

Report of the Strategic Director, Health and Wellbeing to the meeting of Health and Overview Scrutiny Committee to be held on Thursday 19 January 2023

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Subject: Consultation on proposed changes to adult social care non-residential charges

Summary statement: To seek the committee's comments on proposed changes to adult social care services non-residential charges from April 2023.

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 those who may need support in the future.

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

1. SUMMARY

- 1.1 This paper seeks the Committee's comments on 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, albeit the Government announced these reforms would be delayed to October 2025 in the Chancellor's autumn statement.

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 presented to the Executive in February. If accepted these proposals could generate additional income / cost avoidance 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 towards the social care cap proposed as a new reform by the Government.

8. RECOMMENDATIONS

- 8.1 That the Committee comments on the proposals as part of the wider consultation exercise being undertaken by the Health & Wellbeing Department, 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 Committee's remarks be reported back to the Executive when making a decision on this issue at its meeting in February 2023.

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

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)
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

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
Day Care Sessions	2	2	Does not reach Maximum Assessed Contribution	77
Home Care	116	561		
Total	119	566.5		119

Table 5: 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

Appendix D

Charging Reforms

1.1 It is proposed that from October 2025, 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.