

Report of the Strategic Director, Health and Wellbeing to the meeting of Executive to be held on 6th December 2022

AE

Subject: Seeking approval to commence a consultation on proposed changes to Adult Social Care Non Residential Charges prompted by the Government's Adult Care Reform agenda.

Summary statement:

To seek approval for a consultation on proposed changes to Adult Social Care Service non-residential charges from April 2023 prompted by the Government's Adult Care Reform agenda.

EQUALITY & DIVERSITY:

The Equality Act 2010 sets out the duty for public authorities to ensure that while exercising their function they are not discriminating directly or indirectly against any group or individual.

We have undertaken a detailed Equality Impact Assessment, which is attached to this report as Appendix A. Our assessment suggests that these proposals will have no detrimental impact on equality and diversity, however there is a group who may be impacted on financially, and we have put in place mitigations, which are set out in the Equalities Impact Assessment at Appendix A. Bradford Adult Social Care services, will continue to support the needs of all groups who are currently in receipt of support, and

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those who may need support in the future.

Overview & Scrutiny Area:
Health and Social Care Overview and Scrutiny

1. SUMMARY

- 1.1 This paper seeks approval to commence a consultation on proposed changes to Adult Social Care non-residential charges with effect from 1 April 2023. These proposed changes are in addition to the annual inflation uplift applied to charges from April each year.
- 1.2 This is a targeted consultation with people identified as being directly impacted. There are currently 504 people who use social care services who have been financially assessed as having the means to pay for the full cost of their care. In addition, the consultation will also contact people identified by our operational social work teams as likely to be entering the service in the coming months. If consultation is approved, the data will be re-run as at 30 November 2022 to identify any changes to ensure only those impacted are included in the consultation.
- 1.3 These changes are part of the preparatory work for the Government's adult social care charging reforms. They will aide with metering towards the proposed £86,000 'Cap on Care' for service users.

2. BACKGROUND

- 2.1 The Care Act 2014 is the primary legislation providing the single legal framework for charging for care and support, with the Care and Support Regulations governing the scope of 'local authorities' power to charge for meeting eligible needs and for financial assessments under the primary legislation.
- 2.2 Bradford's Non Residential Care Services Policy sets out the Councils approach to delivery of the requirements set out in the Care Act 2014.
- 2.3 The proposed consultation relates to charging service users who have been assessed as having the means to pay, the actual cost to the Council for their social care services, as opposed to a subsidised rate as at present. In the financial assessment any disability related costs are taken into account. These are the extra costs incurred by a service user to meet a specific need due to a medical condition or disability.
- 2.4 These proposed changes will impact directly on two cohorts of Adult Social Care service users:
 - i. those termed 'full-cost-payers' who have assets and savings above the current capital threshold of £23,250.
 - ii. those who are not currently charged at the maximum level of their financially assessed contribution.
- 2.5 The number of service users impacted and the cost of their packages of care and support are based on data at August 2022. As care packages can change for a variety of reasons: a service user is no longer receiving a service or following a care review and/or a financial assessment review, the number of hours and their

financial assessed contribution could change this data will be refreshed at the end of November to ensure any changes are picked up.

2.6 The proposed changes to charging are:

2.6.1 Charge all 'Full-Cost Payers' (those with eligible needs and assets above the current capital limit of £23,250) the actual cost of their services.

- The legislation is clear when choosing to charge for care and support services an authority must **not** charge more than the cost it incurs in meeting the assessed needs of the service user.
- The Council currently has 385 services users classed as 'full-cost payers' who have asked the council to commission non-residential care and support services on their behalf.
- These service users have no 'maximum assessed contribution' as they are above the current capital limit of £23,250 and so have to contribute fully to the cost of their care and support.
- These service users have asked the Council to commission their care, although as 'full-cost payers' or 'self-funders' the Council currently has no legal obligation to commission care on their behalf.
- The Council currently charges all service users at a historical nominal cost for services which has not been uplifted each year with inflation. This is not the 'actual' cost of the services to the Council. The actual cost is more than the nominal cost, by 36.8% for the majority of services based on the current level of charges and costs i.e. those for the 2022/23 financial year. The Council is effectively subsidising the cost of these services.

