is the proportion of black and other ethnic minority service users (again due to lower average earnings). These charges therefore can be said to be *progressive* because they are paid by the relatively better off.
- 6.2 For clients with a disability Brent's charging scheme provides an exemption for all expenses that arise from meeting social and daily living needs due to the person's disability. These are assessed on a client-by-client basis. Where claims are made for health equipment (e.g. incontinence pads, oxygen cylinders) they are refused and the client is directed to their GP or other appropriate health contact. People with disabilities' needs will vary with the client's age and larger sums have been granted to younger disabled people who need to travel and so on. Again, Brent Council assesses clients with disabilities for aids and adaptations and those that are required are supplied to the client without charge. The Occupational Therapy Service provides equipment for both health and social care needs and is a jointly funded service between Brent PCT and Brent Council. The council also provides a service to undertake major adaptations to client's homes to improve accessibility. This typically includes ramps to front doors, accessible bathrooms and widening doorways. Again there is no charge for work deemed necessary to meet the client's needs. Many clients who have limited mobility are provided with travel training to enable them to use public transport and large numbers of clients are provided with transport from their homes on specialist buses and in taxis. Many clients are entitled to a Freedom Pass which enables them to travel at no cost. Again there is no charge for transport via Brent Council vehicles or taxis that Brent Council arranges for the client.

## Background Papers

Fairer Contributions Guidance: Department of Health; reference: 11195 26 January 2009.

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## Consultation on Fees and Charges

1. 2,700 booklets were produced setting out the proposals and these were sent out to service users, GP surgeries, One Stop Shops and reception areas. The booklet was made available in eight community languages and a format accessible to people with learning disabilities. It was also available on tape for blind and partially sighted people. The main booklet was reviewed by the *Campaign for Plain English* and their recommendations for clarifying the language used in the booklet were included in the text. The consultation was included in the council's consultation diary, web pages gave details of the proposal and it was possible to download a copy the consultation booklet from the council website. The extension to the consultation period was announced on the website and reported in local newspapers. An advertisement in the Brent and Willesden Times on 18 December 2008 announced the start of the consultation and gave details of how to get copies of booklets. Local newspapers carried a number of stories that arose from the proposed increase in fees and charges. Councillor Reg Colwill had a letter published in the Brent and Willesden Times clarifying items they had reported on.
2. Officers were ready to respond to invitations to meetings of user groups or voluntary sector organisations. Officers were invited to three meetings of service users and a meeting of Brent Pensioners' Forum where they made a brief presentation and answered questions. Officers attended a meeting of BRAVA to discuss the proposals and get feedback from those organisations represented. BRAVA representatives were of the view that voluntary organisations should have received a specific mailing with spare copies that would enable them to raise the proposals with their memberships independently of members receiving or seeing the booklet direct from the council. Officers agreed to provide a mailing to voluntary sector groups as part of future consultations. BRAVA welcomed the extension of the consultation period to three months and asked that future consultations be allowed three months in order to provide an opportunity for monthly meetings to consider the proposals and express their views on them. Officers met with officers and members of Brent LINK and provided information on the consultation process followed and the council's decision making process especially with regard to budget setting and reviewing fees and charges. Brent LINK made further comments on this report and they were responded to by letter. Brent LINK take the view that charges should be linked only to increases in the Retail Price Index. Their comments do not address the balance between the council tax payer and a service user paying charges. They did not comment on the protection provided by Brent Council's minimum income guarantee that protects approximately 70% of service users on low incomes from having to pay a charge.
3. The consultation booklet included a sheet to enable an easy response. 258 were returned (19% - less than in the 2007 consultation - when 319 were returned). The percentage of forms returned was 10% of the total booklets issued (down from a 12% return rate in 2007). No responses were received via the telephone or via email.

