



**Cabinet**  
14 March 2016

**Report from Strategic Director of  
Community Well being**

Wards Affected:  
ALL

**Adult Social Care – Charging for Services**

**1.0 Summary**

- 1.1 The Care Act 2014 gives local authorities the power to charge for services for care and support and replaces existing provisions under the Council's Fairer Contribution for Services and Charging for Residential Accommodation Guidance (CRAG). The overarching principle is that people should only be required to pay what they can afford. People will be entitled to funding from their local authority based on a means-test and some will be entitled to free care. Statutory guidance published by the Department for Health sets out how the local authority should interpret the provisions of the Act.
- 1.2 This report relates to a minor change in the current policy detailing how people are financially assessed in order to establish their financial contribution towards their care.
- 1.3 The report sets out the consultation process that will need to take place in order to ensure residents are made aware of the potential changes to the policy and process, and to demonstrate the council's commitment to maintaining current practices with regards to charging for care and support services, but within a new single financial charging policy in accordance with the Care Act 2014.

**2.0 Recommendation**

- 2.1 Cabinet agrees to the proposal to consult for a period of 30 days on the:

- a) Implementation of a new Charging Guidance 2016 Policy which brings together the current Fairer Contribution Policy and national guidance for residential care under CRAG.
- b) Implementation of light touch assessment in accordance with the Care Act 2014.
- c) An average charge of £29.07 is made for those customers who are receipt of services but a financial assessment has not been undertaken.

### **3.0 Policy Context**

- 3.1 The Care Act 2014, statutory guidance and supporting regulations replace a raft of legislation and guidance that has been in place for over 60 years. Part 1 of the Act came into force on 1<sup>st</sup> April 2015, and changed the legal basis for charging for care and support from a duty to a power. This new power replaces the existing duty to charge under the National Assistance Act 1948 for residential and nursing provision and the power to charge for non residential services under the Chronically Sick and Disabled Person Act 1970.
- 3.2 The new Act makes minor adjustments to the way that the charging system for care and support operates from April 2015 onwards. Under the Care Act, new rules for charging will apply when a local authority arranges care and support to meet a person's support needs. In certain circumstances the Act states that care and support must be provided free of charge, for example the provision of reablement for up to six weeks. In other circumstances the local authority may ask for a contribution fee towards residential care and/or non-residential care and housing related support.
- 3.3 There are also circumstances when the local authority is prohibited from contributing towards the cost of a person's care and support. Under current legislation, those with assets over £14,250 can be required to make a contribution towards the costs of their care and support, some people with sufficient income living in the community but with less than £14,250 can be required to make a contribution, and those with assets over £23,250 can be required to meet the full cost of their care and support.
- 3.4 Services provided will be means tested according to whether the person receiving care can afford to pay for it in full, contribute towards it or pay nothing at all. The Act brings charging regulations together under one piece of legislation. It allows councils, where possible, to undertake financial assessments by accessing Department for Work and Pensions information or through telephone discussion rather than visiting to verify financial information or by implementing low flat rate charges.

- 3.5 Adult Social Care has previously consulted on the policy of charging for care and support. The recommendations in this report do not alter our position on charging for care and support but do broaden the scope of how people can be financially assessed in the future.
- 3.6 It is right that we consult people who may be adversely affected by the revised proposals although this is assumed to be a minimal number. A clear and transparent policy on charging enables people to make advanced and informed decisions about their care and support arrangements.

