



Cabinet
5 February 2024

**Report from the Corporate Director
for Care, Health and Wellbeing**

**Lead Member – Cabinet Member for
Public Health and Adult Social Care
(Councillor Neil Nerva)**

Changes to the Adult Social Care Charging Policy

Wards Affected:	All
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
List of Appendices:	One Appendix 1: Online consultation results
Background Papers:	None
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1.0 Executive Summary

- 1.1 The purpose of this report is to present to members the outcome of the Adult Social Care Charging Policy consultation, which ran from 2nd November to 17th December 2023. In October 2023 Cabinet gave consent to undertake a public consultation on several proposed changes to the policy, the outcome of which was to be presented back to Cabinet before a final decision was taken on their implementation.
- 1.2 The Brent Adult Social Care Charging policy was last reviewed fully in 2016. Officers had begun to review the policy in 2021/22, ahead of the Government's proposed changes to adult social care charging (i.e. the introduction of the lifetime care cap, and changes to the capital thresholds for charging for care). These proposals have been postponed until October 2025. However, in doing the work on the charging policy ahead of those proposed changes, a number of issues and inconsistencies were found in the policy, and it is felt that there should be changes to the policy as a result.

1.3 The adult social care charging policy needs to be updated to bring greater consistency to the policy and ensure that it is fit for purpose in the years to come. It is also important that the charging policy links to wider aims for adult social care in Brent, to ensure that there is a sustainable service going forward, but that also the service is focussed on supporting people to remain as independent as possible without formal care commissioned by the local authority. Reviewing the policy on a regular basis is also good practice. The proposed changes that were included in the public consultation were –

- Reducing the discretionary personal allowance from 25% to 10% for those receiving non-residential or nursing care. This change would have an impact on the financial contribution made by all service users who contribute towards the cost of their adult social care services, except those in residential or nursing care.
- Increasing the amount charged to service users if they do not participate or cooperate with their financial assessment and making people full cost after 28 days.
- Increasing the hourly rate charged for homecare from £12.97 per hour to the cost of commissioning care. This is currently £20.50 per hour for contracted services, or £17.50 an hour for spot placements, although these figures will increase from April 2024. This would have an impact on the payments made by self-funders, and a small number of service users receiving very small packages of care.
- That an annual uplift is applied to the hourly rate charged for homecare in line with the increase given to providers, so that the charge continues to reflect the amount paid to providers on an hourly basis.
- Charging homecare service users for up to seven days after a hospital admission, to bring this into line with payments to care providers (who continue to be paid for up to seven days after a service user is admitted to hospital).
- Charging service users for 28 days after being admitted to hospital from a residential or nursing home. Providers are paid for up to 28 days, so it brings the charging policy into line with payments to providers.

1.4 The public consultation has now been completed and the responses to the consultation reviewed to finalise the proposed changes to the charging policy to be signed off by Cabinet. This report summarises how the consultation was carried out, the number of responses received, a summary of those responses and the recommendations for changes to the policy as a result.

2.0 Recommendation(s)

2.1 Cabinet is recommended to –

Approve the changes to the Adult Social Care charging policy following the completion of the public consultation, specifically to -

- (i). Apply a 10% discretionary enhancement to the minimum income guarantee those receiving non-residential or nursing care.

- (ii). Increase the hourly rate charged for homecare for self-funders from £12.97 per hour to the cost of commissioning care. This is currently £20.50 per hour for contracted services, or £17.50 an hour for spot packages.
- (iii). Agree that an annual uplift is applied to the hourly rate charged for homecare in line with the increase given to providers, so that the charge continues to reflect the amount paid to providers on an hourly basis.
- (iv). Increase the amount charged to service users if they cannot have a light touch financial assessment, to a new average contribution (£32.52 per week).
- (v). Charge people the full cost of their care if their financial assessment cannot be completed within four weeks. Safeguards will remain in place where this is due to a physical or cognitive impairment.
- (vi). Charge homecare service users their client contribution for up to seven days during a hospital admission.
- (vii). Charge service users their client contribution for 28 days after being admitted to hospital from a residential or nursing home.
- (viii). Agree the changes to the charging policy will be implemented from April 2024 onwards with a two-month minimum transition period to implement the new arrangements.
- (ix) Agree that final arrangements for implementation of the policy to be delegated to the Corporate Director Care Health & Wellbeing.

3.0 Detail

3.1 Cabinet Member Foreword

3.1.1 This report sets out the results of the public consultation on the Adult Social Care Charging Policy and the changes that are recommended following the completion of that consultation. In the absence of a national health and social care service, adult social care remains a service for which councils can charge. Whilst this isn't always popular, it is essential that if the service is to remain sustainable and the council is to deliver care to all who need it, that those who can afford to pay for care do so. It is also important that the authority regularly reviews and updates its charging policy to ensure that it is fit for purpose.