2.6.2 Charge all service users the actual cost of their services – this will impact on those not currently paying up to the assessed maximum contribution.

- The Council could not have differential charges for full-cost payers and service users who make a partial contribution to the cost of their care. It would therefore be necessary if considering the introduction of charges based on actual costs to apply this increase to all service users.
- The Council currently has 119 services users who make a contribution to the cost of their care but do not pay the 'full-cost', receiving a total of 566.5 hours of care and support per week (this is predominantly Home Care). For 42 service users the increase would be capped at their maximum assessed contribution, for 77 it would be the full 36.81% increase. Further detail is provided in Tables 4 -5 in Appendix B along with a summary of the weekly increase in charges per week.

2.7 New Charging Reforms, as set out in Appendix C, will be introduced in October 2023 and these changes will reset and prepare CBMDC for the implementation of those new regulations.

2.8 The Council is proposing it charges the actual cost of these services from April 2023. While the Council has the powers to charge at the 'actual' cost given the percentage increase, it is proposing to consult with those directly impacted.

2.9 Table 1 sets out the proposed consultation actions and timelines.

Table 1:

	Activity	Description	Timescale
1	Formal consultation begins		13 th Dec 2022
2	Communication and information sharing with service users	<ul style="list-style-type: none"> Letters to be sent out to the current cohort of service user providing an explanation of the proposed changes and description of the impact on them as individuals. The letter will also include a contact email and phone for the service user or their carer/advocate to follow up for additional information. Each person will be offered a new care assessment, a new financial assessment and welfare benefits advice in case any of these change the value of their contribution. 	13 th Dec 2022
3	Communication and information sharing with community groups	<ul style="list-style-type: none"> Information related to the changes to be shared with community organisations who provide welfare advice support. This will include material that summarises the changes, and the implications for individuals and what support is available for them. Probably worth considering setting up a one of briefing session with this cohort. 	13 th Dec 2022
4	Follow up calls with service users	<ul style="list-style-type: none"> Financial Service staff to make outbound calls to those service users who have not responded to the letter. We will use this opportunity to explain the changes, undertake a financial assessment reviews, including a review of any disability related expenditure and provide benefit advice for them and their families 	19 th Dec to 18 th Jan 23
5.	Formal consultation ends		3 rd Feb 23
6.	Consultation feedback	<ul style="list-style-type: none"> Draft report for Executive, summarising the findings from the consultation exercise and recommending change to the council's charging policy and procedure. Report received for decision at the Council's Executive on 21 February 2023 for implementation from April 2023. 	10 th Feb 23

3. OTHER CONSIDERATIONS

- 3.1 A financial review and a benefits review will be offered to those directly affected. A Care Act reassessment will be completed on request.

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 There are no direct financial implications arising from the request to consult on the proposals contained within this report. A further report on the outcome of consultation will be brought to this meeting in February. If accepted these proposals could generate additional income of up to £1.255M per annum.

5. LEGAL APPRAISAL

- 5.1 The changes are designed to comply with the Council's obligations under the Care Act 2014 and the Care and Support Statutory Guidance.

6. OTHER IMPLICATIONS

6.1 HUMAN RIGHTS ACT

This decision could be considered to engage Article 8 (Right to Family and Private Life) and Article 14 (Protection from discrimination) and all steps available are being taken to ensure that the process will be compliant.

7. OPTIONS

- 7.1 The Care Act 2014 sets out that individuals are expected to meet the full cost of their care unless their financial assessment sets out they need to make a lesser or a nil contribution towards their care. Under the Care Act 2014 legislation the Council has discretion to:

- Set a minimum income guarantee above the statutory rate.
- Set charges as a percentage of service users maximum disposable income.
- Apply a weekly maximum cap on charges.

- 7.2 All of these options would reduce income to the Council from Adult Social Care charges which would have an adverse impact on spending. Non-statutory preventative services may need to be reduced which would be detrimental to those who rely on such services to remain healthy in their own homes and communities.

- 7.3 The option proposed in this paper to be consulted on means that people who have been financially assessed as having the ability to pay for their care do so in full, until such a time as their assets fall below the Government threshold. This will also

maximise their contribution toward the social care cap proposed as a new reform by the Government.