#### **4.0 Current Charging Policy**

- 4.1 Adult Social Care charging policy for non-residential care and housing related support is based on the published Fairer Contribution Policy. This policy is based on Government guidance, which states that a council can choose to charge for non-residential care services, subject to certain minimum levels of income.
- 4.2 Current non-residential care and housing related support charges are applied as follows:
- a. Non-residential care and housing related support (including extra care) provided under Section 29 National Assistance Act ['NAA'], Section s Chronically Sick and Disabled Persons Act 1970 ['CSDPA'], Section 45(1) NHS Act 2006, Section 8 Residential Homes Act 1980 and Section 2 Carer and Disabled Children Act 2000.
  - b. Day services including transport, if provided.
  - c. Any non-residential care and housing related support based care packages through Personal Budgets or Direct Payments.
  - d. Telecare/assistive technology.
  - e. One-off services (for example, intensive house cleaning).
  - f. Telephone line rental and TV licences.
  - g. Respite Care Services.
- 4.3 Although the current Fairer Contribution Policy makes provision for a charge for telecare services, in practice this has not been implemented due to problems related to the billing structure. The billing system has now been adapted to resolve this issue. However, further work needs to be undertaken to determine the effect of applying charges to telecare services. It is proposed that a further report is brought to cabinet for consideration once this work has been completed and the

implications can be fully assessed.

4.4 The Current Charging policy does not apply to the following:

- a. Meals on wheels which is invoiced separately at a flat rate on the basis that they are a substitute for ordinary expenditure.
- b. Funerals provided under the duty set out under the S46 Public Health (Control of Disease) Act 1984 as this will be charged in accordance with the relevant protocol.
- c. The provision of day services or additional Adult Social Care services provided to those also accommodated by the Council in residential placements under Section 21 National Assistance Act. Charges are based the charging regime within the National Assistance (Assessment of Resources) Regulations 1992 and Charging for Residential Care Guidance ['CRAG'].
- d. Reasonable costs incurred by the Council for providing protection of property in line with the duty under s48 NAA.
- e. The costs incurred by the Council or any of its officers in connection with an application to the Court of Protection for deputyship or any expenses incurred in the exercise of his functions.

4.5 Charges are not made in the following circumstances:

- a. Under Section 117 of the Mental Health Act 1983 (after care services).
- b. Customers who have any form of Creutzfeldt Jacob Disease.
- c. Care paid for in full by a Primary Care NHS trust.
- d. In an intermediate care setting, to enable re-ablement support for up to six weeks or as part of short-term rehabilitation or extended residential stay (for example, following a stay in hospital) up to a period of four weeks.
- e. Where the council is satisfied that any contribution would lead to exceptional hardship it reserves its discretion not to require a contribution (in full or in part).
- f. Services provided to relevant and former relevant children under the Children Act 1989.
- g. Basic aids and adaptations equipment, where necessary,

will be provided free of charge.

- h. It is currently permissible to require a contribution for services provided directly to carers (under Section 2 Carers and Disabled Children's Act 2000) to support them in their caring role. Where housing related support is offered to carers outside the social care system, different eligible and charging arrangements may apply.
- i. Provision of information, advice and guidance about the availability of service.
- j. Provision of assessment, including assessment of non-residential care and housing related support needs.

#### 4.6 Residential Care Charges

Current residential care charges are applied by using the Department of Health Guidance paper 'Charging for Residential Accommodation Guidance' (CRAG). The paper provides statutory guidance to local authorities on how to interpret the regulations on charging for residential care. The guidance states:

*'It is for the local authority to decide whether it will carry out a financial assessment or whether it will charge an amount that it appears reasonable for the resident to pay'.*

The National Assistance Act 1948 underpins this guidance. The financial assessment is made using the National Assistance (Assessment of Resources) Regulations 1992.

- 4.7 Section 22 of the Act requires local authorities to fix a standard rate for the accommodation. If a resident (i.e. a person who is provided, or proposed to be provided, with accommodation) is unable to pay the standard rate, the local authority must assess their ability to pay, and decide what lower amount should be charged.
- 4.8 Personal Expense Allowance (PEA) is taken into consideration which is the weekly amount that councils must, in the absence of special circumstances, assume that residents will need for their personal expenses. The PEA is specified in regulations made under section 22(4) of the National Assistance Act 1948". This amount is increased each April, in line with the increase in average earnings.

Currently the Council take into account a person's total income and savings less the agreed personal expense allowance which is £24.90 for non property owners and £144.00 for those who have a property (agreed in 2015/16).

