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|  | Cabinet 16 October 2023 |
| | Report from the Corporate Director for Care, Health and Wellbeing |
| | Lead Member – Cabinet Member for Public Health and Adult Social Care (Councillor Nerva) |
| Authority To Consult on Changes to Adult Social Care Charging Policy | |

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| 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: Presentation - Proposed Changes to Adult Social Care Charging Policy |
| Background Papers: | None |
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1.0 Executive Summary

- 1.1 The purpose of this report is to present to members recommendations for changes to the Adult Social Care charging policy. Before any of these recommendations are implemented, Cabinet is asked to agree that the proposed changes should be subject to consultation with Adult Social Care service users and the wider public in Brent.
- 1.2 The Care Act 2014 gives local authorities discretionary powers to charge adult recipients for social care services provided to them. 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.
- 1.3 Section 14 of the Care Act 2014 states that a local authority may make a charge for meeting needs, and must follow the Care and Support (Charging and Assessment of Resources) regulations if it chooses to charge. Section 17 of

the Care Act 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.

- 1.4 There are a number of principles that local authorities must follow when charging for care services. Most importantly, nobody should be expected or asked to pay a charge that they cannot afford. This is why people are subject to individual, personalised financial assessments, so that their personal circumstances are taken into account when charging for care services.
- 1.5 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 are on-hold, and there are no plans to implement them currently. 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.
- 1.6 The purpose of the changes that are being set out for consultation are to bring greater consistency to the charging policy and ensure that it is fit for purpose in the years to come. It is also important 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 changes proposed for consultation include –
 - 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. The consultation will help to determine whether this is implemented on a phased basis or in its entirety from April 2024.
 - 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. 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.

1.7 Further details on the impact of these proposals are set out in the report below. Cabinet is asked to consider these changes and agree that the council should consult on the proposals with service users before introducing any changes. Amendments to the council's adult social care charging policy would be implemented at the start of the 2024/25 financial year.

2.0 Recommendation(s)

2.1 Cabinet is recommended to:

- (i) Note the proposed changes to the Adult Social Care charging policy.
- (ii) Agree the proposal to allow officers to consult on the policy changes outlined in this report.
- (iii) Agree that a report is presented to Cabinet in January 2024 outlining the results of the consultation and confirming the changes to the charging policy that will be introduced from the start of 2024/25.
- (iv) Agree that any changes to the policy will be implemented to start on 1st April 2024.

3.0 Detail

3.1 Cabinet Member Foreword

3.1.1 This report sets out a number of changes to the Adult Social Care Charging Policy that will be consulted on in October, November and December 2023. 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 There are 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 these proposals are coming forward 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 Within this report there are a number of changes that will be consulted on. Each of them will have varying impacts, but collectively they will bring greater consistency and fairness to the policy, which will help the council commission and provide good quality care services to the people of Brent.

3.2 Background

- 3.2.1 The Care Act 2014 gives local authorities discretionary powers to charge adult 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.
- 3.2.2 Section 14 of the Care Act 2014 states that a local authority may make a charge for meeting needs, and must follow the Care and Support (Charging and Assessment of Resources) regulations if it chooses to charge. Section 17 of the Care Act 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.
- 3.2.3 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. The 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, specially 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 have been paused indefinitely, the review by officers uncovered a number of inconsistencies with the Brent charging and consequently the council is proposing a number of changes to the policy.
- 3.2.4 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 but their contribution is capped based on their financial status (i.e. their contribution is less than the total cost of their care). 358 people are self-funders, and pay for their care in its entirety, 88 in residential or nursing care and 270 people receiving homecare.
- 3.2.5 Changes to the charging policy will be made in line with the key principles set out in the current policy. Those principles are that the council –
- Recovers contributions from service users for care services based on the service user's ability to pay. It is intended that no one would be put in a

position of financial hardship as a result of the Care Act 2014 Statutory Guidance, since the maximum contribution will be set at either the full cost of the services provided or at a level that affords the service user at least a basic living allowance.

