



COUNCIL CABINET
10 February 2016

ITEM 9

Report of the Cabinet Member for Integrated Health and Care.

Updating the Adult Social Care Charging Policy

SUMMARY

- 1.1 The Council's current Fairer Contributions Policy was introduced following public consultation in early 2011 and was last updated in 2013. A number of recent events have an impact on the Council's policy, which is now out of date and no longer fit for purpose.
- 1.2 The Care Act 2014 and the related Statutory Guidance provide a new single legal framework for charging for care and support by local authorities. This legislation covers charging for care and support provided in both community-based and residential settings. The Act replaces the legislation underpinning the current Adult Social Care Charging Policy
- 1.3 The Council has signed up to the July 2014 Derbyshire Safeguarding Adults joint guidance on Aftercare for Detained Patients under Section 117 of the Mental Health Act 1983. Under this legislation, anyone who has been in hospital under section 3, 37, 45A, 47 or 48 of the Mental Health Act 1983 is entitled to free aftercare when they leave hospital. The revised joint guidance includes a different approach to the current practice in relation to charging people subject to a section 117 notice.
- 1.4 The Council has surveyed existing customers on the proposed introduction of charges for the Deputyship and Appointeeship service, and conducted a subsequent Equality Impact Assessment. It is proposed that means-tested charges are introduced for this service.
- 1.5 The Council has separately held a public consultation on the proposed changes to the Adult Social Care Charging Policy required to bring it into line with the Care Act 2014. The consultation process has included an Equality Impact Assessment.
- 1.6 A new Adult Social Care Charging Policy has been drawn up incorporating all of these changes, and taking into account the feedback from the survey, the consultation and the two Equality Impact Assessments. This paper seeks approval for its adoption and implementation.

RECOMMENDATION

- 2.1 To agree to the introduction of charges for Deputyship and Appointeeship services as described in paragraphs 4.7 to 4.10
- 2.2 To adopt the revised Adult Social Care Charging Policy attached as appendix 5, to be implemented from 4 April 2016.

REASONS FOR RECOMMENDATION

- 3.1 The introduction of a charge for Deputyship and Appointeeship would help to defray the costs of providing a non-statutory service that protects income for the Directorate.
- 3.2 The proposed changes bring the Council's Adult Social Care Charging Policy in to line with the latest legislation and protect the Adult Social Care charging income stream for the Council. The proposed start date aligns with the date that the Department of Work and Pensions (DWP) benefit rates change.



Derby City Council

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Report of the Strategic Director for Adults and Health

SUPPORTING INFORMATION

4.1 Background

The Care Act 2014 was enacted following the most fundamental review of social care service provision since the start of the National Health Service. The new legislation replaces the framework that underpins the Council's current Fairer Contributions policy for community-based care and support, as well as replacing the legislation that governed the charging of residential and nursing care and support.

4.2 Consultation process

Council Cabinet approval for a public consultation on a revised Adult Social Care charging policy was granted in July 2015. A draft policy was drawn up and published with the public consultation which ran between 9 September 2015 and 2 December 2015.

The majority of factors affecting the Financial Assessment (means testing) and charging of customers for Adult Social Care services are enshrined in the Care Act 2014 and supporting guidance. These elements were included in the draft policy but were not the subject of any consultation questions.

4.3 Consultation details

There were 14 significant changes from the current arrangements in the proposed charging policy that was the subject of the public consultation. The changes and the rationale for each of them are explained in the Consultation Supplement attached as Appendix 2. The topics are listed below. A consultation question was asked about each of them.

- Disregarding 50% of an occupational pension in Financial Assessments for unmarried couples
- Removing the cap on non-residential charges
- Charging from the start of the service rather than from the date of the Financial Assessment
- Meals to be charged at the full cost (including meals-on-wheels and at day centres)
- Charging for Telecare equipment
- Charging for late cancellation of services
- Nominal charging for outcome-based services
- Charging for "double-up calls"
- Deferred Payment Scheme administration charge and interest rate
- Arranging support for self-funders
- Selling Council services directly to members of the public
- Allowing "top-ups"
- Allowing "top-ups" to be deferred

- Managing deferred "top ups"

4.4 Consultation Response

The primary response route was on-line, but paper versions of the consultation documents and Easy Read versions of the questionnaire and supporting information were made available as required. We received 49 online and 9 paper responses. The use of on-line questionnaires avoided costs of around £157 for the Council. The responses to the consultation have been collated and analysed. The Consultation report is included as Appendix 3. A summary of the replies for each question is below:

% respondents who agree or disagree with disregarding 50% of an occupational pension in Financial Assessments

	count	%
Agree	35	59.3%
Neither agree nor disagree	15	25.4%
Disagree	9	15.3%
Total	59	100.0%

% respondents who agree or disagree with removing the cap on non-residential charges

	count	%
Agree	11	19.3%
Neither agree nor disagree	7	12.3%
Disagree	39	68.4%
Total	57	100.0%

% respondents who agree or disagree with charging from the start of a service

	count	%
Agree	21	36.2%
Neither agree nor disagree	13	22.4%
Disagree	24	41.4%
Total	58	100.0%