8. RECOMMENDATIONS

- 8.1 That the Executive, following consideration of the issues raised within this report, and the equality impact assessment set out in Appendix 1, authorises the Strategic Director for Health and Wellbeing to undertake the consultation with the key stakeholders ensuring that due regard is made to the Council's public sector duty as set out in the Equality Act 2010.

- 8.2 That the Executive agrees for the findings from the consultation exercise to be brought back to its meeting in February for due consideration.

9. APPENDICES

Appendix A Equality Impact Assessment

Appendix B Summary Data on impact for 'full-cost payers'

Appendix C Summary Data for services users not paying at their maximum assessed contribution.

Appendix D Proposed Social Care Charging Reforms.

10. BACKGROUND DOCUMENTS

- Care Act 2014.
- Care Act Care and Support Statutory Guidance.
- Regulations 2.3. Care and Support (Charging and Assessment of Resources) Regulations 2014 (SI 2014/2672) ("2014 Regulations").
- CBMDC Community Care Contribution Policy
- DHSC Draft Operational Guidance to Implement a Life time cap on care

Equality Impact Assessment Form

Appendix A

Department	Adult & Community Services	Version no	2.0
Assessed by		Date created	
Approved by		Date approved	
Updated by		Date	
Approved by			

Section 1: What is being assessed?

1.1 Name of proposal to be assessed:

Changes to Adult Social Care Non Residential Charges prompted by the Government's Adult Care Reform agenda.

1.2 Describe the proposal under assessment and what change it would result in if implemented.

1.2.1 BACKGROUND

The Care Act 2014 is the primary legislation providing the single legal framework for charging for care and support, with the Care and Support Regulations governing the scope of 'local authorities' power to charge for meeting eligible needs and for financial assessments under the primary legislation.

1.2.2 PROPOSAL

- a) We have undertaken a refresh of the Council's Adults Social Care Non Residential Care Services Charging Policy, which sets out the Council's approach to how we charge for services in accordance with the duties set out in the Care Act 2014.
- b) The refresh of the policy includes a proposal to charge service users the actual cost to the Council for their services. Currently service users pay a reduced amount, and the difference is topped up by the Council through a subsidy.

The Council is having to make these changes due to the significant increase in the cost of everything from food, electricity, fuel, which has put a major pressure on the Council's budget.

- c) The Council is legally obliged to consult with those that will be affected by the changes we are proposing, which includes the following cohorts:

- I. those termed 'full-costers' and have assets above the current capital threshold of £23,250.
- II. those who are not currently charged at the maximum level of their financially assessed contribution.

1.2.3 SCALE OF IMPACT

- a) The Council's Department of Health and Wellbeing is responsible for the provision of care and support under the Care Act 2014, and its strategic and assistant directors have delegated powers to formulate and implement the financial assessment and charging arrangements that are required under the Assessment Regulations. These arrangements will be formulated in a new policy document **entitled the Charging Policy for Non-Residential Care Services for Adults**.
- b) The Council recognises that the implementation of the new policy will result in changes to the financial assessment arrangements for all affected service users and in the charges that they pay for non-residential care services provided either by the Council or by a third party.
- c) The table outlined below provides a summary for both of the cohorts identified above. It needs to be noted that the number of service users impacted and the cost of their packages of care and support are based on data at August 2022. (this will be updated)
- d) It also should be noted that as packages can change for a variety of reasons: a service user is no longer receiving a service or following a care review and/or a financial assessment review, the number of hours and their financial assessed contribution could change this data will be refreshed at the end of November to ensure any changes are picked up.

Charge all 'Full-Cost Payers' (those with eligible needs and assets above the current capital limit of £23,250) the actual cost of their services.