- Has a clear and transparent charging policy which is easy to understand and is consistently applied to all service users, that take account of their individual circumstances and needs.
- Provides an early notification to service users of their contribution to care costs.
- Ensures that service users have an opportunity to maximise welfare benefits thus maximising their ability to contribute to their care costs.
- Ensures administrative efficiency and convenience for service users.

3.2.6 It is important that the ASC charging policy is reviewed and updated on a regular basis. The proposed changes outlined in this report are significant. Some will have an impact on all service users who make a contribution towards their care and support services. Others will effect a smaller number of people, but given the scale of the change a consultation will take place to seek views on the proposed changes.

3.2.7 It is also important to understand the changes in the wider context of developments within the adult social care service. 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. 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.

3.2.8 There are other pieces of work that are happening in parallel with these proposals. The council is placing greater emphasis on preventative services and supporting people to remain as independent as possible for as long as possible. As well as supporting people to access universal services or community based provision, there is greater investment being made in our reablement service. Reablement is a short term service to support people regain skills and independence to enable them to live without ongoing support. Whilst it is a well established part of the council's hospital discharge process, more resources are being put into the service to make it a greater part of the community offer. If people are able to receive a reablement service, and prevent the need for ongoing support, not only is it better for the individual in that they aren't reliant on formal care, but clearly they will not have to pay towards services that they aren't receiving. Reablement is and will remain a free service.

How ASC Charges are calculated

3.2.9 It is important to understand how adult social care services are charged for. The changes to the charging policy will mainly affect those people who receive homecare or other services in the community. There is only one change that will have an impact on those in residential or nursing services.

- 3.2.10 When the council assesses a service user's ability to pay a contribution towards the cost of their support, it ensures that each individual maintains a portion of their income that is at least the level of a basic living allowance. The maximum contribution per week for each service user is calculated using financial information received from service users and other information available to the council. The calculation will take account of relevant income and capital.
- 3.2.11 Any person with savings above £14,250 will make a contribution to their care costs. £14,250 is the lower threshold for savings, £23,250 the upper threshold. If the person holds savings above this amount, they will fund their care in full. Savings between the lower threshold and the upper threshold will attract a surcharge of £1 per week for each £250 (or part of £250). For example, if a service user has savings of £17,250 the notional payment to the council (excluding any income) would be £12 per week. This is worked out by £17,250 less £14,250 (= £3,000) divided by £250 (= £12).
- 3.2.12 Capital includes (not an exhaustive list) any savings in bank or building society accounts; National Savings bank accounts; PEP, ISA or TESSA accounts, SAYE (Save as You Earn) schemes; cash; Premium Bonds or National Savings Certificates; stocks, shares, trust funds and investments; invested in property, building and land (rental income will be included); or where someone else is holding any of these on behalf of service user.
- 3.2.13 When calculating the maximum contribution for homecare or services in the community, the value of the main residence occupied by the service user will be ignored (if the property is subsequently sold, the proceeds of sale will be subject to financial assessment). However, if the service user owns a second property, 100% of the beneficial value will be taken into account. Service users are assessed in their own right and the income of their carer, parent, partner, or spouse is not taken into account in the financial assessment. The maximum contribution any person will make, will be the full cost of care.
- 3.2.14 There are some forms of income which are partly or wholly disregarded and do not form part of the financial assessment. Examples include –
- The mobility component of Disability Living Allowance
 - Child benefit and child tax credit
 - The part of Attendance Allowance (AA), Disability Living Allowance (care component) (DLA), Constant Attendance Allowance (CAA) and Exceptional Severe Disability Allowance (ESDA) that covers care at night where the council purchases no element of night care
 - All costs incurred by the Service User receiving care at home directly for their housing costs, mortgage, rent or Council Tax (net of related benefits)
- 3.2.15 Disability Related Expenses (DRE) are also considered when the extra cost is needed to meet a service user's specific need due to a condition or disability where the service user has little or no choice other than to incur the

expenditure in order to maintain independence or quality of life. Examples of DRE include –