#### 4.9 Capital limits

A customer with capital of more than £23,250 is liable to pay the standard charge for the accommodation, if in a local authority home, or the full amount of the contracted fee if in an independent sector home. If a customer has more than £23,250 no financial assessment is undertaken as there is evidence in their ability to pay the full amount. Where a customer is one of a couple, or a civil partnership, the customer is liable to pay the standard rate or full contracted fee if they have more than £23,250 in their own right; or if their own capital and their share of jointly held capital is more than £23,250. Capital of £14,250 or less is fully disregarded (i.e. does not attract tariff income).

Capital over £14,250 and up to and including £23,250 is taken into account in full for the purposes of calculating the resident's tariff income from capital unless regulations specify otherwise.

Where a customer has £23,250 or less but more than £14,250, a financial assessment of their ability to contribute is undertaken. In doing this what is taken into account is £1 for every complete £250 or part of £250 over £14,250. This is called tariff income.

4.10 CRAG Charging Policy does not apply to those customers in receipt of services under Section 117 of the Mental Health Act 1983 and financial assessments disregard customers in receipt of the following:

- b) Those on Income Support/Pension Credit paid for home commitments
- c) When a person is in receipt of a Christmas Bonus
- d) Payment from the Macfarlane Trusts, or the Independent Living Fund or it's successor body
- e) Those who are in receipt of a Gallantry award
- f) A person who is in receipt of Income however, the income is frozen abroad
- g) Income received in kind
- h) Payments made to trainees
- k) War widow and war widowers special payments
- l) Work expenses paid by employer expenses paid to voluntary workers

## **5.0 Current Charging Process**

- 5.1 The Client Affairs Team are responsible for conducting financial assessments on behalf of Adult Services for care and support services provided, and ensuring charges are paid. The care and support currently provided to customers is not a free service. The process is that a person's care and support needs are determined by Adult Social Care practitioners and, following a care assessment, an officer within the Client Affairs Team will conduct a financial assessment to determine how much the person can afford to pay towards the cost of their care. For non-residential care and housing related support this is normally done by visiting the customer at their home. For residential care the financial assessment form is sent to the customer or their representative to complete and return within 14 days.
- 5.2 On a number of occasions it has proven to be difficult to confirm an appointment with the customer and several attempts are necessary to complete the visit and the financial assessment. This delays the collection of income to the council. The council policy is for three attempts to be made to arrange a visit and if this fails the customer is charged the full cost of the service until a financial assessment can be completed. Charging the full cost of the service inevitably helps to facilitate a financial assessment visit, however, adjustments have to be made to the charges once an accurate assessment has been undertaken and this process does not make good use of officer time.
- 5.3 Once the financial assessment visit is arranged and a financial assessment has been undertaken financial contribution charges, if any, will commence at the point when the customer is informed of how much they are required to contribute. This further prolongs the process and results in a loss of income to the Council. Approximately 50% of customers are not charged for services as their income falls below the contribution threshold.
- 5.4 An invoice is issued to the customer by the Client Affairs Team and charges for non-residential care and housing related support are applied from the day the customer is notified of their charges. Corporate Financial Service Centre (FSC) is responsible for collecting monies owed on behalf of Adult Services.
- 5.5 The guidance for charging for residential care is based on the government guidance paper 'Charging for Residential Accommodation Guidance' (CRAG) 2014 (CRAG). The guidance is underpinned by the National Assistance Act 1948 and the financial assessment is made using the National Assistance (Assessment of Resources) Regulations 1992.
- 5.6 For customers receiving residential care the financial assessment form is sent to the customer or their representative. If the placement is to be permanent a Land Registry check is undertaken to establish if the customer owns a property. If a property is found this may affect the level of financial contribution made by the customer. The assessment

is then undertaken once all the information on the financial assessment form has been completed and returned to the Client Affairs Team.