- The legislation is clear when choosing to charge for care and support services an authority must **not** charge more than the cost it incurs in meeting the assessed needs of the service user.
- The Council currently has 385 service users classed as 'full-cost payers' who have asked the council to commission non-residential care and support services on their behalf.
- These service users have no 'maximum assessed contribution' as they are above the current capital limit of £23,250 and so have to contribute fully to the cost of their care and support.
- These service users have asked the Council to commission their care, although as 'full-cost payers' or 'self-funders' the Council currently has no legal obligation to commission care on their behalf.
- The Council currently charges all service users at a historical nominal cost for services which has not been uplifted each year with inflation. This is not the 'actual' cost of the services to the Council. The actual cost is more than the nominal cost, by 36.8% for the majority of services based on the current level of charges and costs i.e. those for the 2022/23 financial year. The Council is effectively subsidising the cost of these services.
- This will impact 385 service users currently receiving a total of 3,687.77 hours of care and support per week. There are 403 packages of care impacted (19 service users receive more than one service) with increases ranging from less than £10 per week up to in excess of £300 per week for 3 service users.
- Further detail is provided in tables outlined below, along with a summary of the number of hours received per week e.g. 115 of these service users receive less than 5 hours of care per week while 3 receive more than 55 hours of care per week.

Table 1: Summary of Full-Costers Impacted

Type of Service	No of Service Users	Number of Hours weekly (includes Day Care and Timeout sessions)
Double Handed Home Care	51	572.75
Home Care	313	2,854.82
Extra Care	1	1.25
Timeout	6	34.5
Day Care	9	14
Supported Living	5	201.45
Fill Cost Payers	385	3,678.77

Table 2: Number of Service Users Impacted by band of weekly cost increases

Weekly Rate Increase £	Service Users/Packages Impacted
< 10	24
10 -19	77
20 - 49	133
50 - 99	124
100 - 199	39
200 - 299	3
> 300	3
Total	403

19 service users receive more than 1 care type

Charge all services users the actual cost of their services – this will impact on those not currently paying up to the assessed maximum contribution.

- The Council could not have differential charges for full-cost payers and service users who make a partial contribution to the cost of their care. It would therefore be necessary if considering the introduction of charges based on actual costs to apply this increase to all service users.
- The Council currently has 119 services users who make a contribution to the cost of their care but do not pay the 'full-cost' receiving 572.75 hours of care and support per week (this is predominantly Home Care).
- For 42 service users the increase would be capped at their maximum assessed contribution, for 77 it would be the full 36.81% increase. The table below provides a more detail breakdown.

Table: 3 Summary of service users not at their financially assessed maximum contribution.

Type of Service	Number	Number of Hours weekly inclu Day Care and Timeout	Number of Service Users Impacted	
Double Handed Home Care	1	3.5	Increase capped at Maximum Assessed Contribution	42
Day Care Sessions	2	2	Does not reach Maximum Assessed Contribution	77
Home Care	116	561		
Total	119	566.5		119

Table 4: Number of Service Users Impacted by band of weekly increase

Weekly Rate Increase £	Service User/Packages Impacted
< 10	32
10 -19	29
20 - 49	52
50 - 99	6
100 - 199	0
200 - 299	0
> 300	0
Total	119

1.2.5 IMPACT BY PROTECTED CHARACTERISTIC

- a) The Council also has a legal obligation to undertake an objective assessment of the impact of these changes upon existing and future service users in order to identify whether that impact will have a significant adverse effect upon them, and whether that effect may directly or indirectly be due to, relate to or be on the grounds of their (or another person) possessing a protected characteristic as defined within the Equality Act 2010.

- b) Our initial assessment of the service users that are likely to be affected by the New Charging Policy fall into the following range:
- All over 18 years old.
 - Some of them are over 60 years old.
 - All of them require care and support to meet their assessed needs under the Care Act 2014.
 - They all possess various degrees of vulnerability and may be disabled under the Equality legislation, or lack mental capacity for a variety of purposes as defined by the Mental Capacity Act 2006 or the Mental Health Act 1983.
 - Their gender, sexual orientation ethnicity and religion is varied but has not been specifically identified within the cadre of service users that has been assessed under the policy for the purposes of this report.
- c) The protected characteristics of the effected cohort are outlined in the tables below:

Full Costers	Male	Female	TOTAL
Sex	152	233	385
Age			
Under 25	0	0	0
Working Age	16	9	25
Older Person	136	224	360
TOTAL	152	233	385
Race Working Age			
Asian/Asian British	0	1	1
Black/African/Carribean/Black British	0		0
Mixed/Multiple	2	2	4
Other Ethnic Group	0		0
Undeclared/Not Known	0	1	1
White	14	5	19
TOTAL Working Age	16	9	25
Race Older Person			
Asian/Asian British	5	5	10
Black/African/Carribean/Black British	3	3	6
Mixed/Multiple	20	35	55
Other Ethnic Group	4	5	9
Undeclared/Not Known	0	3	3
White	104	173	277
TOTAL Older Person	136	224	360
TOTAL All Ages	152	233	385

Service Users Not At Maximum Assessed Financial Contribution	Male	Female	TOTAL
Sex	56	63	119
Age			
Under 25	0	1	1
Working Age	24	11	35
Older Person	32	51	83
TOTAL	56	63	119
Race Under 25			
Asian/Asian British	0	0	0
Black/African/Caribbean/Black British	0	0	0
Mixed/Multiple	0	0	0
Other Ethnic Group	0	0	0
Undeclared/Not Known	0	0	0
White	0	1	1
TOTAL Under 25	0	1	1
Race Working Age			
Asian/Asian British	1	1	2
Black/African/Caribbean/Black British	1	0	1
Mixed/Multiple	1	3	4
Other Ethnic Group	0	0	0
Undeclared/Not Known	0	1	1
White	21	6	27
TOTAL Working Age	24	11	35
Race Older Person			
Asian/Asian British	2	2	4
Black/African/Caribbean/Black British	0	2	2
Mixed/Multiple	5	9	14
Other Ethnic Group	0	0	0
Undeclared/Not Known	0	3	3
White	25	35	60
TOTAL Older Person	32	51	83
TOTAL All Ages	56	62	119

The changes to this policy are not expected to significantly impact on the following groups: Imran can you list the ones not covered. I have left the table in below.

Protected Characteristics		Charge all 'Full-Cost Payers' (those with eligible needs and assets above the current capital limit of £23,250) the actual cost of their services.	Charge all services users the actual cost of their services – this will impact on those not currently paying up to the assessed maximum contribution.
Age	Under 25	0	1
	Working Age	25	
	Older People	360	
Disability			
Gender reassignment			
Race will need breaking down			
Religion/Belief will need breaking down			
Pregnancy and maternity			
Sexual Orientation			
Sex			
Marriage and civil partnership			
Low income / low wage			

1.2.6 CONSULTATION AND APPROVAL

- a) At its meeting on 6th December 2022, the Bradford Council's Executive will be considering the draft Charging Policy, and this Equality Impact Assessment and based on these deliberations will consider whether to approve (or not) that the new policy is opened up for consultation with key stakeholders ensuring that due regard is made to the Council's public sector duty as set out in the Equality Act 2010.
- b) Subject to approval the Consultation will start on 13th December and will close on the 3rd Feb 2022.

Section 2: What the impact of the proposal is likely to be

The Equality Act 2010 requires the Council to have due regard to the need to-

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between different groups; and
- foster good relations between different groups

2.1 Will this proposal advance equality of opportunity for people who share a protected characteristic and/or foster good relations between people who share a protected characteristic and those that do not? If yes, please explain further.

Yes. The provision of more cost effective and sustainable non-residential care services will facilitate the integration of persons with disabilities into the community and will enable older persons to gain greater access to community services and resources.

It will enable them to participate in the broader social milieu outside their homes and so improve their opportunities to access services (including services that may lead to employment) and foster good relations between different groups of service users by ensuring equality and transparency of service access and with the local community.

2.2 Will this proposal have a positive impact and help to eliminate discrimination and harassment against, or the victimisation of people who share a protected characteristic? If yes, please explain further.

Yes, see section 2.1.

Discrimination and harassment may include unintended exclusion from opportunities or isolation from family, friends and the community. By securing on-going equal access to non-residential services the policy will reduce the potential for such exclusion and isolation.

2.3 Will this proposal potentially have a negative or disproportionate impact on people who share a protected characteristic? If yes, please explain further.