- Specialist washing powders or laundry
- Additional costs of special dietary needs due to illness or disability (the service user may be asked for permission for us to approach their GP in cases of doubt)
- Special clothing or footwear, for example, where this needs to be specially made, or additional wear and tear to clothing and footwear caused by disability

3.2.16 The assessable income for a service user is worked out by adding together all identified weekly income and then subtracting –

- Any appropriate housing costs
- Any income that must be disregarded in accordance with the Care Act 2014 Statutory Guidance
- Any disability-related expenditure; and
- The minimum income guarantee (MIG)

3.2.17 The result is the assessable income from which the council will determine the service user's contribution to the cost of their care.

3.2.18 While someone eligible for local authority funded support is expected to contribute their income towards the cost of their care, there is a minimum level of income which a person must be left with after charges are deducted. For care home residents, this is called the Personal Allowance and is currently set at £28.25 per week. Local authorities have discretion to increase a person's PEA if they wish. Brent does not do this currently, and these proposals do not make any change the Personal Allowance for those who receive residential or nursing care.

3.2.19 For people receiving care in their own homes, i.e. homecare, the amount of income that must be retained is called the Minimum Income Guarantee (MIG). The MIG varies depending on a person's circumstances. For example, for a single person who has reached pension credit age, it is £194.70 per week. For a member of a couple where one or both have attained pension credit age, the MIG is £148.65 per week. The proposed changes to the policy will have an impact on the Minimum Income Guarantee in Brent.

3.2.20 The details of each of the proposed changes to the charging policy are set out below, along with a summary of their likely impact.

(i) Changes to the Minimum Income Guarantee for those receiving care at home

3.2.21 As set out above, all people subject to a financial assessment are left with a basic living allowance known as a Minimum Income Guarantee (MIG). The MIG varies depending on the circumstances of the person. Currently Brent enhances the MIG by 25% for everyone who has been financially assessed to

contribute towards their homecare. This is a discretionary figure, which the council does not need to apply, but it results in residents keeping an additional 25% of their income when compared to local authorities that chose to assess on the figures recommended by The National Association of Financial Assessment Officers (NAFAO).

- 3.2.22 The council proposes to reduce the discretionary element from 25% to 10%. Residents will still receive a discretionary enhancement to their Minimum Income Guarantee, but not at the level currently provided. This proposal would affect all service users that make a contribution towards their homecare, and would increase income to the council if implemented, whilst still providing a basic living allowance above that required in the guidance on charging for care services. Brent is able to do this to reflect local need and to continue to offer a minimum income guarantee above the level required, which supports service users contributing to the cost of their care services.
- 3.2.23 There are clearly consequences to doing this, not least that it will have an impact on more than 2,000 people who pay towards their care services currently. Most people will not be aware that the 25% enhancement is applied to the Minimum Income Guarantee and may not recognise that a 10% uplift is still a more generous scheme than Brent is required to provide. However, at a time when the wider charging policy is being consulted on, it makes sense to seek feedback on this change at the same time as the other proposals in this report.
- 3.2.24 The impact of this change is best demonstrated using an example, although it should be noted that each individual receiving care services will have a re-assessment to work out the specific impact for them.

Case Study – Mr Patel

Mr Patel is a single adult living alone and is aged 83. He has a weekly income of £400. Because of his circumstances his Minimum Income Guarantee is £201.05 per week. Currently Brent adds a 25% discretionary enhancement to this, to leave his MIG at £251.31. This leaves an assessable income of £148.69, which would be the maximum contribution to his care. By changing the enhancement to 10%, his Minimum Income Guarantee would become £221.20 per week, leaving an assessable income of £178.80 per week. Consequently, this is the maximum charge that Mr Patel could now pay towards his care.

