

<b>CABINET</b>	<b>AGENDA ITEM No. 5</b>
<b>18 JANUARY 2016</b>	<b>PUBLIC REPORT</b>

Cabinet Member(s) responsible:	Councillor Wayne Fitzgerald, Deputy Leader and Cabinet Member for Integrated Adult Social Care & Health	
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**ADULT SOCIAL CARE CHARGING POLICY REVIEW**

R E C O M M E N D A T I O N S	
<b>FROM :</b> Cabinet Member for Integrated Adult Social Care & Health Scrutiny Commission for Health Issues Corporate Director, People & Communities	<b>Deadline date :</b> N/A
<p>That Cabinet considers:</p> <ol style="list-style-type: none"> <li>1. The proposed changes to the reviewed Adult Social Care charging policy, and notes the recommended option;</li> <li>2. The responses and feedback received from a public consultation on the charging proposals; and</li> <li>3. The comments and recommendations of the Scrutiny Commission for Health Issues on the charging proposals.</li> </ol> <p>and subsequently:</p> <ol style="list-style-type: none"> <li>4. Approves the proposed changes to the charging policy, as set out in paragraph 4.4 of the report to take effect from the earliest available opportunity as part of the routine financial assessment and financial assessment review process in accordance with Government regulations.</li> </ol>	

**1. ORIGIN OF REPORT**

1.1 This report is submitted to Cabinet following:

- The recent consultation on proposals for the Adult Social Care charging report;
- Referral from the Scrutiny Committee meeting; and
- Referral from the Corporate Management Team meeting on 11 November 2015.

**2. PURPOSE AND REASON FOR REPORT**

2.1 The purpose of this report is:

- To provide information for consideration on a number of proposed changes to the Council's Adult Social Care Charging Policy;
- To receive responses, and comments from a recent public consultation;
- To receive responses, comments and recommendations from the Scrutiny Commission for Health Issues; and
- To seek approval of the recommended changes to the charging policy, and for the method of implementation of these changes.

- 2.2 This report is for Cabinet to consider under its Terms of Reference No. 3.2.1 ‘To take collective responsibility for the delivery of all strategic Executive functions within the Council’s Major Policy and Budget Framework and lead the Council’s overall improvement programmes to deliver excellent services’.

**3. TIMESCALE**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>
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**4. ADULT SOCIAL CARE CHARGING POLICY REVIEW**

**Background**

- 4.1 Local Authorities are lawfully able to decide for themselves whether to charge for certain types of care and support services, but must only charge people what they can afford to pay in accordance with nationally set protected minimum income levels, and charges must not exceed the costs of providing the service. The Council has charged for care and support based on these principles since April 2003. Since that time, the charging policy has undergone a number of revisions, additions and amendments to reflect changes to statute and guidance, and to increase the range and level of care charges it has applied in response to the increasing financial pressures the Council has faced. Approximately 60% of people currently in receipt of a care and support service make a financial contribution towards the cost of their care; with income from charges forming a significant element of Council funding.

- 4.2 The Care Act 2014 and its supporting regulations and guidance sets out a clear, consistent way of assessing what people can afford to pay for their care and support, and introduces a number of changes to the way the charging policies for care and support should operate. The Council’s charging policy has been reviewed to identify the changes required to ensure compliance with the new statutory guidance, and also to identify opportunities for maximising revenue from care charges.

**Key issues**

- 4.3 A total of 13 proposed changes to Peterborough’s charging policy were identified following a comprehensive review undertaken in early 2015, six of which financially impact either neutrally or positively on people receiving care, and a further seven which may result in increases in care charges for some. The changes that will have a neutral or positive effect on care charges have already been routinely applied within financial assessments since April 2015, but the changes that could result in increased care charges have not yet been applied to individuals, as these are deemed to be adverse changes to a Council policy that require public consultation and formal Council consideration and authorisation.

- 4.4 The seven adverse charging policy changes proposed are:

1. For people who receive care and are part of a couple, care charges will be based only on the finances of the person receiving care, not the joint finances and circumstances of the couple. This might mean therefore that in some circumstances, some members of couples with high incomes will see their weekly care charge increase.

2. Care charges will apply from the date that care started, rather than the date of the financial assessment.

3. Charges for respite care home stays will be based on an individual’s own finances, not a fixed, standard charge.

4. Elements of some disability benefits (the higher rate of Attendance Allowance and the higher rate of Disability Living Allowance Care Component) which are currently disregarded in the calculation of the care charge for some clients will be fully taken into account.

5. An administration fee will be charged for arranging care services for people who have capital above the national funding limit.

6. Care charges will apply to people in prison who receive care and support services - where they have the means to pay these, and where it is practicable to work this out.