% respondents who agree or disagree with charging meals at the full cost

	count	%
Agree	15	25.9%
Neither agree nor disagree	15	25.9%
Disagree	28	48.3%
Total	58	100.0%

% respondents who agree or disagree with charging for Telecare equipment

	count	%
Agree	7	12.1%
Neither agree nor disagree	13	22.4%
Disagree	38	65.5%

Total	58	100.0%
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% respondents who agree or disagree with charging for late cancellation of services

	count	%
Agree	37	63.8%
Neither agree nor disagree	12	20.7%
Disagree	9	15.5%
Total	58	100.0%

% respondents who agree or disagree with nominal charging for outcome-based services

	count	%
Agree	12	21.4%
Neither agree nor disagree	25	44.6%
Disagree	19	33.9%
Total	56	100.0%

% respondents who agree or disagree with charging for double up calls

	Count	%
Agree	21	36.8%
Neither agree nor disagree	11	19.3%
Disagree	25	43.9%
Total	57	100.0%

% respondents who agree or disagree with deferred payment scheme administration charge

	count	%
Agree	20	35.7%
Neither agree nor disagree	18	32.1%
Disagree	18	32.1%
Total	56	100.0%

% respondents who agree or disagree with deferred payment scheme interest rate

	count	%
Agree	17	30.9%
Neither agree nor disagree	15	27.3%
Disagree	23	41.8%
Total	55	100.0%

% respondents who agree or disagree with arranging support for self-funders

	Count	%
Agree	27	46.6%
Neither agree nor disagree	12	20.7%
Disagree	19	32.8%

Total	58	100.0%
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% respondents who agree or disagree with selling Council services

	count	%
Agree	23	39.7%
Neither agree nor disagree	18	31.0%
Disagree	17	29.3%
Total	58	100.0%

% respondents who agree or disagree allowing top ups

	count	%
Agree	24	42.9%
Neither agree nor disagree	19	33.9%
Disagree	13	23.2%
Total	56	100.0%

% respondents who agree or disagree allowing top ups to be deferred

	count	%
Agree	27	48.2%
Neither agree nor disagree	18	32.1%
Disagree	11	19.6%
Total	56	100.0%

% respondents who agree or disagree with the proposal to manage top ups

	count	%
Agree	18	31.0%
Neither agree nor disagree	23	39.7%
Disagree	17	29.3%
Total	58	100.0%

4.5 Equality Impact Assessment

An Equality Impact Assessment was completed as part of the consultation process. The assessment report is included as Appendix 4. This identified some potential negative impacts of the draft policy for some people with some protected characteristics. These are:

- Extra costs for telecare and meals will impact more on older people and more on disabled people.
- Decisions to not take services because of the cost involved could affect the individual's health and/or wellbeing.
- Those on low income could be further impoverished by paying full cost for Telecare equipment that has been provided as part of an agreed package of

Care and Support.

4.6 Changes as a result of the Consultation and Equality Impact Assessment

Following an analysis of the consultation feedback, and taking into account the findings of the Equality Impact Assessment, the following changes have been made to the proposed policy that was the subject of the consultation:

- The revised Charging Policy retains the means-testing for Telecare equipment where it is delivered as part of an agreed Support Plan to meet eligible social care needs, rather than always charging recipients the full cost of the service..

4.7 Deputyship and Appointeeship - Background

Where people do not have capacity to manage their own affairs (as evidenced by a Mental Capacity Assessment), they need someone to act on their behalf. Typically, a family member or close friend will take on this role, but some people do not have anyone in their circle of support willing to take on the role. A number of independent sector organisations offer this service for a charge, and social workers will normally seek to signpost customers to these services. As a last resort, the Council is able to act as a Deputy or Appointee.

The current cost of providing the Council's Appointeeship service for approximately 80 people living in the community is around £30,000 per year. There are currently no Deputyship cases being managed.

Basic Appointeeship cases involve receiving benefits on behalf of the customer, paying out a regular personal allowance and providing support to customers to pay their own bills. More complex Appointeeship cases additionally include debt management and paying utility bills on behalf of the customer. These additional tasks take more time and therefore it is proposed to introduce a two-tier charging scheme.

4.8 Alternative services

There are other options in the market place, charging between £65 and £100 per month for acting as an Appointee. None of our neighbouring local authorities currently charge for this service, but several now limit the number of cases that they are willing to administer. Oldham Council charges £10 per week for their Appointeeship service.

4.9 Customer Survey

This new proposed charge was not included in the general Adult Social Care Charging Policy consultation, but the service surveyed all their customers in April 2015. The survey suggested that the Council should charge £31.89 per month for the service. 83 questionnaires were sent out and 23 (27%) responses were received.

Most respondents disagreed with charging for the service, but some agreed. Those that disagreed were mainly concerned about the level of the proposed charge, even though the proposed charge was well below the market prices.

4.10 Equality Impact Assessment

An Equality Impact Assessment was completed following the customer survey and is included as Appendix 5.