Mr Patel's homecare package costs £175 per week. Under the current charging arrangement, he pays £148.69 per week towards this. Under the proposed arrangements, his contribution would increase to £175 per week.

- 3.2.25 Although the intention is to reduce the discretionary allowance to 10%, it is recognised that this will be challenging for some people due to other pressures caused by the cost of living increases. As a result, the consultation will focus on whether this change should be implemented in full in April 2024, or phased in over two years (reducing the discretionary allowance by 7.5% in 2024 and

again in 2025) or three years (reducing the allowance by 5% in 2024, 2025 and 2026) to reach the 10% allowance by April 2026. A phased approach will give people more time to adapt and reduce the impact of this change on service users, but the views of service users will be considered during the consultation.

(ii) Increasing the amount charged to service users if they do not participate in a financial assessment

3.2.26 The Care Act 2014 Statutory Guidance states that in some circumstances a local authority may choose to treat a person as if a financial assessment had been carried out before it is fully completed. 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 for their care. 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 with the client rather than visiting to verify financial information. This approach has been used in Brent for some years and enables the authority to complete assessments within 48 to 72 hours of a referral to our Financial Assessment team.

3.2.27 The main circumstances in which councils are permitted to consider carrying out a light touch financial assessment include:

- 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.
- 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.
- 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.

3.2.28 Sometimes it is not possible to undertake a light touch assessment through the DWP, Housing Benefits or Council Tax system, or information exists which suggests a full assessment is necessary to verify the financial position of the service user. In these circumstances the Council, at its discretion, can insist on a full financial assessment before confirming the contribution towards care. Currently, where a light-touch assessment isn't sufficient, and a full assessment is needed the service user receiving care is charged an "average amount" for that care. The current amount charged is £29.07 per week, which was the average charge for service users at the time the council moved to light-touch assessments in 2016. Currently 34 people are paying an "average" contribution to their care.

- 3.2.29 The council aims to complete all full financial assessments within four weeks of care being put in place. Once the assessment is completed, the service user will be charged the correct amount. If this is more than £29.07 per week, the service user will be invoiced for the right amount going forward. If it is less than £29.07, they are reimbursed for charges in the first four weeks and invoiced the correct amount from that point on.
- 3.2.30 Most people receiving care cooperate with the financial assessment process, and the assessments are completed within two weeks. However, some do not. In these circumstances currently the council will begin to charge people the full cost of their care, if after four weeks they have not provided the information needed to complete the financial assessment.
- 3.2.31 It is proposed that this is written explicitly into the council's charging policy. At the same time, the average charge needs to be increased to reflect the current average contribution to care from service users. As of August 2023, this is £32.52. This should be reviewed on an annual basis, and the charge changed to reflect the average client contribution to care at the start of each financial year. This charge should then be applied whilst financial assessments are being completed, where a light-touch assessment has not been possible.
- 3.2.32 Finally, there are safeguards for people where the financial assessment is likely to exceed the 14 days due to the complexity of the assessment. In these cases the council will, by agreement with the service user or their representative, agree an interim level of contribution based on the information available at that time until the financial assessment can be completed. If the delay becomes unreasonable due to a lack of engagement from the service user, the full cost will be applied until the assessment is completed.

(iii) Increasing the hourly rate charged for homecare from £12.97 per hour to the cost of commissioning care.

- 3.2.33 As set out above, charging for care services is based on a person's income, capital, savings and other assets that are taken into account when that person has their financial assessment. The person's contribution towards their care costs is "capped" at the upper amount that the person is able to afford based on the findings from the council's financial assessment.
- 3.2.34 Consequently, the amount that the council charges for each hour of care is not a relevant factor for the majority of people who make a contribution towards their care costs. Most people who pay towards their care have their contributions "capped". Irrespective of the cost of the care package, a person will only pay what they are able to afford. If a care package increase (or even if it decreases in some cases) the charge for most clients doesn't change.
- 3.2.35 The main impact of changing the hourly rate charged for care will be on self-funders, and to a lesser extent, people receiving very small packages of care whose contributions are below their cap. Self-funders are people who have their care and support commissioned by the council, but pay the full cost of

their care. This is because, based on the financial assessment outcome, they are able to afford the total cost of their care.