3.1.2 The changes to be implemented will mean that some people will pay more for their care services. However, those who do not pay at the moment will not be required to do so as a result of the changes that will be made to the policy. There are also a number of things that the council can do to mitigate the impact from the charges that people pay for receiving care services. Firstly, everyone who receives a care service from Brent has a financial assessment to

determine what they should pay towards their care – there is a clear principle that nobody should pay more towards their care than they can afford to. Secondly, the council will take into account disability related expenditure, and disregard legitimate expenditure where a person has little or no choice other than to incur the expenditure in order to maintain independence or quality of life. The council does all that it can to help people maximise their income, and social workers and care assessors play important roles in this, when explaining to people the process for receiving care and paying for care. And it is important to note that the changes to the charging policy are being implemented at a time when the council is investing in reablement and other important preventative services to keep people as independent as possible for as long as possible without requiring adult social care services.

- 3.1.3 The adoption and implementation of the revised adult social care charging policy will bring greater consistency and fairness to the policy, which will help the council continue to commission and provide good quality care services to the people of Brent.

3.2 Contribution to Borough Plan Priorities & Strategic Context

- 3.2.1 The proposals in this report support the borough plan priority “A Healthier Brent”. Having an up to date charging policy enables the council to raise the income required from charges for care services that enable social care services to remain sustainable and available to those that need them. In particular the policy supports outcome 1, Tackling Health Inequalities to “ensure all adults with care and support needs are able to access support and services and they are integrated with health, culturally competent and responsive to individual need”.

3.3 Background

- 3.3.1 The Care Act 2014 gives local authorities discretionary powers to charge ~~at~~ recipients for social care services provided. The basis of those charges varies depending on whether someone is receiving care in a care home or in their own home or in another setting. However, they share some common elements.
- 3.3.2 Section 14 of the Care Act 2014 states that a local authority may charge ~~for~~ meeting care needs and must follow the Care and Support (Charging and Assessment of Resources) regulations if it chooses to charge. Section 17 of the Care ~~At~~ 2014 states that having determined that it will charge, the local authority must carry out a financial assessment to determine how much an individual should pay towards their care.
- 3.3.3 Brent Council, along with 30 other councils in London, charges service users for their social care services. The council’s charging policy sets out the basis on which the council does this and reflects local needs. Councils have some discretion on the way they charge for care and Brent has a policy that includes discretionary elements within it.

- 3.3.4 Brent's Adult Social Care charging policy has not been fully reviewed and updated since 2016. Officers began the process of review ahead of the Government's plans to change the adult social care charging regulations, especially the introduction of a life-time care cap on service user contributions to the cost of their care and changes to the capital thresholds that would determine whether someone paid for their care in full. Even though the implementation of these changes is on hold until 2025, the review by officers uncovered a number of inconsistencies within the Brent charging policy and consequently the council is proposing a number of changes to the policy.
- 3.3.5 It is unfortunate that the implementation of the Government's reform to social care charging has been delayed. Fully funded charging reform for care services would have alleviated the need for Brent (and other councils) to review their existing policies and would give greater assurance to service users and their families on the contributions to their care during their lifetimes. As it is, the reforms will not be implemented until October 2025 at the earliest.
- 3.3.6 There are currently 4,335 people receiving social care services in Brent. Of these people, 2,069 do not make any contribution to their care costs, 2,266 people make a contribution based on their financial status. 358 people are self-funders, and pay for their care in its entirety, 88 in residential or nursing care and 270 people receiving homecare.
- 3.3.7 The charges that the council implements for its adult social care service are essential to ensure that the service remains sustainable in the years to come. Without the income from service user charges, the service would not be sustainable. Brent raises around £12m per year from charges for adult social care services; around £9m from those in residential and nursing care services and £3m a year from those receiving community based services, such as homecare. It is essential that there is a policy to provide a framework for charging, and that this is reviewed and updated on a regular basis.
- 3.3.8 It was on this basis that a report was presented to Cabinet in October 2023 with a number of proposed changes to the policy. The proposed changes were significant and some would have an impact on all service users who make a contribution towards their care and support services. Others would affect a smaller number of people but given the scale of the change Cabinet agreed a public consultation should take place to inform people who use care services and seek their views on the proposed changes before a final decision is taken on their implementation.