- 5.7 An invoice is issued to the customer by the Client Affairs Team and charges for residential care apply from the first day the customer receives the service. Corporate Financial Service Centre (FSC) is responsible for collecting monies owed on behalf of Adult Services.

## **6.0 Proposed Changes to the Charging Policy and Process**

- 6.1 The new Charging Policy brings together the charging regime as stipulated within the Councils current Fairer Contribution Policy and Charging for Residential Accommodation Guidance (CRAG) under one policy based on the charging regime within the Care Act 2014, Statutory guidance and Regulations. The policy also exercises the Councils powers to charge for services.
- 6.2 The main change in the updated policy relates to how financial assessments will be undertaken in the future. The focus will be on a light touch assessment.
- 6.3 The Care Act states that in some circumstances a local authority may choose to treat a person as if a financial assessment has been carried out. In order to do so, the local authority must be satisfied on the basis of evidence provided by the person that they can afford, and will continue to be able to afford, any charges due. This is known as a light-touch financial assessment. It allows councils, where possible, to undertake financial assessments by accessing Department for Work and Pensions information or through telephone discussion rather than visiting to verify financial information or by implementing low flat rate charges.
- 6.4 The main circumstances in which councils are permitted to consider carrying out a light touch financial assessment are:-
- a. Where a person has significant income and savings and capital and does not wish to undergo a full financial assessment for personal reasons, but wishes nonetheless to access support from the Council in meeting their needs. In these situations the Council may accept other evidence instead of carrying out the financial assessment and consider the person to have income and savings and capital above the upper limit.
  - b. Where the Council charges a small amount for a particular service which the customer is clearly able to afford and carrying out a financial assessment would cost more for the Council to perform than the cost of the service.



- c. When an individual is in receipt of benefits which confirm that they would not be able to contribute towards their care and support costs, such as Jobseekers Allowance.
- 6.5 The changes within the charging policy relate to the introduction of light touch assessment using DWP information further supported by Housing Benefit and Council tax systems collection.
- 6.6 Where it has not been possible to undertake a light touch assessment through the DWP or the Northgate system the financial assessment form will be sent to customer for completion and return back within 14 days. A visit to the customer may also be undertaken to verify information. For customers receiving services and where information cannot be obtained from the DWP, Housing Benefit or Council Tax systems, an average charge of £29.07 will be charged from the time that the service commences and until a financial assessment can be completed. This figure will be adjusted to reflect the accurate contribution once the financial assessment has been completed and the customer has been informed of the charges for their service.
- 6.7 Advantages of light touch assessment are as follows:
  - a. Reduced financial assessment visits for the customers. Currently 50% of customers are not charged for services because their income falls below the contribution thresholds. It is possible that the council will be able to reduce the number of financial assessment visits undertaken by the same percentage.
  - b. Less forms and evidence for the customers to provide
  - c. Quicker determination of assessed charge which supports the customers personal budgeting and ensures that the council applies the right level of charge more accurately and more quickly
  - d. Charges and the charging process are fairer and more transparent for customers
  - e. The council is able to secure income sooner
  - f. There will be a reduction in the amount of debt accrued as the assessed charge is determined more quickly
  - g. More simplified administration resulting in better use of officer time and a potential reduction in processing costs
- 6.8 The risks associated with implementing light touch assessments are low as long as the Council operate them in accordance with the policy intention. Some low level risk has been identified in table 2 below.
- 6.9 Table 2

<b>RISK</b>	<b>MITIGATION</b>
Capital and savings may not be declared when the customer has had a light touch assessment	The DWP Benefits systems operate a risk based verification programme. Further verification can be made by using the Council's Northgate system related to Council Tax Collection
Disability Related expenses will not be taken into account above the standard disregard	Customers will receive written notification when a light touch assessment had been conducted which will inform the customer they can apply for additional disregards if their disability related expenses are above the standard disregards applied
Financial Resources may change	The customer will have a duty to notify the council of any changes in their financial circumstances. In addition to this regular reviews will be conducted

6.10 In order to access the information on the DWP, Housing Benefit or Council Tax system all staff currently undertaking financial assessments must sign a disclaimer to ensure information obtain will only be used for the purpose of undertaking financial assessments for non-residential care and housing related support services and residential care. In addition to this the Council's Data Protection policy also restricts how personal information is obtained and used.

