

## PEOPLE (ADULTS & HEALTH) SCRUTINY PANEL

1<sup>st</sup> October 2015

### CHARGING POLICY & CONSULTATION Report of the Director of People

Strategic Aim:	<i>Meeting the Health and Wellbeing Needs of the Community Creating a Brighter Future for All</i>	
Exempt Information	No.	
Cabinet Member(s) Responsible:	Cllr Richard Clifton	
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<b>DECISION RECOMMENDATIONS</b>		
It is recommended that the Panel:  1. Note the following options available for charging within adult social care  2. Provide direction on the options that should be considered by cabinet for wider consultation		

#### 1. PURPOSE OF REPORT

- 1.1. The purpose of this report is to outline the discretionary aspects of the Care Act that afford flexibility in the way the Council sets its charges. It provides an outline of options for charging to enable the scrutiny panel to explore possible future changes to the Council's Charging Policy.

#### 2. BACKGROUND, PROPOSALS AND MAIN CONSIDERATIONS

- 2.1. The People First review provided the Council with an agreed approach in allocating resources to adult social care services. That is the Council should seek to ensure that those who are most vulnerable and in greatest financial need receive the services they require in a way that enables them to maximise their independence and wellbeing. The Council needs to support them to remain living in their own homes and participating in their local communities wherever possible.
- 2.2. The Council's medium term financial position remains uncertain and based on current assumptions is challenging. Reductions in funding are expected to

continue, whilst demand and pressures on services (given changes in demography and the expectations from the introduction of the Care Act (2014) etc.) will continue to rise. By 2019/20 it is estimated that the Council will need to reduce its net costs by £1.5m - £2m.

- 2.3. Against this backdrop, the Council needs to explore opportunities to maximise income, where possible and where appropriate, to ensure there are sufficient resources to provide for those in greatest need in the future.
- 2.4. The Care Act (2014) makes certain changes to the powers and duties surrounding charging for services. As a result Council's are encouraged to look at the way they levy charges for care and support services. The Act provides flexibility in the way the Council sets its charges and as such it is the right time to look at updating and modernising its existing Fairer Charging Policy.
- 2.5. There are a range of areas where there are options for charging. The following highlights these options and provides an illustration of the impact related to actual cost where ever possible. One of the key principles of charging is fairness and using actual cost provides the fairest method of determining charges to be made. However for each option there could be a range of alternatives that could be applied through applying the setting various rates i.e. 100% of the actual cost or a proportion of the actual cost.
- 2.6. **Charging Option 1 – Level of Charging Contributions:** The Current Position under the Council's Fairer Charging Policy is that the Council caps the hourly rate charged for domiciliary care to £13.00 per hour, whereas the actual cost to the Council is £15.75 per hour. The Council also limits the total amount that any person contributes to £422.00 per week even for those people who are above the national financial threshold (currently £23,250). As a result the Council is currently subsidising some people who are receiving care that potentially could be viewed as being able to afford to pay the full cost of their care and support.
- 2.7. Under the Care Act the Council is able to charge people the actual cost that it incurs in meeting their care and support needs. As such it is possible for the Council to charge people who are deemed as able to afford to pay the actual cost to the Council of meeting their care and support needs. This would mean people with capital above the threshold of £23,250, would be responsible for paying the full actual cost of their care and support needs.
- 2.8. Based on current service users, if this was an option that the Council progressed, it would likely have an effect on 20 people with increases in their charge ranging from an additional £1.38 to £43.3per week. This would bring in an additional income of £18,000 per annum (based on 14/15).
- 2.9. **Charging Option 2 – Changing when the Council charges for the Service:** Charges are currently only applied when both the social care assessment and the financial assessment have been completed, irrespective of the start date of the service. The financial assessment can take in the region of 1-2 weeks after the assessment has identified needs. This currently creates inequality in when different people start paying for care and creates a loss of income for the

council, as commencement of payment is ultimately dependant on the length of time their financial assessment takes.

