

# HEALTH AND ADULT SOCIAL CARE OVERVIEW AND SCRUTINY COMMITTEE



Report subject	<b>Adult Social Care Charging Policy</b>
Meeting date	18 November 2019
Status	Public Report
Executive summary	To present proposals for a public consultation on the principles for a new charging policy for BCP Adult Social Care. The proposals will then be presented to Cabinet, amended with considerations and representations made by Committee, in order to gain permission to launch the public consultation.
Recommendations	<p><b>It is RECOMMENDED that Committee consider and comment on the following recommendations which will be made to Cabinet on 11<sup>th</sup> December 2019;</b></p> <p><b>(a) Cabinet note the content of this report, including the points raised by the Members Working Group and any recommendations of the Health and Adult Social Care Overview and Scrutiny Committee</b></p> <p><b>(b) That Cabinet agree to authorise a public consultation on the principles of a new Adult Social Care Charging Policy for BCP Council</b></p>
Reason for recommendations	BCP Council requires one equitable Adult Social Care charging policy for all its residents, carers and clients. In order to achieve this, public consultation is necessary in order to inform the final policy

Portfolio Holder(s):	Cllr Lesley Dedman
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Corporate Director	Jan Thurgood, Corporate Director for Adult Social Care
Report Author	Pete Courage, Head of Service Development
Wards	All
Classification	For Recommendation

## Background

1. Nationally, there are set rules for paying for Residential Care which include upper and lower capital limits that determine who must pay the full cost of their care (those with assets over the upper capital limit), who does not have to pay for their residential care (those with assets under the lower capital limit) and how much others should pay who have assets between the two capital limits. There is also a national provision which guarantees an individual is left with a Personal Expense Allowance after their contributions are made. Therefore, this report only relates to non-residential care charges. Here too there are some restrictions and Section 14 of the Care Act 2014 instructs that local authorities are not permitted to charge for provision of a number of types of care and support including, but not limited to; community equipment (aids and minor adaptations), reablement and enablement for a period of up to six weeks and assessment of needs and care planning, including the cost of the financial assessment, as these constitute 'meeting needs'. These non-chargeable services are also excluded from consideration in this paper.
2. Currently, BCP Council operates three Adult Social Care (ASC) charging policies inherited from the three preceding councils. It is crucial that the inconsistencies between these legacy arrangements are removed so that all individuals within the BCP Council area are charged fairly and consistently.
3. As of 31 March 2019 each of the preceding Councils operated its own set of charges and charging procedures under their own charging policies for Adult Social Care. In the case of the Christchurch area, this was the Dorset County Council's council wide policy. Due to the complexity of implementing changes to charging; which necessitates public consultation and also political governance, it was impossible to harmonise (in the case of BCP Council) the three legacy approaches of Poole, Bournemouth and Christchurch/Dorset ahead of Local Government Reorganisation.
4. There are very few differences between the legacy policies and they are limited by the legislative framework which applies to them all. However, the three policies were reviewed and updated at different times by the legacy councils and therefore differences in the amounts charged for similar services do exist. The biggest of these differences are in Day Centre session costs and transport. See table 1 below.
5. Of the legacy charging policies the Bournemouth Borough Council policy was the most recently reviewed and so in many cases presents a set of charges which more

closely mirror the actual cost of care to the local authority. Conversely, the Dorset County Council policy had not been reviewed for some time at the point of Local Government reorganisation and therefore has a few charges which are well below the cost of delivering the service being charged for. Since LGR, Dorset Council has implemented a new charging policy which increases its maximum charges to “the full cost of provision” which is in line with the policy proposals in this report.