3.4 **Consultation Details**

3.4.1 As agreed by Cabinet in October 2023, the council has run a public consultation on the proposed changes to the Adult Social Care charging policy. The consultation ran from 2nd November to 17th December 2023 and was focussed on the main changes to the policy, specifically –

- Reducing the discretionary personal allowance from 25% to 10% for those receiving non-residential or nursing care.

- Increasing the amount charged to service users if they do not participate or cooperate with their financial assessment.
- Increasing the hourly rate charged for homecare from £12.97 per hour to the cost of commissioning care. This is currently £20.50 per hour for contracted services, or £17.50 an hour for spot placements.
- That an annual uplift is applied to the hourly rate charged for homecare in line with the increase given to providers, so that the charge continues to reflect the amount paid to providers on an hourly basis.
- Charging homecare service users for up to seven days after a hospital admission, to bring this into line with payments to care providers (who continue to be paid for up to seven days after a service user is admitted to hospital).
- Charging service users for 28 days after being admitted to hospital from a residential or nursing home. Providers are paid for up to 28 days, so it brings the charging policy into line with payments to providers.

3.4.2 A letter was sent to every adult social care service user to inform them of the consultation, and how they could give their feedback on the proposals. Separate letters were sent to self-funders receiving homecare services given the impact that the changes to the policy could have on this client group. Over 4,000 people received a letter about the consultation.

3.4.3 Feedback on the changes could be sent in writing, through the completion of an online survey on the Have Your Say page of the Brent Council website. There were two written responses and 50 online responses received to the survey in total. Additionally, seven consultation meetings were held during the consultation period – four organised with the Consultation and Engagement Team in Wembley, Kensal Green, Willesden and Harlesden, the Brent Disability Forum, a briefing with Brent Councillors and a meeting organised with the Brent Carers Centre that took place at Willesden Green Library. Around 75 people attended these meetings in total.

3.4.4 Officers also made contact with the Brent Carers Centre, Age UK Brent, Brent Mencap, Ashford Place, CVS Brent and Health Watch Brent to inform them of the consultation, and to offer to meet with their members / service users to discuss the consultation proposals. Representatives from these organisations attended one of the consultation meetings and the Brent Disability Forum.

3.4.5 The consultation questions and engagement plan were signed off by the Consultation Institute, who approved the approach the council used and undertook a mid-consultation review.

3.6 **Consultation Results**

3.6.1 Unsurprisingly with a consultation of this nature where people may have to pay more for care services depending on their personal circumstances, responses on the proposals were mixed. All of the proposed changes have some support, with the proposal to retain an enhanced minimum income guarantee and the change to the self-funder rates for homecare charges having the highest level of support from those who responded to the online

survey questions. A majority of people support retaining an enhanced Minimum Income Guarantee, which Brent would do even if it is reduced to 10% from 25%. There is less support for reducing this from April 2024, with more people preferring the reduction is phased in over two years to April 2026.

- 3.6.2 With regards to the proposals to charge people an average rate where their financial assessment could not be completed using a light touch approach and charging full cost if the assessment could not be completed within 28 days, around a third of respondents were in favour. There were similar responses to charges for people admitted to hospital whilst receiving homecare or in a residential or nursing placement.
- 3.6.3 The feedback from the events was generally more positive, or understanding, than that from the survey feedback. Having the opportunity to explain and discuss the changes with those who attended the consultation meetings was beneficial in helping to increase the understanding of the proposals, as well as make it clear that the individual changes will depend on the outcome of a new financial assessment. Those who attended the consultation events were also encouraged to complete the online survey so that their views could be included in the consultation outcomes more easily.
- 3.6.4 A summary of the online survey results is included at Appendix 1 to this report.

3.7 **Policy Proposals**

- 3.7.1 Based on the outcomes of the consultation survey and feedback received from the consultation meetings, it is clear that there is support for retaining an enhanced minimum income guarantee (a majority of people were in favour). Although the consultation did not ask specifically about removing the enhancement altogether, there is no rationale for doing so given the desire of the council to support vulnerable people in Brent and maximise incomes where possible. Retaining an enhanced minimum income guarantee, whilst reducing it to 10% both supports residents receiving social care services, and supports with keeping services sustainable whilst budgets are challenged and there is an increased demand for social care support in Brent.
- 3.7.2 Brent can deliver on its commitment to retain an enhanced minimum income guarantee, but officers are recommending that the change from 25% to 10% is made from April 2024 onwards. As explained to Cabinet in the report in October 2023 and also in the consultation materials and engagement events, the council will carry out a new financial assessment on all service users before confirming the amount people will pay towards their care. The council will support people to maximise their incomes, and there is also work happening to ensure people remain as independent as possible and to avoid the use of ongoing care where possible. There is not a strong enough argument for phasing in this change over a number of years, and in the main those who responded to the consultation who commented on this proposal opposed the change, rather than offering compelling reasons for phasing it in.