6.11 Currently all financial assessment staff have signed the DWP disclaimer and have undergone training in utilising the system in an test environment.

## **7.0 Consultation**

7.1 Consultation will take place for 30 days from 1<sup>st</sup> April 2016 to 1<sup>st</sup> May 2016. The purpose of the consultation is to seek views on:-

- a) A single Charging Policy which brings together the current regime for charging for non-residential care and housing related support, and residential care under one document and in accordance to the requirements of the Care Act 2014.
- b) The implementation of light touch assessments which will reduce the requirement to visit clients receiving new services by using the data readily available within the Department of Works and Pension

system relating to benefits entitlement as well and the councils housing benefit and council tax systems.

- c) Charging an average of £29.07 for clients in receipt of services but who have not yet had a financial assessment undertaken due to information being unavailable.

- 7.2 Consultation methods will include a paper survey and stakeholder meetings. Whilst the proposed change to light touch assessments only affects new users of the service, existing users of the service may be affected if they have a change in circumstances, hence the target audience for consultation will be both new and existing users.
- 7.3 Subject to agreement a report on the outcome of the consultation exercise will be brought back to Cabinet in July 2016.

## **8.0 Financial Implications**

- 8.1 The annual forecast for income received from client contribution in 15/16 is £8.3m. The additional annual income to be generated from moving towards the light touch assessments is estimated to be £200k per annum. This saving forms a contribution to the council's customer access service saving target.
- 8.2 On average, the conclusion of financial assessments is forecasted to be completed 3 days earlier (based on previous client visits), saving 1.5 hrs officer time per appointment. The assessed charge can be made from the day the service commences (3 days earlier), and this will result in recognising income sooner.
- 8.3 Quicker determination of the assessed charge and reduction in staff time and current procedures cannot be fully quantified until this process has been implemented, but the availability of DWP information will streamline the process and reduce the requirement to visit clients receiving new services.

## **9.0 Legal Implications**

- 9.1 Cabinet should satisfy itself that the consultation undertaken has abided by case law which states that consultations must contain four elements:
  - a. It must be at a time when proposals are still at a formative stage
  - b. It must give sufficient reasons for any proposal to permit intelligent consideration and response
  - c. Adequate time must be given for any consideration and response

- d. The result of the consultation must be conscientiously taken into account in finalising any proposals
- 9.2 In order to comply with element d. above for proper consultation, members of cabinet should ensure that they have familiarised themselves with the views expressed during the consultation period and ensure that those views are taken into account in any decision made.
- 9.3 When a Local Authority is considering amending policies it should assess the actual or likely affect of its policies on those with a protected characteristic in the community. An Equality Impact Assessment will also be completed to assist Cabinet in its decision making.

## **10.0 Diversity Implications**

- 10.1 The Care Act 2014 changes the ways councils can charge and assess customer's financial resources by creating a clear, consistent and fair way of assessing what people can afford to pay for their care and support. Services provided will be means tested to ensure the person receiving care can afford to pay and also takes into account any further considerations. The minor changes proposed will be subject to consultation and in doing so will ensure residents are made aware of the potential changes to the policy and that the policy will apply fairly to everybody irrespective to their protected characteristics and in line with the Public Sector Duty under the Equality Act 2010.
- 10.2 An Equalities Impact Assessment Screening has been completed, but a full equalities impact analysis will be completed in accordance with our duties under the Equality Act 2010 through the consultation process. This will take into consideration a privacy impact assessment in relation to the use of resident's information.

## **Background Papers**

- Care Act 2014
- Fairer Contribution Policy 2014
- Charging for Residential Accommodation Guidance' (CRAG) Charging for Residential Accommodation Guidance' (CRAG)

## **Contact Officers**

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