Yes, our initial assessment outlined in section 1.2.5 above shows that the New Contributions policy is likely to have a disproportionate adverse impact on xxxxxx

We have assumed that there is a high probability that people receiving a social care service will have a disability under the Equality Act 2010, and that there is an unquantifiable negative correlation between possessing severe and life limiting disabilities and the ability to earn or acquire savings.

Suggest we have a breakdown of the current users across the District and the impact e.g.

There are currently over xxxxx service users across the District and the impact of the charging proposals is likely to have a greater impact on the savings and net disposable income of:

- Older people

- Working age adults that have more income and
- Young people under the age of 25.

Analysis of impact:

2.4 Please indicate the level of negative impact on each of the protected characteristics?

(Please indicate high (H), medium (M), low (L), no effect (N) for each)

Protected Characteristics:	Impact
Age	H
Disability	H
Gender reassignment	N
Race	L
Religion/Belief	N
Pregnancy and maternity	N
Sexual Orientation	N
Sex	M
Marriage and civil partnership	N
Additional consideration:	
Low income/low wage	M

2.5 How could the disproportionate negative impacts upon the affected groups of service users be mitigated or eliminated?

2.5.1 The current charging policy ensures that individual service users, including those with limited income, are not required to contribute more than they can reasonably afford. That principle will not change under the new charging policy and all existing service users will have a new needs assessment / review, financial assessment with help to maximise benefits, review of DRE and affordability of any contribution. There is also an appeals process if the service user cannot afford any newly assessed contribution.

- 2.5.2 Where the assessment process under the new policy identifies a change in service provision we will work with the service user and their family members, carers and advocates to support the implementation of the new charges. If we do agree to take a phased approach, then we will need to add this in here.

Section 3: What evidence you have used?

3.1 What evidence do you hold to back up this assessment?

See section 2.3

3.2 Do you need further evidence?

A new financial assessment would be needed for all existing service users to ensure that we are using the most up to date financial information to determine the new charging costs.

Section 4: Consultation Feedback

4.1 Results from any previous consultations

The main message from the consultation undertaken in 2016 was around the potential disproportionate impact on low income groups and the need for robust mitigation actions to be put in place.

4.2 Your departmental feedback

When people are financially assessed their outgoings including home maintenance are taken into account. People can also appeal against a decision if they feel they cannot afford to pay.

The basis of the proposal is that people are assessed in line with most other local authorities and based on people's assessed ability to pay. The current policy has a system of appeal in place and this will also continue to be the case.

The intention and practice continues to be the equitable application of all Council policies

4.3 Feedback from current consultation

N/A

4.4 Your departmental response to this feedback – include any changes made to the proposal as a result of the feedback

N/A

Appendix B

Table 1: Summary of Full-Costers Impacted

Type of Service	No of Service Users	Number of Hours weekly (includes Day Care and Timeout sessions)
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200 - 299	3
> 300	3
Total	403

19 service users receive more than 1 care type

Table 3: Split of 'Full-Cost Payer' Service User Hours

Hours	Service User	Comments
<5	115	includes 5 services
5>10	137	includes 1 service
10.5 - 20	145	includes 12 with 2 services
22 - 55	3	2 Home Care and 1 Supported Living
>55	3	Supported Living and one ISF
Total	403	19 service users receive more than 1 service

Appendix C

Table: 4 Summary of service users not at their financially assessed maximum contribution.

Type of Service	Number	Number of Hours weekly inclu Day Care and Timeout	Number of Service Users Impacted	
Double Handed Home Care	1	3.5	Increase capped at Maximum Assessed Contribution	42
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20 - 49	52
50 - 99	6
100 - 199	0
200 - 299	0
> 300	0
Total	119

Appendix D

Charging Reforms

1.1 It is proposed that from October 2023, the way people pay for their care and support will change. The key changes of the Social Care Charging Reform mean:

- No one will have to pay more than £86,000 for their personal care costs in their lifetime.
- If you have less than £100,000 in savings and assets, you may be able to access financial support from the local authority to meet your eligible care costs.
- The council can arrange your care and support if you want us to, which can give you a choice of better value care.

1.2 There is a programme of work around assessing the implications of the proposed changes for the Council and working to prepare for these changes.