7. Interest charges will apply to residential care home loan payments made by the Council under its deferred payments scheme on behalf of people who own their former home, but choose not to sell this.

### **Impact of the changes**

4.5 Adopting the above changes to the Council's charging policy would result in increased care charges for some people. Initial estimates have identified that:

- Up to 440 people could see their weekly care charges increase by more than £25 depending on their individual and financial circumstances (NB those affected by the largest increases will have the highest incomes that will have not previously have been taken fully into account in their financial assessments). Some people will experience care charge increases of less than £25 per week.
- Up to 60 people could see their weekly care charges increase by up to £15 per week.
- Up to 200 people a year who first start to receive care could see the period to which care charges apply increase by an average of 2-3 weeks from the start date of their care.

4.6 Increased care charges will only apply if the incomes of those people affected exceed nationally set minimum protected income levels (which are based on income support/pension credit levels plus an additional 25%). Those with the highest incomes are likely to therefore experience the highest charge increases, but will always be left with income levels that are above protected minimum figures. A person's individual financial circumstances are always considered and taken into account in the final calculation of their care charge; for example, levels of expenditure that are directly attributable to the person's disability and which are then disregarded in the financial assessment. No individual would therefore be required to pay a charge that was deemed to be unaffordable according to nationally set criteria. A comparison of the charging position taken by five other local authorities in terms of these proposals has been undertaken, and the results are shown at Appendix 1.

### **Options for implementation**

4.7 The Council can consider a number of options in respect of the charging policy proposals:

- a) Agree to the changes and apply these from the earliest available opportunity as part of the routine financial assessment and financial assessment review process. This is the preferred option.
- b) Agree to the changes but phase these in over a three year period, limiting the increase that would apply to each individual to a third of the total increase figure (i.e. the full impact of the increase would only be felt in the third year – 2017/18)
- c) Agree to implement only some of the proposed changes, and operate a more generous version of the charging policy.
- d) Leave the charging policy unchanged, and continue to operate a more generous version of the charging policy.

## **5. CONSULTATION**

5.1 A public consultation on the charging policy proposals was launched on 17<sup>th</sup> August 2015 on Peterborough City Council's website, and ended on 28<sup>th</sup> September 2015. Comments were invited on the seven proposed changes to the charging policy. The consultation on the website contained details of the consultation's aim and purpose, who would be affected,

who was being consulted, the methods, background and summary, the proposals, the reasons for the changes and their impact, and an online questionnaire.

- 5.2 Notification of the consultation was issued to a range of partner organisations, including: Peterborough Council for Voluntary Services, Cambridgeshire & Peterborough Clinical Commissioning Group, Age UK, Peterborough CAB, Peterborough Carers Partnership Board, Peterborough Adult Social Care Co-production group, and Peterborough DIAL. Details were also circulated widely to departmental staff members and incorporated in staff newsletters.
- 5.3 A summary leaflet, consultation document and paper questionnaire were posted to approximately 50 randomly selected individuals in receipt of care services. Financial assessment officers also raised the issue of the charging consultation with a number of care users at home visits during the period of the consultation.
- 5.4 A total of 24 responses were received from the consultation, the majority being supportive of the proposals. 11 of these were electronic responses via the Council's website, and 13 written responses were received from the postal survey/home visit survey. 35 individual comments were received, reflecting a range of views. 18 of the responses were received from people receiving care services, four responses were from members of staff, and a further two responses were received from organisations (Peterborough Council for Voluntary Services, and the Cambridgeshire & Peterborough Clinical Commissioning Group).
- 5.5 The questionnaire responses were as follows:

<b>Proposal</b>	<b>Agree</b>	<b>Disagree</b>
1. For people who receive care and are part of a couple, care charges will be based only on the finances of the person receiving care, not the joint finances and circumstances of the couple. This might mean therefore that in some circumstances, some members of couples with high incomes will see their weekly care charge increase	22	2
2. Care charges will apply from the date that care started, rather than the date of the financial assessment.	17	5
3. Charges for respite care stays in a care home will be based on an individual's own finances, not a fixed, standard charge.	17	7
4. Elements of some disability benefits (Attendance Allowance and Disability Living Allowance Care Component) which may currently be disregarded in the financial assessment will be taken fully into account.	12	12
5. An administration fee will be charged for arranging care services for people who have capital above the national funding limit.	15	8
6. Care charges will apply to people in prison who receive care and support services - where they have the means to pay these, and where it is practicable to work this out	23	-
7. Interest charges will apply to care home payments made by the Council under the deferred payments scheme on behalf of people who own their former home but choose not to sell this.	11	11

- 5.6 A range of comments were also received, and these are reproduced at Appendix 2.
- 5.7 This matter will be considered by the Council's Scrutiny Commission for Health Issues on 13<sup>th</sup> January 2016. Feedback from the Commission will be provided to Cabinet for the meeting.