	Bournemouth	Christchurch	Poole
Day Services	Full cost recovery	Partial cost recovery	Full cost recovery
Domiciliary Care	Full cost recovery	Full cost recovery	Full cost recovery
Direct Payments	Full cost recovery	Full cost recovery	Full cost recovery
Transport	Full cost recovery	Partial cost recovery	Full cost recovery (but integrated with Day Services)

Table 1: High level overview of legacy authority charges

## Charging for Adult Social Care Services

6. The Adult Social Care client group includes a wide range of individuals who all have varying ability to contribute towards the cost of their care. An individual's ability to contribute is determined by a Financial Assessment.
7. Individuals, who are receiving care at home, must have enough money to meet their living costs as these are not being met by a residential care provider. This is mandated by the Minimum Income Guarantee which is set out in the Care and Support (Charging and Assessment of Resources) Regulation 2014. The Department of Health and Social Care's "Social Care – Charging for Care and Support" Local Authority circular from January 2019 sets out the Minimum Income Guarantee rate for the current financial year as this rate can fluctuate year to year based on the rise or fall of the cost of living. These rates are set nationally.
8. As the ability to contribute is judged on an individual basis the impact of any changes to charges will be felt differently at an individual level. However, to help understand the client group can be split into three main categories;
  - Nil Charge payers; these are individuals who are assessed as being unable to contribute financially towards the cost of their care
  - Full Charge payers; these individuals are assessed as being able to afford the maximum charge for the services they receive
  - Part Contributors; this is the majority of BCP Council clients, and they are assessed as being able to contribute a portion of the maximum charge of the services they receive

9. All three broad groups will be impacted differently, but it is crucial that no individual would ever be asked to contribute more than they can afford to pay towards the cost of their care. i.e. if the charges for a Full Charge payer's services increase it may be that they are no longer able to contribute the new maximum charge and they would therefore fall into the 'Part Contributor' category. Nil Charge payers would always remain unaffected. A charging strategy of full cost recovery will therefore only impact Full Charge payers who currently account for approximately 5% of BCP Council's client group.
10. At the point of financial assessment, a number of Disability Related Expenditures (DRE) are taken into account. Individuals are allowed to keep funds for these expenditures ahead of their contribution towards the cost of their care being calculated. One example of a Disability Related Expenditure would be where an individual with incontinence has increased costs for laundry or clothes washing.
11. Whilst the preceding councils maintained indicative lists for DRE components (such as excessive laundry costs) decisions were always made on a case by case basis. This will not change under the new policy. However, officers will look to produce a DRE list based on the National Association of Financial Assessment Officers recommendations which harmonises the terminology used by the legacy authorities.

## **Policy proposals**

12. To establish the recommendations for the new Adult Social Care Charging Policy work has been done to understand and compare current approaches and to consider practice in other local authorities against the legislative framework. Three broad options were considered;
  - Option 1 – Do nothing; maintain three separate charging policies
  - Option 2 – Full cost recovery model; the maximum charge for services is the actual cost of the delivering the services to BCP Council.
  - Option 3 – Adopt the legacy charging policy for Christchurch clients across BCP Council.
13. Option 1 is not recommended as it would perpetuate a situation where residents living in different parts of Bournemouth, Christchurch and Poole would be charged different rates for the same service received. This would lead to a high risk of successful future legal challenge and would be an inequitable approach.
14. Option 3 would maintain a situation, where people receiving some forms of care could be charged the full cost of the care they receive while for those receiving day care and transport services, the principle of full cost recovery would not be applied. This option is therefore not recommended as it would be preferable for the Council to adopt a consistent principle in relation to full cost recovery. This option would also result in a loss of income for BCP Council because individuals in Poole and Bournemouth already pay higher rates than the Christchurch charges for Day Centres and travel. The loss of income from charging for day centres alone would

be at least £50,000 per annum, with additional reduction of income in relation to charging for transport which would need to be calculated nearer the point of implementation. It should also be noted that the new Dorset Council Charging Policy has introduced a full cost recovery model which represents a significant increase in the Adult Social Care charges previously charged under Dorset County Council and in Christchurch currently under BCP Council.