- 3.2.36 Currently self-funders receiving homecare services are paying £12.97 for each hour of care received. This is considerably below the actual cost of commissioning the care, which is either £20.50 an hour (for contracted providers) or £17.50 an hour (for spot providers). The amount charged to service users has not kept pace with the increased costs of commissioning care.
- 3.2.37 It is proposed that this is changed and that the hourly rate charged for homecare is adjusted to reflect the costs of the care package for each service user. This would be a significant change for self-funders, who will see their contributions towards their care increase. However, before any changes were introduced, each person would be re-assessed to ensure that nobody was being asked to pay more than they could afford for their care. Currently there are 270 self-funders who pay the full cost of their homecare services, which represents around 17.5% of all homecare service users. They would all be effected by this change.
- 3.2.38 Whilst every service users' circumstances will be different, we can use an example to understand the impact on individuals.

Case Study – Mrs Thomas

Mrs Thomas is 72 years old, married and lives with her husband in a home that they jointly own. Mrs Thomas has a personal income of £500 per week. Her husband's income, as well as her home, are not taken into account during her financial assessment as she receives a homecare service.

Mrs Thomas has a Minimum Income Guarantee of £148.65 per week. Therefore, her assessable income is £351.35. She receives seven hours of care per week, and currently pays £90.79 per week for this. If the hourly rate for care is increased to the cost of care, £20.50 an hour, the cost of her care package would increase to £143.50 per week. As the cost of care is still less than her assessable income, Mrs Thomas will remain a self-funder and will have to pay the full cost of care.

- 3.2.39 There could be a number of consequences to this change, some of which are hard to predict until the change is implemented. These include –
- All self-funders will have another financial assessment. With the new charges, some may have their contributions capped, limiting the increase in the amount they pay towards their care.
 - The increase in charges may mean that some self-funders choose to make their own care arrangements, and not ask the council to do this on their behalf.
 - Some may choose not to pay the increased charge. If the council determines based on the information we have about their financial circumstances that the person should be full cost, the council will look to

recover any debts that arise as a result of non-payment. It should be noted that by definition of being a 'full cost client', the person should have the means to pay for the increase.

- 3.2.40 The council is able to charge for the full cost of care and other council's we have benchmarked with have done the same, having previously been charging people less than the cost of care. Their experiences have shown that some full cost clients came forward and provided the council with new capital information, which has meant they moved from full cost to a capped charge. This is why the Brent will offer a reassessment when these changes are introduced to make sure that nobody is expected to pay more than they can afford.
- 3.2.41 Secondly, those clients that had been charged full cost because they hadn't initially complied with the financial assessment (referred to above), also came forward when the changes were introduced and engaged with the financial assessment process.
- 3.2.42 Another group of service users that could be affected by this change are those people for whom the cost of their care package is less than their capped contribution. In the main, this will be people with low incomes, but receive a small care package (i.e. around 2 hours of care per week), where their contribution will be around £20 - £30 per week, but the capped charge is above this. This is best demonstrated with an example.

Case Study – Mr Ali

Mr Ali has an income of £235 per week. After the council disregards his disability related expenditure and other living costs, he is left with £210 per week. His minimum income guarantee is £180.25 per week, leaving his with an assessable income of £29.75 per week. He is receiving a care package at home which consists of two calls per week, for an hour each. He pays £25.94 per week for this care.