- 3.7.3 Assuming Cabinet is in agreement, the change to the enhanced minimum income guarantee from 25% to 10% will be implemented from 1st April 2024 and be applied to all financial assessments and client contributions to their adult social care services from that date. The council will apply a transition period for at least two months from April 2024 to give service users time to adapt to the new charges or raise requests for a new financial assessment with the council or consider additional disability related expenditure in their assessment. Full implementation will be from June 2024 onwards.
- 3.7.4 As set out above, there are 4,335 people receiving social care services in Brent. Of this number there are 3,597 receiving a community service of some kind, such as homecare, day care or a direct payment. People who currently make no contribution to their care will not be impacted by changes to the minimum income guarantee. This is because the council is keeping an enhanced minimum income guarantee – if someone doesn't contribute to their care now, the change will not result in an increase in their income to bring them up to a level where they contribute to their care.
- 3.7.5 The impact of the change will be felt by those people who already make a contribution to their care, but where that contribution is capped. Until each person undergoes a new financial assessment, the impact on each individual is difficult to quantify. But the likelihood is that the majority of people whose contribution to their care is capped will pay more for their care through the implementation of the 10% enhancement to the minimum income guarantee.
- 3.7.6 Brent Council is not aware of any other local authority that gives adult social care service users an enhancement to the Minimum Income Guarantee. Minimum Income Guarantee levels are set by Government and determine the minimum level of income a person should be left with after care costs and essential living costs, such as housing, are taken into account. Brent will still offer an enhanced Minimum Income Guarantee once the changes to the charging policy are implemented to protect vulnerable service users from other cost of living challenges. But reducing this from 25% is unavoidable due to the need to make up shortfalls in funding for care services and the need to deliver a sustainable adult social care offer in future years.
- 3.7.7 As with the changes to the minimum income guarantee, the consultation has not given officers any compelling reason not to implement the changes to self-funder homecare rates from 1st April 2024. There is currently an inequality in the way care is paid for, with self-funders receiving a subsidy to their homecare costs that other service users do not receive. Care costs considerably more than £12.97 (the current rate paid by self-funders) to commission, and it is the right thing to do to increase the charge to each self-funder to the cost of commissioning care on their behalf. From April 2024, the contracted homecare rate and framework rate will be £21 per hour, with the spot rate to be confirmed.
- 3.7.8 From 1st April, officers are recommending that self-funders are charged the correct cost of care for their homecare service. Additionally, there should also be an inflationary uplift applied from 1st April of each year in line with the uplift

paid to care providers so that charges keep pace with the cost of commissioning care.

- 3.7.9 Self-funders, of whom there are 270 receiving homecare services, will be impacted by the change to the hourly rate for homecare. The changes to the minimum income guarantee will not impact this group, but they will pay more for each hour of care they receive that is commissioned by Brent Council. Again, each self-funder will have a new financial assessment and they will be informed of their new charges for care ahead of the new financial year.
- 3.7.10 It is appreciated that these changes will have a significant impact on self-funders, but there is no justification for continuing to subsidise care services for those who can afford to contribute most towards their care. Self-funders have in effect been receiving a subsidised service whilst the hourly rate charged for care has been less than the hourly rate paid to commission care. If a self-funder chooses to they could seek their own support elsewhere in the market. If they did this it is unlikely they would secure support for less than £21 an hour, the rate Brent will charge from April 2024. Self-funders also benefit from Brent's brokerage, contract management, quality assurance and oversight functions, that work with providers to ensure people in Brent receive good quality care. Although the council could, we do not charge an admin fee for these services. However, as proposed, the council will charge self-funders the full cost of their care from April 2024.
- 3.7.11 As with changes to the discretionary enhancement on the minimum income guarantee, a two month transition will take place to give self-funders an opportunity to request another financial assessment, look for care from alternative providers or to adjust to having to pay a higher cost for care. Full implementation will not happen before June 2024.
- 3.7.12 The other two changes consulted on relating to the financial assessment process and charges for admission to hospital, will have a minimal impact if implemented. However, it was important to consult on both as they help to bring greater consistency to the charging policy. Officers are recommending that the changes relating to both elements are implemented from April 2024 onwards.
- 3.7.13 On the financial assessment process, the vast majority of assessments are completed using a light touch methodology, as explained in the Cabinet report from October 2023. Only where this isn't possible will an average charge be levied on the service user whilst the assessment is completed. The council does this now, but officers would like to increase the rate to the average charge as of now (£32.52) per week, and to increase this on an annual basis to stay in line with the average weekly contribution. Similarly, where service users do not cooperate with the financial assessment, the policy will change to allow the council to make them full cost after 28 days. Safeguards will remain in place to support those who are unable to complete the assessment due to a physical or cognitive impairment.