4. The table below summarises the 2009 consultation and compares it with the 2007 consultation:

Category	March 2009		February 2007	
	Number	Percent	Number	Percent
Total consultation booklets circulated	2,700	100%	2,700	100%
Total number of comments on consultation	258	10%	319	12%

Category	March 2009		February 2007		Difference
	Number	Percent	Number	Percent	
Of the comments made:					
Agreed with the proposed increases	18	7%	45	14%	-7%
Neither agreed or disagreed	56	22%	86	27%	-5%
Strongly agreed with the proposals	5	2%	10	3%	-1%
Strongly disagreed with the proposed increase	115	45%	108	34%	11%
Disagreed	34	13%	70	22%	-9%
Expressed no preference	30	12%			
Total number of comments on consultation	258	100%	319	100%	-19%

5. There was a space on the consultation form for people to write in comments. These are difficult to summarise. A sample of comments is reproduced below:

- The proposed increase is 3 times the current rate – too much
- A detailed handwritten letter. The writer says that his wife suffers from acute mental illness. The writer says that he has paid taxes that should fund social care services.
- Don't mind paying for a good service – you would pay £3.70 in a café anyway. But for those attending 3 X week they would have to pay around £15 per week which is too much.
- I know we get Penion as old People but that doesn't say you must take it back from us be reasonable please. May God have mercy upon you all. Thank you.
- I FEEL DISCRIMINATED AGAINST. MY SON WAS IN FULL RESIDENTIAL CARE YOU WOULD TO PAY MORE MONEY AND EXPENSIVE WHICH I HAVE ALREADY SAVE THE COUNCIL AS I AM CARING FOR HIM MYSELF.
- Charges at the Moment re (word not clear) to High for the quality of Service. Which to My mind is Poor.
- Decision was made to introduce the proposed changes within adequate consultation with service users and carers. As there is no increase in the service. Users' income to cover the increase charges there will be considerable hardship so they will be unable to pay the requested amount.
- Rise of Extra Care Sheltered care charges from £39.90 per week to £116.55 per week seems very high. Council can recoup any rise by raising other unnecessary expenses.

- I understand that some payment has to be paid so the clients are now having to pay for transport, but to them ask for another payment when they only receiving a weekly allowance, seems very unfair. The cost of employing a person to organise this new payment, seems to contradict the payment and I therefore think this 2<sup>nd</sup> payment in one year should be shelved.
- If Vijay my son doesn't attend the day centre it will but a lot of pressure mentally and physically on both my self and my wife as we are both in our early 70s and we wouldn't be able to cope.
- I think this service should be free to old aged Pensioners.
- AS A PENSIONER I AM CONCERNED THAT I WILL NOT BE ABLE TO PAY FOR THE HELP I NEED WHEN I NEED DUE TO COSTS.
- What ever we have saved for out retirement (working hard) did not spent it and think we will enjoy the life, but every where the price has gone up it is very hard to meet the end. We also support the family if they need it. It is in the family culture we do not keep record of it. If we go direct payment it will be difficult to provide proof. We are struggling at present, This charges are burden and stressful to us. We won't be happy family.

## 6. Commentary

- 6.1 There was a low rate of response to the consultation: but this isn't out of line with the response rate for most postal questionnaires. Fewer responses were received in 2009 compared with 2007. It is reasonable to assume that this was due to less interest in 2009 compared with 2007.
- 6.2 Respondents were generally not in favour of the proposed increases. 9% agreed or agreed strongly with the proposals (as against 17% in 2007): but 58% of respondents disagreed or strongly disagreed with the proposals (as against 56% in 2007). 34% of respondents neither agreed or disagreed or expressed no preference (as against 27% in 2007).
- 6.3 A very small number of respondents used the space provided to make a detailed comment. These are difficult to summarise. A sample is listed above but it is not intended to be representative of all the handwritten comments.
- 6.4 This consultation mainly sent forms to service users who would pay the higher charges proposed and they are therefore likely to oppose the charges. Although forms were more widely available it is clear that virtually all returned forms came from service users or family members of service users. It is much more difficult to engage the general council tax payer in a consultation such as this. Where there have been large consultations about the level of council tax there have generally been substantial majorities in favour of lower levels of council tax with the implication that service levels should be reduced or that services should be paid for via charges to service users.