## **6. ANTICIPATED OUTCOMES**

- 6.1 If approved, the Council's charging policy will be fully compliant with the Care Act statute and guidance, and will enable revenue from charges to be maximised in a fair, balanced and consistent way.

## **7. REASONS FOR RECOMMENDATIONS**

- 7.1 The proposed changes to the charging policy and the preferred method of implementation will ensure that the Council's adult social care charging policy:
- Meets statutory requirements.
  - Maximises income from charges, and in so doing generates additional revenue that will assist the Council in setting a balanced budget, and will help to maintain and extend adult social care services against a background of increasing demand and financial constraints.
  - Continues to charge people in a fair, consistent and equitable way

## **8. ALTERNATIVE OPTIONS CONSIDERED**

- 8.1 Alternative charging policy options have been outlined at paragraph 4.7 of this report. Options 4.7 b), c) and d) have been considered and rejected because they would not generate the estimated additional income from care charges that the recommended option would (4.7 a). The challenging financial climate and increasing cost pressures that the Council faces make it imperative that all revenue sources are maximised where this can be done fairly and legitimately.

## **9. IMPLICATIONS**

### **Financial implications**

- 9.1 The Council has charged for care and support services for many years, and income from charges helps to protect and sustain essential care services for vulnerable adults. Income from care charges in the 15/16 financial year is estimated to be £6.7m as at June 2015, and represents 16% of the forecast gross care package spend.
- 9.2 Adopting all the proposed charging policy changes could lead to an estimated increase of revenue from care charges of up to £260k (full year effect), although this figure will not be achieved in 15/16 given the delayed introduction of the proposed changes. The later in the financial year that these changes are introduced, the less revenue will be generated as a result in the 15/16 year. Phased implementation / transitional protection over a three year period would also reduce the expected income levels resulting from the proposed charge changes by the equivalent of two thirds of the expected income from the increases in the first year of implementation, and one third in the second year. The full year effect of the charges increases would therefore only be felt in the third year (2017/18) if this option were approved.

### **Legal implications**

- 9.3 The Care Act provides a single legal framework for charging for care and support under sections 14 and 17. It enables a local authority to decide whether or not to charge a person for the care and support that they receive, except where it is expressly stated in the Act, regulations and guidance that charges must not apply. The overarching principle is that people should only pay what they can afford, and will be entitled to financial support based on a means-test, and some will be entitled to free care.
- 9.4 The Care Act provides a number of broad powers for Councils to carry out certain functions. Where a Council chooses to exercise these powers, it may be necessary to consult on how it intends to do so. A Council would only usually be expected to consult locally where it is using its discretion in relation to the exercise of a particular function.

### **Equality implications**

- 9.5 The revised charging policy will help to ensure that Adult Social Care services continue to be accessible to all sections of the local population, including those with fewer financial

resources and lower incomes, but will be more consistent by treating service users with high incomes / high capital resources more equitably. The financial assessment is undertaken on an equitable and consistent basis across all client groups, and compared uniformly against national eligibility criteria.

### **Ward implications**

- 9.6 This report does not have any implications for any individual ward, as it will apply to people needing care services city-wide.

### **10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

Care and Support Statutory Guidance – issued under the Care Act 2014, Department of Health

Adult Social Care Charging Policy - Equality Impact Assessment

### **11. Appendices**

Appendix 1 - Comparator & benchmarking table

Appendix 2 - Consultation responses – comments

## Comparator &amp; benchmarking table

<b>Peterborough care charging policy proposal</b>	<b>Practice in other Councils</b>				
	<b>Lincs</b>	<b>Cambs</b>	<b>Northants</b>	<b>Swindon</b>	<b>Luton</b>
1. For people who receive care and are part of a couple, care charges will be based only on the finances of the person receiving care, not the joint finances and circumstances of the couple. This might mean therefore that in some circumstances, some members of couples with high incomes will see their weekly care charge increase	Yes	Yes	Yes	No	No
2. Care charges will apply from the date that care started, rather than the date of the financial assessment.	No	Yes	Yes	Yes	No
3. Charges for respite care stays in a care home will be based on an individual's own finances, not a fixed, standard charge.	No	Yes	Yes	No	No
4. Elements of some disability benefits (Attendance Allowance and Disability Living Allowance Care Component) which may currently be disregarded in the financial assessment will be taken fully into account.	No	Unable to determine	No	No	No
5. An administration fee will be charged for arranging non-residential care services for people who have capital above the national funding limit.	Yes	Yes	No	Yes	No
6. Care charges will apply to people in prison who receive care and support services - where they have the means to pay these, and where it is practicable to work this out	No	Unable to determine	No	No	No
7. Interest charges will apply to care home payments made by the Council under the deferred payments scheme on behalf of people who own their former home but choose not to sell this.	Yes	Yes	Yes	Yes	No