- 3.7.14 The consultation hasn't produced a compelling reason not to make the changes to the financial assessment process from April 2024. Consequently, officers are recommending that the changes are implemented from April 2024, and the amendment to the average rate charged reviewed on an annual basis from now on.
- 3.7.15 For those people receiving homecare, the charges for care during hospital admission will also have little impact but the change brings consistency to the charging policy. Currently the council will only apply a credit to care charges if we are informed of a hospital admission. For people whose contribution is capped, unless the charges for care not received whilst in hospital are more than the capped amount paid by the client, then no credit is applied during an admission. By making it clear in the policy that service users will continue to pay for care for up to seven days on admission to hospital, this position is made clear for all service users.
- 3.7.16 There are 738 people in residential or nursing services. The impact on this group will be limited to the changes to charging for admission to hospital. Other proposed changes will have no impact on this group.
- 3.7.17 The change to charging for up to 28 days for hospital admissions will have minimal impact. The current policy, where people should be credited for hospital admissions, doesn't work in practice for many people. Unless the council is told about hospital admissions, and frequently we are not particularly where the admission is for a night or two, then a credit cannot be given for the duration of the admission. By making the change to the policy where people are charged during admissions for up to 28 days, the policy will be brought into line with current social care practice and payments to providers to keep residential and nursing beds open for residents to return to. Officers are recommending that the changes to the policy in relation to charges during hospital admissions are implemented from April 2024 onwards.
- 3.7.18 Officers are preparing for the implementation of the new policy (subject to Cabinet approval) including testing of changes to understand implications of the changes to the Minimum Income Guarantee and self-funder rates ahead of April 2024. Additional support will be offered to people, where needed, that are particularly impacted by the changes and members will be updated as the new policy is implemented.
- 3.7.19 Letters explaining the changes will be sent to all Adult Social Care service users in February 2024, assuming Cabinet approves these changes. A follow up letter will happen in line with year end before the end of March 2024, confirming the new charges for each service user from April 2024. A transition period up until at least June 2024 will be applied to give people the opportunity to speak to the council about the new charges, request a new financial assessment or to consider the application of further disability related expenses in their financial assessment.

4.0 Stakeholder and ward member consultation and engagement

4.1 A public consultation on the changes to the Adult Social Policy took place from 2nd November to 17th December 2023. A summary of the results is included in this report at Appendix 1.

5.0 Financial Considerations

5.1 The proposed changes to the charging policy are to bring it up to date, and to ensure greater consistency across the policy.

5.2 The Adult Social Care department is under growing pressure due to rising costs and increasing client numbers. The current challenging financial environment has seen rising costs across all areas of the Council. The proposed changes to the Adult Social Care charging policy would ensure that the charging policy is fit for purpose and allow the department to continue to operate efficiently.

6.0 Legal Considerations

6.1 Now that the consultation process has concluded and EIA completed, members should familiarise themselves with the outcome and responses to the same. The recommended changes following the consultation remain legally sound.

6.2 Members should be satisfied that the consultation was a meaningful exercise, that those affected were given every opportunity to respond to the consultation, especially those with mobility and/or cognitive difficulties and that the views of those who did respond were taken into consideration in the final recommendations and final decision. This is to ensure that the local authority is able to robustly defend any challenges that may be brought when the changes come into effect.

7.0 Equality, Diversity & Inclusion (EDI) Considerations

7.1 A full equalities impact assessment has been completed and focussed on the impact on disabled people, who will be affected by the proposed changes when implemented. As set out in the body of this report, any changes to charges people will pay for ASC services will be based on the outcomes of a new financial assessment and their ability to pay.

8.0 Climate Change and Environmental Considerations

8.1 None.

9.0 Human Resources/Property Considerations (if appropriate)

9.1 None.

10.0 Communication Considerations

10.1 A public consultation has taken place, and all Adult Social Care service users written to, to inform them of the proposed changes. Further communication with service users will take place once the proposed changes are agreed by

Cabinet, including a letter to be sent to all service users informing them of the change and a second letter before the start of the new financial year confirming individual charges from April 2024 onwards, with the new arrangements to take affect after that date.

Report sign off:

Rachel Crossley

Corporate Director for Care, Health and Wellbeing