- 2.10. The Care Act allows the Council to charge for services from the date that the service commenced. As such the Council is able to backdate any charges due from the start of the service.
- 2.11. If this was an option the Council progressed it would affect newly assessed individuals. Their weekly assessed charge for each week backdated, on average around £49.67 for each of the weeks between the service starting and the financial assessment being completed. This would bring in an additional income in the region of £11,600.
- 2.12. **Charging Option 3 – Administration Fee Self Funders:** The Council has for some time been assisting people who fund their own care by commissioning for their care on their behalf. The Care Act has now made it a legal duty to do this for people requiring support in the community (from as early as April 2020 it is also proposed that the Council will have responsibility for supporting self-funders accessing nursing and residential homes). Currently people with capital in excess of the upper capital limit of £23,500, who are required to fund their own care, are not charged for this support.
- 2.13. The Act allows the Council to levy an administrative charge to cover the costs associated with setting up the care, annually maintaining payments to providers and dealing with any associated contractual issues.
- 2.14. If the Council were to charge based on the amount of service required, then an intermediate package (Short term/straightforward) would cost around £340.00 and for a full package (Long term/complex) this would be around £800.00. On average the Council has 20 people (15 int. and 5 full) coming forward for care per annum, this would equate to £9,175 additional income.
- 2.15. **Charging Option 4 – Deferred Payments:** The Deferred Payments scheme is designed to enable people to delay paying the costs of their care and support until a later date, so they do not have to sell their home at a point of crisis. The costs are then recovered from their estate or the sale of their property. There are two types of costs incurred in operating Deferred Payments; the initial costs of setting them up and the on-going costs.
- 2.16. Currently we have 12 people in receipt of Deferred Payments and a further 4 applications in progress and this is expected to rise to 20. The Council currently charges a one-off set-up fee of £200.00, which goes some way towards covering the administration cost of setting up the Agreement and the legal cost incurred but does not cover all the costs of a Universal Deferred Payment. Councils, under the care act, are able to administer the scheme on a full cost neutral basis (but are not able to make a profit).
- 2.17. If the council progressed this charging option the standard set-up fee is likely to be in the region of £470 plus the actual cost of placing a charge on the property charged by the land registry and the actual cost of obtaining a property

valuation. It is estimated that the annual maintenance would have running costs of approximately £170. (To charge from year 2 onwards as the set-up fee includes this in the first year). The estimated full cost/income for all people in receipt of deferred payments is the region of £12,000.

- 2.18. **Charging Option 5 – Applying Government Interest Rate on Deferred Payments:** Interest is not currently paid on loans as part of a Universal Deferred Payment Agreement. However under the Care Act Councils can charge interest on any Universal Deferred Payment up to a maximum rate of the cost of Government borrowing (the Universal Deferred Payment scheme as mentioned previously should be cost neutral).
- 2.19. If the Council progressed this option it could levy charges in accordance with the interest rate set by government currently at the level of 2.25 %. (Ref: Care & Support (Deferred Payments) Regulations 2014)). On average this would cost individuals an additional £1,300 and provide the council an additional estimated income of £21,500.
- 2.20. **Charging Option 6 – Charging Carers:** The Care Act places carers on an equal legal footing to those they care for. The Council has a duty to meet a carers needs but this also means the Council can charge for services to carers in the same way that a person receiving care is charged. Currently we do not charge carers however it is an option under the care act for the Council to charge carers who are able to pay for their support.
- 2.21. As there has never been any financial assessment it is difficult to estimate how many of the current carers would be affected and the relative income to the Council. It is also difficult to estimate how this income would be offset with costs incurred through carer breakdown.

### **3. CONSULTATION**

- 3.1. Whilst there is no provision in the Care Act (2014) itself requiring Council's to consult on local practice there are several areas of decision making highlighted in the Care and Support Statutory Guidance (October 2014) where consultation is advised. This includes decisions about a Council's Charging Policy.
- 3.2. It is therefore recommended that the Council needs to undertake "sufficient" consultation which provides an opportunity for public participation in the decision-making process (particularly those with care and support needs). In short there needs to be conscientious engagement with stakeholders in respect of the possible options.