As the hourly cost increases to £20.50 per hour, the cost of Mr Ali's care will increase to £41 per week. His contribution has increased to £29.75 per week, with the council paying the rest. The council will work with Mr Ali to support him to see what can be done to help maximise his income to pay the additional charge, as well as consider whether he would benefit from a short term reablement care package to try and reduce the need for ongoing care.

- 3.2.43 For people like Mr Ali, the impact of the hourly rate change could be significant, and so the council will look to engage with them before the changes are introduced to see what can be done to support them, such as looking at disability related expenditure options and benefit maximisation to help those who came forward with issues as a result of this change. There are 109 people who currently receive a care package of 3 hours per week or less and until each is financially assessed, the impact of this change is difficult to quantify.

3.2.44 It should be noted that the changes to the Minimum Income Guarantee will have an impact on the contributions to care costs for those whose costs are capped. Whereas the changes to the hourly rate for homecare charges will have an impact on self-funders. Very few, if any people, will be affected by both changes. The example below shows the impact when the two changes are applied -

Ms Campbell

Ms Campbell is 36 years old and receives four hours of care per week. The current cost of her care package is £51.88 (four hours care @ £12.97 per hour). Her total income is £237.10 per week and after disregarded income is taken into account, her assessable income is £203.45 per week.

Without the Brent 25% enhancement, Ms Campbell's Minimum Income Guarantee would be £144.20, but with the enhancement it is £180.25 per week. Therefore, the contribution Ms Campbell makes towards her care is £23.20 per week (£203.45 - £180.25 = £23.20 per week).

The impact of the change to the discretionary uplift on the Minimum Income Guarantee and the change to the hourly rate for homecare for Ms Campbell will be –

- *Her assessable income remains £203.45*
- *Her Minimum Income Guarantee will become £158.62*
- *The cost of the care package increases to £82 per week (£20.50 x 4 hours)*
- *Ms Campbell's contribution increases to £44.83 per week – the change to the hourly rate does not affect her contribution, but the change to the MIG*

3.2.45 Although the council is recommending these changes are implemented, before this happens information will be shared with services users given the significance of the change.

3.2.46 It should be noted that some local authorities charge self-funders an admin fee for setting up their care services. The Care Act allows this, although it is not something that is done in Brent. Whilst this has been considered as a potential change to the policy, it is not a proposal that will be included in the consultation.

(iv) An annual uplift is applied to the hourly rate charged for homecare

3.2.47 In addition to consulting on a change to the rate charged for care, it is also important that provision is made to increase the charge on an annual basis in line with increases to the commissioned cost of homecare services.

3.2.48 As a result, in line with the increases proposed to the hourly homecare charges above, the council's charging policy will also be updated to include provision

for an annual review of the hourly rates charged for homecare, to keep them in line with the cost of commissioning care. This change will be included in the consultation plan for the charging policy.

(v) Charging homecare service users admitted to hospital

- 3.2.49 Under Brent's homecare contracts, care providers are paid for up to seven days after a service users is admitted to hospital. This is because staff shifts are organised and rotas prepared, and so the provider has put resources into that package even if it isn't delivered. The provider is able to respond and pick up the package if the person is discharged back home by keeping their rotas in place whilst a person is in hospital. If a hospital admission extends beyond seven days, the package is suspended and the care provider ceases to be paid.
- 3.2.50 However, the charging policy currently does not allow the council to charge service users during a short hospital admission. This feels like an oversight, given that they benefit from providers keeping services in place, or on stand-by, should they be required and the service users has been assessed as being able to pay for care. The proposed consultation will cover this area, and it is recommended that the charging policy and homecare contracts aligned so that there is consistency in payment approaches.

(vi) Charging residential and nursing care service users admitted to hospital

- 3.2.51 Currently Brent's charging policy says that the council should reimburse service users for any nights they are admitted to hospital from their care home placement. This is unworkable in practice, as people are regularly admitted to hospital from care homes for short periods of time, sometimes without the council being informed. The council also has to pay to keep the bed open, and it makes sense for service users to continue paying their contribution, for up to 28 days. At this point, service user contributions would be halted, as would payments from the council to the provider.