Consultation responses – comments:

### **Proposal 1 comments**

For people who receive care and are part of a couple, care charges will be based only on the finances of the person receiving care, not the joint finances and circumstances of the couple. This might mean therefore that in some circumstances, some members of couples with high incomes will see their weekly care charge increase

1. *Treating people as individuals for charging purposes appears to be fair and reasonable*
2. *Must ensure the partner is protected*
3. *We can't sign up to personalisation only where we choose. People are either individuals in their own right or not.*
4. *The wording on this is a bit complex but the proposal seems fine*
5. *When you're on a low income as I am you cannot afford to pay any extra*
6. *All people receiving care should be re-assessed and informed on national set minimum levels*

### **Proposal 2 comments**

Care charges will apply from the date that care started, rather than the date of the financial assessment.

1. *Absolutely fair that you should only pay once a service has commenced*
2. *Concerned that vulnerable people could incur a debt of their client contribution if the financial assessment is not carried out immediately. Also people would not be able to make an informed decision when accepting services from Adult Social Care without knowing how much contribution would be expected from them, therefore an individual may be offered commissioned services in a crisis and find that a few weeks down the line they receive an unexpected invoice for their contribution.*
3. *Financial assessment must be very swift so that the client can make a reasoned choice about proceeding with the care package and nobody is put in difficulty paying a back-dated bill.*
4. *It is appropriate for people to pay from day one when they can afford to*
5. *Mostly people will have been financially assessed before care commences*

### **Proposal 3 comments**

Charges for respite care stays in a care home will be based on an individual's own finances, not a fixed, standard charge.

1. *Appears to be reasonable*
2. *Appears fairer*
3. *I prefer the standard charge rate as it's not fair to pay more if my income is higher*
4. *Be assessed*

### **Proposal 4 comments**

Elements of some disability benefits (the higher rate of Attendance Allowance and the higher rate of Disability Living Allowance Care Component) which are currently disregarded in the calculation of the care charge will be fully taken into account.

1. *How much is gained by taking this difference into consideration? In these financially hard times for people could this not be disregarded and publicised as a gesture of good will on the part of PCC?*
2. *Unjust to take this benefit into consideration. Often used to pay others to help look after you.*

3. *AA/DLA is to help with the extra costs of care 24 hours a day. This includes such things as extra laundry and extra costs of higher levels of heating. If only part day care is being provided by the Council then money must be left for the rest of the day and the extra daily expenses.*
4. *Benefits are income*
5. *AA & DLA are intended to help with care so this appears logical*
6. *Quote, Minimum income level and their basic living and other costs by assessment*

#### **Proposal 5 comments**

An administration fee will be charged for arranging care services for people who have capital above the national funding limit.

1. *Appears to be reasonable to charge an administration fee in this respect. Time is money. Also the peace of mind knowing that PCC has set up something properly should attract a cost.*
2. *I think this should be covered by local taxation*
3. *I would prefer for the care to be arranged for me as when you come out of hospital, you don't want the hassle*
4. *Would want to know how much we would charge*
5. *Would like to know how much first*

#### **Proposal 6 comments**

Care charges will apply to people in prison who receive care and support services - where they have the means to pay these, and where it is practicable to work this out

1. *When you go to prison, you have lost your rights. So they should pay like everybody else.*
2. *Do people in prison receive benefits? Don't know enough about people in prison.*

#### **Proposal 7 comments**

Interest charges will apply to care home payments made by the Council under the deferred payments scheme on behalf of people who own their former home but choose not to sell this.

1. *Can't there be a differentiation between those who can't sell their homes and those who do not wish to?*
2. *The Council needs to mirror the national interest rates not just use the upper banding of 2.25%*
3. *For older person and their family I think it is difficult enough to reach the decision to agree to a residential placement. I don't think that it is right that families and the people have to pay excessive interest too.*
4. *This is reasonable as house values increase by more than 2.25% annually. PCC may also need to borrow to fund the scheme which is optional and may be beneficial to the care recipient. Why should other Council Tax payers fully fund it?*
5. *Agree only if resident intends to return to home if possible, otherwise charge should increase based on house value.*
6. *As long as interest rate minimal + nationally agreed rate*
7. *But don't do a Wonga*

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