### **4. ALTERNATIVE OPTIONS**

- 4.1. The main alternative option for each potential area is to leave the Fairer Charging Policy as it is. This will need to be considered as part of the consultation and the Council will need to look at this in the context of current financial situation and rising demand.

4.2. There are also alternatives in the charging options in terms of raising contributions ceilings or setting rates at a contribution rate, rather than recovery of full actual costs. The Council will need to look at these options against whether it satisfies a key principle of “fairness” outlined within the Care Act.

## 5. FINANCIAL

5.1 By introducing new or amended charges, the Council may achieve some additional income. The level of potential income has been estimated but in reality will depend on the number of service users, the amount of care required, the financial position of each service user and how much they have to contribute.

5.2 The income generated from the possible options outlined above can be seen in Table 1 below:

**Table 1 – Potential Income**

Options	Potential Income	Comment
<b>Charging Option 1 – Level of Charging Contributions</b>	£18,000	Based on increasing charges to the actual cost to the Council and full cost for those with capital above the threshold of £23,250.
<b>Charging Option 2 – When the Council charges for the Service</b>	£11,600	Charging for non-residential care from the start of the service being provided
<b>Charging Option 3 – Administration Fee Self Funders:</b>	£9,175	Charging a one-off arrangement (brokerage) fee for people with capital over the upper capital limit.
<b>Charging Option 4 – Deferred Payments:</b>	£12,000	Increasing the setup fee and annual maintenance fee for deferred payments to cover actual costs.
<b>Charging Option 5 – Applying Government Interest Rate on Deferred Payments:</b>	£21,500	Levying charges in accordance with the interest rate set by government currently at the level of 2.65 %
<b>Charging Option 6 – Charging Carers</b>	Unknown	Charge carers who are able to pay for their support
<b>Total:</b>	<b>£72,275</b>	

## **6. LEGAL AND GOVERNANCE CONSIDERATIONS**

- 6.1 The Care Act (2014) received Royal Assent on 14 May 2014 and reformed the law relating to care and support for adults and support for carers. It contained certain flexibilities in relation to charging that are covered in this report.
- 6.2 The major funding reforms, such as the cap on care costs and the ability for self-funders to request that the local authority arrange care and support in a care home are not due to be introduced until at least 2020.
- 6.3 To avoid legal challenge and judicial review the consultation process needs to be “fit for purpose” and meet the expectations as outlined in this Report.

## **7. EQUALITY IMPACT ASSESSMENT**

- 7.1 A national impact assessment for the Care Act has been completed. The intended effect of the Care Act as described in this assessment is to improve the outcomes and experience of care, and secure a more effective use of public and community resources by improving the personalisation of services, giving people more choice and control over how their desired outcomes are achieved.
- 7.2 In terms of local impacts an Equality Impact Assessment (EqIA) has been completed. If there were changes to charging there will likely be adverse impacts on some groups of people. These are legitimate as they form part of the powers for Councils contained in the Care Act (2014).

## **8. COMMUNITY SAFETY IMPLICATIONS**

- 8.1 None.

## **9. HEALTH & WELLBEING IMPLICATIONS**

- 9.1 The provision of direct social care support, brokerage and Deferred Payment arrangements will have a potential positive effect on wellbeing. Charges are always based on a person’s ability to pay and are only levied following a full financial assessment. As such charging has limited negative affected on people’s health and wellbeing.

## **10. ORGANISATIONAL IMPLICATIONS**

- 10.1 At this stage there are not organisational implications from the content in this report, however if there are changes to the charging policy this is likely to have impacts for human resources and procurement.

## **11. CONCLUSION/ SUMMARY OF REASONS FOR RECOMMENDATIONS**

11.1 The Care Act (2014) makes changes to the powers and duties surrounding charging for services. Against the back drop of rising demand and current financial climate the Council should consider making changes to its existing Fairer Charging Policy (2013).

11.2 Any changes would have to be subject to a formal consultation with the public and those affected in line with legal requirements.

## **12. BACKGROUND PAPERS**

12.1 Care and Support Statutory Guidance (DOH Oct 2014)

12.2 Rutland County Council Budget Report 2015-16