Impact of the changes

- 3.2.52 As set out above, there are 4,335 people receiving social care services in Brent. Of this number, 738 people are in residential or nursing services. The impact on this group will be limited to the change to charging for admission to hospital. Other proposed changes will have no impact on this group.
- 3.2.53 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 could be impacted by changes to the minimum income guarantee, and they may have to start paying a small amount towards their care as the discretionary uplift is reduced from 25% to 10%. This will also effect those people who already make a contribution, but where that contribution is capped. Until each undergoes a new financial assessment, the

impact on each individual is difficult to quantify. The case studies in the report set out some hypothetical examples of the impact.

- 3.2.54 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.

Consultation Proposals

- 3.2.55 Before the proposals set out in the report are implemented, there will be a targeted consultation and engagement with adult social care service users, their families and others involved in their care. The proposals will have an impact on people in different ways, the biggest impact being on self-funders receiving homecare, where if implemented the change to the hourly rate charged for care will increase to the cost of commissioning care.
- 3.2.56 Because of this, as well as writing to all service users to inform them of the proposed changes to the charging policy, and the implications for them (in general terms), officers will arrange for specific correspondence to be sent to self-funders and those people using in-house day services who would be affected by the changes to charges for in-house services. Meetings will be arranged in person and online to discuss the proposals specifically with these groups, to seek their views and feedback for consideration before deciding whether to implement changes to the charging policy.
- 3.2.57 An officer working group has been set up to lead this work, chaired by the Head of Commissioning, Contracting and Market Management in ASC, and involving colleagues from Brent Customer Services, Communications, Corporate Transformation as well as ASC. Details of the proposed changes and opportunities for feedback will be published on the council's website and social media channels to try to seek the views of as many people as possible before confirming whether any changes will be made to the policy. Opportunities to attend existing forums, such as the Brent Disability Forum, Multi-Faith Forum and Overview and Scrutiny Committee will also be taken forward, along with working with key partners such as the Brent Carers Centre.
- 3.2.58 The consultation will run from the 23rd October until 10th December, with results published in January and details of the changes to be implemented confirmed by the first week of February, to enable implementation from 1st April 2024. An initial slide deck setting out the main changes to be consulted on is included as an appendix to this report.

4.0 Stakeholder and ward member consultation and engagement

- 4.1 There will be a public consultation to follow on the proposals in this report before any changes to the Adult Social Care Charging Policy are implemented.

5.0 Financial Considerations

- 5.1 The purpose of this report is to present proposals and begin the consultation on a review of the Adult Social Care charging policy. For this there are no immediate financial implications.
- 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 Although service users receiving support from the local authority be it home care, residential/nursing care or day care will be affected in one way or another, the proposed changes to the charging policy are legislatively sound in accordance with the Care Act 2014 and its accompanying Statutory Guidance as regards charging for care.
- 6.2 As set out in the body of this report, a consultation process will ensue, which is imperative given the significant changes proposed and the impact of them on service users.
- 6.3 The consultation must abide 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
- 6.4 When a Local Authority is considering amending policies it should assess the actual or likely effect of its policies on those with a protected characteristic in the community. An Equality Impact Assessment should also be completed to assist Cabinet in its decision making.

7.0 Equality, Diversity & Inclusion (EDI) Considerations

- 7.1 A full equalities impact assessment will be completed ahead of Cabinet. This will focus on the impact on disabled people, who will be affected by the proposed changes if implemented in full. 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 full communication and consultation plan will be developed as outlined in section 3.2.55 above. Different elements of the proposed changes will be consulted on separately with affected groups, and there will be engagement with all adult social care service users to inform them of the proposed changes and the possible impacts on them, depending on their circumstances.

Report sign off:

Helen Coombes

Corporate Director for Care, Health and Wellbeing