15. Option 2 is recommended as the preferred option at this stage, subject to the results of the consultation exercise and full consideration of other options and issues which may arise during this exercise, as it applies a consistent approach, where the maximum charges will be in line with the cost of providing the service for BCP Council. This is a principle applied by Dorset Council and many other Councils. As previously noted, only individuals who are assessed as being able to contribute the full cost of their care would pay these maximum charges. These individuals currently constitute approximately 5% of the Council's total Adult Social Care client group.
16. The following charges, with a brief explanation, are proposed measures to be included in the public consultation:
  - Charges for out of area assessment and review – this is where another local authority asks BCP Council to act on its behalf and conduct an assessment or review for somebody who is placed within BCP Council's borders. This charge is applied to the Local Authority not the individual. It is recommended that in either case BCP Council charge approximately £500 for this service to cover the practitioner's time required to undertake these assessments or reviews.
  - Deferred Payments –A Deferred Payment Agreement is a loan which the local authority secures against an individual's home at a fixed interest rate normally to pay for residential care. Due to the heavy administrative burden of a deferred payment it is recommended that a set-up fee, annual fees and a termination fee are charged in line with the actual costs of administering them. The termination fee is a new charge, but reflects the administration of closing a deferred payment and is in line with similar policies in other local authorities
  - Day Centres – These centres provide opportunities for individuals to socialise, undertake activities and help to maintain an individual's independence. Charges are in place for Day Centre attendance and assistance with bathing. The current charges for the former Councils differ significantly. It is recommended that the maximum charge is the full cost of the provision
  - Standard Transport – Use of Council transport to Day Centres (if required) is also charged differently across BCP Council currently. The recommendation is that BCP Council adopt a flat per journey rate to cover the cost of the provision in line with other local authorities.
17. If agreed the next step will be to launch a public consultation early in the new year on these proposals with an aim of producing and agreeing a new policy which can be implemented from 1 October 2020

18. The recommended new charges, particularly for transport and Day Centres, whilst very similar to current charges in Poole and Bournemouth are significantly higher than the current charges in Christchurch. Current Full Charge Payers in Christchurch would therefore be impacted to a greater degree than their counterparts in Poole and Bournemouth. It is, however, important to note that had Christchurch remained part of Dorset Council then they would have been subjected to comparable increases earlier this year.

## **Consultation**

19. A consultation questionnaire will be prepared alongside background information and a summary of the proposed changes. All clients (Approximately 12,000 individuals) will have the opportunity to share their views on the proposals.
20. A letter, consultation document, questionnaire and a freepost reply envelope will be sent out to all clients inviting them to have their say. Anyone identified as having a learning disability will be sent easy read versions of the document and questionnaire. A dedicated helpline will also be made available to help people who want the document and questionnaire in another language or format including braille and spoken word. Carers and advocates will also be able to complete the consultation themselves or on behalf of the individuals that they care for.
21. The consultation will run for 8 weeks from 6 January 2020. As well as the documents and questionnaires being distributed, there will be drop-in events – at each of the day centres, and at libraries across BCP Council. The drop-in events will be an opportunity for people to ask Adult Social Care staff questions about the proposals.
22. Voluntary organisations will be commissioned, as part of the Council's disability consultation contract, to undertake a qualitative discussion group in relation to the proposed changes.
23. Details of the consultation will also be sent to voluntary organisations in Bournemouth, Christchurch and Poole who work with Adult Social Care clients and carers. The Insight Team will work closely with the Communities Team to ensure all relevant groups are included and have the opportunity to take part in the consultation.
24. In addition to hard copies of the questionnaire being sent to Adult Social Care clients, the consultation will also be available online and open to all residents in Bournemouth, Christchurch and Poole as well as to organisations and stakeholders. The online survey will be promoted via the Council's social media channels and newsletters, the planned drop-in sessions and will also be publicised on the Council's Consultation Tracker.

25. The consultation will test the principles of creating a new charging policy for BCP, and of full cost recovery, with some more focussed questions around impact and some of the matters raised by the Members working group regarding transport and the environment.

### **The Health and Adult Social Care Overview & Scrutiny Working Group**

26. To date, proposals have been shared with the Health and Adult Social Care Overview & Scrutiny Working Group. The Working Group has met twice. A summary of these meetings can be found in Appendix 1.

### **Summary of financial implications**

27. The primary driver for this work is to produce equity for BCP Council's Adult Social Care clients. There is not significant additional income to be generated from these changes. The true financial implications will also not be determined until after the public consultation takes place and the new charging policy is agreed. However, based on the provisional proposals set out in this paper a full year increase of annual income between £30,000-£60,000 could reasonably be anticipated. Due to the implementation time-frame there will be a part year increase to income in 2020/2021 rising to the full year effect in 2021/22.