4.11 Changes as a result of the survey and Equality Impact Assessment

Some customers have sufficient assets and income to pay for their Appointeeship service, but a charge may cause financial hardship for other customers. It is therefore proposed that the charging scheme for this service includes a Financial Assessment as described under the Care Act 2014.

The proposed charges for the service are included in the separate Fees and Charges paper and, for the basic service, the proposed charge is lower than that originally suggested in the survey.

4.12 Section 117 After-care

Under the current charging policy, anyone receiving section 117 after-care receives all their social care support free of charge, regardless of whether or not the care and support is related to the reason for the section 117 order. The 2014 Derbyshire Safeguarding Adults Board joint guidance on Aftercare for Detained Patients under Section 117 Mental Health Act 1983, to which the Council is a co-signatory, is clear that only care and support services directly related to the reason for the section 117 aftercare should be provided free of charge. The revised Adult Social Care Charging Policy includes wording to make this clear.

4.13 Summary

The proposed Adult Social Care Charging Policy incorporates all the above changes and takes into account the feedback from the survey and consultation exercises and the outcome of the Equality Impact Assessments. The detail of the proposed policy is in appendix 6, which is yet to be formatted for publication.

OTHER OPTIONS CONSIDERED

- 5.1 The Council could decide not to update its Adult Social Care Charging Policy. This is not being recommended because the legal framework for charging has changed and the Council would not be able to charge for its services, resulting in an unmanageable pressure in the adult social care budget.
- 5.2 The Council could decide to introduce the revised Adult Social Care Charging Policy changes as originally proposed, ignoring the feedback from the consultation and the Equality Impact Assessment. This is not being recommended because ignoring this information would go against the Council's stated intent to co-produce policies with those affected by them and could leave the Council open to challenge.
- 5.3 The Council could decide not to introduce all the changes proposed in the revised Adult Social Care Charging Policy. This is not being recommended because the proposal represents a coordinated and consistent approach to charging. Selective implementation could introduce anomalies and inequalities, leaving the Council open to challenge.
- 5.4 The Council could decide not to introduce charges for the Deputyship and Appointeeship service. This is not being recommended as it would create a pressure in the adult social care budget.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Olu Idowu Jo Moody, Alison Walker, Alison Parkin n/a n/a Kirsty Everson, Brian Frisby Julie Knight, Keith Watkins, Amanda Reynolds, Patrick Worthington, Griff Jones, Vickie Minion, Phil Taylor
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For more information contact: Background papers: List of appendices:	Colyn Kemp 01332 642634 colyn.kemp@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Consultation supplement Appendix 3 – Consultation report Appendix 4 – Equality Impact Assessment (Care Act 2014) Appendix 5 – Equality Impact Assessment (Appointeeship) Appendix 6 – Proposed Charging Policy
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IMPLICATIONS

Financial and Value for Money

- 1.1 The revised Adult Social Care charging policy includes a number of amendments that will protect the Adult Social Care income stream for the Council.

Legal

- 2.1 The revised Policy brings the Councils charging for Adult Social Care services into line with the current legislation.
- 2.2 In relation to the Deputyship and Appointeeship proposal, a survey as opposed to consultation has been undertaken, with the relevant proposals arising following consideration of the survey feedback. Subject to being satisfied that the survey process was sufficiently robust, open and transparent, and that the relevant stakeholders would have appreciated that its feedback would form the basis for a revised policy, the integrity of the survey process as opposed to formal consultation should reduce the potential for challenge, but not otherwise

Personnel

- 3.1 No Personnel implications have been identified.

IT

- 4.1 No significant IT implications have been identified .Implementing the revised Adult Social Care charging policy will require adjustments in the existing Adult Social Care case management system.

Equalities Impact

- 5.1 A full Equalities Impact Assessment has been undertaken as part of the consultation process covering the Care Act 2014 changes. The results are summarised in the main paper and the full report is included as Appendix 4. A further Equalities Impact Assessment was conducted covering the Appointeeship charges and the full report is included as Appendix 5

Health and Safety

- 6.1 No Health and Safety implications have been identified.

Environmental Sustainability

- 7.1 No Environmental Sustainability implications have been identified.

Property and Asset Management

- 8.1 No Asset Management implications have been identified.

Risk Management

- 9.1 Implementing the updated Adult Social Care charging policy will reduce the risk of challenge that the Council doesn't have up-to-date and relevant policies to support the charging of social care customers.

Corporate objectives and priorities for change

- 10.1 The revision of the Adult Social Care charging policy supports the following Council Pledges:
Resilient Derby – Governance
Resilient Derby - Commercial

Appendix 2

Consultation Supplement



Consultation
Supplement

Appendix 3

Consultation report (draft)



Consultation Report
Dec 2015 V2.doc

Appendix 4

Care Act 2014 Equality Impact Assessment report (draft)



Care Act EIA DRAFT
v0.4.docx

Appendix 5

Appointeeship charges Equality Impact Assessment report

Appendix 6

Proposed Adult Social Care Charging Policy (unformatted)



DRAFT Charging
Policy v0.9