

# **ADULT CARE AND WELL BEING OVERVIEW AND SCRUTINY PANEL 23 JANUARY 2023**

## **ADULT SOCIAL CARE CHARGING REVIEW**

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### **Summary**

1. The Adult Care and Well Being Overview and Scrutiny Panel has requested an overview about the proposed review of Adult Social Care charging, which Cabinet is being asked to approve at its meeting on 2 February 2023.
2. The Cabinet Member with Responsibility (CMR) for Adult Social Care and the Strategic Director and Senior Officers from the Directorate of People have been invited to the meeting to respond to any questions the Panel may have.

### **Background**

3. The CMR for Adult Social Care will recommend that Cabinet:
  - Considers changing the current County Council (the Council) charging policy in the following areas:
    - change the assessment for replacement care to a non-residential service and make it clearer for service users
    - charge for both carers when two carers are required to attend a home care visit (double handed care)
  - Gives authority to the CMR for Adult Social Care to carry out a consultation on the proposals and make a final recommendation to Cabinet once the consultation is completed.

### **Charging for Replacement Care**

4. Replacement care is defined as short term care to replace care that is usually provided by informal carers and due to either an emergency situation or a planned break from a caring role, requires additional care and support at home, a day service or in a residential/nursing setting. It can also be paid via a direct payment. It has been formerly referred to as 'respite care'.
5. The Council's local charging policy for adults receiving care and support was updated and implemented in April 2015 in line with the Care Act 2014. Some aspects of the Policy were subject to local authority discretion, such areas were mirrored from the pre-Care Act regulations, to ensure continuity for adult service users.
6. The CMR will recommend that the Council change the assessment so that all service users in receipt of replacement care under the non-residential part of the policy are assessed.

7. The Council has for a long time, had challenges with how it purchases and assesses for replacement care, especially in relation to direct payments, as the service user decides on the timing and frequency of the replacement care according to their service plan and there is no onus on the service user to let the Council know when this is arranged.
8. The replacement care for a direct payment client is purchased as a one-off direct payment for care, when needed. As the direct payment is purchased as a 'cash' payment to be provided to the service user, the system does not know whether this has been used for replacement care or other services to meet the user's needs. Therefore, the financial systems will only apply a non-residential charge and not the replacement care/residential charge. Where the service user has services arranged by the Council, the charges are applied based on the services purchased. This means a different charging policy to direct payment users and non-direct payment users is applied.
9. **No current service users will be financially disadvantaged by this change as they are all currently on maximum assessed charge.**
10. If this recommendation is agreed and implemented, the following benefits would be realised:
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    - Fairer system of assessments as direct payments and non-direct payments clients will be assessed the same way – Care Act Compliant
    - Online Financial Assessment (OFA) will be able to be used for all assessments giving the option for service users to be able to understand their charges earlier in the process
    - Reduction in assessments being carried out by the Care Contribution Assessment team thus generating efficiencies
    - Simplifying the process for service users who will have one uplift letter (at present two uplift letters are received if they have non-residential and replacement care)
    - Social workers will not have to request a financial assessment when a client who is already having a non-residential service requires replacement care which again leads to process efficiencies.

## **Legal, Financial, and HR Implications**

11. Section 14 of the Care Act 2014 gives local authorities a discretionary power to charge adult recipients of non-residential services such amounts as they consider reasonable.
12. In terms of whether non-residential assessments should be applied to direct payment clients only, the charging and financial assessment framework provide principles that local authorities should consider when making decisions on charging. One of those principles to apply the charging rules equally so those with similar needs or services are treated the same and minimise anomalies between different care settings (paragraph 8.2 of the Care and Support Statutory Guidance). Therefore, whilst there is nothing stopping the Council from applying non-residential assessment to direct payment clients only, it would need to consider in doing so whether it was treating other respite/replacement care users to their detriment.

## Charging for Double Handed - Care Home Calls

13. Current custom and practice is that the Council only charge a service user for one care caller, even if two are required from a service delivery requirement.
14. The recommendation is to change this approach in the charging policy to enable charging for both carers. This will have a minimal impact on those currently assessed for care as most service users are already paying the maximum assessed charge. However, the Council has a number of self-funders for whom care is arranged by the Council, but the full cost of that care is not being recovered from the self-funder. This would mean that those self-funders who are financially assessed as being able to afford the double handed care cost would pay it. Those affected fall in to two categories, self-funders with capital on the upper threshold, currently standing at £23,250, and those who have high income and lower packages of care.
15. Based on current data, 20 self-funding service users, who choose to use the Council to broker their care, would be required to pay more for their care with an estimate of a full year effect of income generation for the Council of c£0.2 million. Self-funders would only pay the higher amount if they were assessed to have the financial means to pay, and they would be paying the higher amount if they sourced the care themselves which is shown in Table 1.

**Table 1 – Number of Cases where 2 carers have been required by self-funders and could have been charged for**

Charging Band	No of people affected	Weekly increase
Band 2 – Variable	1	£26.01
Band 3 – Full Charge	16	£4,589.22
Band 21 – Non-Disclosure	3	£397.60
<b>TOTAL</b>	<b>20</b>	<b>£5,012.83</b>

16. Other local authorities have been canvassed and out of the responses received, all charge the double handed costs to the service user, again, subject to the means tested financial assessment, details of which can be found at Appendix 1

## Legal, Financial and HR Implications

17. Section 14 of the Care Act 2014 gives Local Authorities a discretionary power to charge adult recipients of non-residential services such amounts as they consider reasonable.
18. Under s14(4) of the 2014 Act the Council can charge for “the cost that the local authority incurs in meeting the needs to which the charge applies”. If two carers are required, and the Council is required to pay for two carers, then that would be the cost to the Council in meeting the needs, and the cost for two carers could be recovered.
19. The implementation of the change in charging policy will have no direct financial implications, however efficiencies in staff time will be generated. With regard to

charging for double handed care, additional income generation of c£0.2 million is forecast to be receivable.

## **Issues for the Panel to Consider**

20. In summary:

- The change in policy will impact a small number of self-funders but the impact will be significant financially
- A consultation will be carried out and there is likely to be some negative feedback from current self-funders
- Should the proposals not be accepted following consultation, there is likely to be further pressure on Adult Social Care budgets
- There is an inherent risk in the way the Council currently assesses for replacement care and there is a risk of challenge as the Council assesses differently for direct payments and non-direct payments
- When the Adult Social Care Charging Reforms (Care Cap) comes in to effect, the Council will need to be ready with streamlined processes to minimise the costs and complexity for the Council, Service Users and Carers.

21. Implementing these actions will support efficiencies and more effective use of online assessments.

## **Equality and Diversity Implications**

22. A joint impact assessment (JIA) screening has been completed which identified that a full impact analysis was required relating to a full Equality and Public Health, Data Protection Impact Assessment. This has been carried out and is attached at Appendix 2.

## **Purpose of the Meeting**

The Panel is asked to:

- consider and comment on the information provided on this report; and
- determine whether any further information or scrutiny on these recommendations is required

## **Supporting Information**

Appendix 1 - Response from National Association of Finance Officers (NAFAO) – response to query regarding cost for Double Handed Carer Calls

Appendix 2 – A full impact analysis relating to a full Equality and Public Health, Data Protection Impact Assessment

## **Contact Points**

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## **Background Papers**

In the opinion of the proper officer (in this case the Democratic Governance and Scrutiny Manager), there are no background papers relating to the subject matter of this report.

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