28. In terms of cost, £20,000 has been budgeted for the consultation exercise.

### **Summary of legal implications**

29. The legislation establishing BCP Council provides that preceding Council strategies and policies continue to apply to the relevant areas until BCP Council adopts a new strategy or policy which replaces them. Whilst the statutory orders provide that certain policies and strategies have to be completed within a set time (generally two years) there is no formal date by which this particular policy needs to be completed. However it is advisable that the Council undertakes and reviews these arrangements to ensure a consistent approach in a timely way. Any delay to the review and implementation of a Council wide policy would increase the risk of a legal challenge to the application of different arrangements in different areas. Whilst this risk is low currently as it is accepted that there will be transitional arrangements in place following LGR, the risk will increase as the length of time increases.
30. The legislative framework which governs the contents of these policies is dominated by the Care Act 2014 which, together with the related statutory instruments and regulations, provides a single framework for charging for care and support. Section 14 of the Act affords local authorities the power to charge individuals in receipt of care and support services, for these services where the local authority is permitted to charge. The same Section also provides the power to charge for services meeting carers' needs, by providing services directly to the carer. There are also certain types of care and support which Local Authorities are not permitted to charge for.

### **Summary of human resources implications**

31. Staff are in place within current structures to draft the new Charging Policy and carry out the implementation programme and therefore no human resources implications are anticipated.

### **Summary of environmental impact**

32. Whilst the production of the eventual charging policy will not have any environmental impact, environmental concerns were discussed at the working group. The discussion focussed primarily on whether changes to transport charges would impact people's behaviour which may, in turn, effect carbon emissions. The view of the working group was that transport charges should be covered in the consultation.

### **Summary of public health implications**

33. The ongoing provision of Adult Social Care Services which is, in part, supported by income received from charging for services is a critical component of realising the wellbeing principle of the Care Act 2014.

### **Summary of equality implications**

34. The group of individuals in receipt of chargeable Adult Social Care Services is a diverse group of people with a wide range of disabilities. At a high level approximately 40% of Adult Social Care clients in BCP Council are male and 60% female and two thirds of those receiving long term support are over the age of 65.
35. The current situation is inequitable and sees individuals being charged different amounts for the same services based on which of the legacy authorities they are ordinarily resident in. Implementing a new single charging policy will, therefore, produce equality across the board for all BCP Adult Social Care clients.
36. The process of implementing a new policy will result in some of the legacy charges increase, decrease or remain the same depending on the agreed charging policy and the previous legacy arrangements. This does mean that the impact of the new policy, on individuals, will vary from individual to individual and will depend on their financial circumstances (i.e. if they are able to afford to contribute to some of or all the full cost of, their care) and which charges they were subject to previously.
37. Once the consultation has concluded BCP Council will have a greater understanding of the potential impact on individuals – this will be a key part of the consultation – and agreed charging changes will need to be understood before impacts on individuals can be assessed.

### **Summary of risk assessment**



38. The greatest risk to the Local Authority is not to act and to continue with the current inequity that the legacy charging policies create whilst also failing to maximise income and leaving the Council in a position where it could be open to legal challenge.

## **Background papers**

‘Published works’

- Care Act and Accompanying Statutory Guidance
- Department of Health and Social Care, guidance “Social Care Charging for local authorities; 2019-2020”
- Dorset Council’s ‘A guide to paying for adult social care and support services’, May 2019

## **Appendices**

Appendix 1. Adult Social Care Charging Policy – Working Group Notes

Appendix 2. Adult Social Care Charging Policy Consultation Document – to follow

## **Appendix 1**

### **Health and Adult Social Care Overview and Scrutiny Committee Adult Social Care Charging Policy – Working Group**

Members:

Councillor Lisa Northover  
Councillor L-J Evans  
Councillor Karen Rampton  
Councillor Jackie Edwards  
Councillor Chris Matthews  
Louise Bate – Healthwatch

Lead Officers:

David Vitty  
Peter Courage

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## **Session 1 – Tuesday 3 September 2019**

In attendance:

Councillors: J Edwards, L J Evans, C Matthews L. Northover and K Rampton

Healthwatch: L Bate

Officers: P Courage, A Poulton, D Vitty, J Ingram, S Richardson and J Tyler.

Councillor L. Northover was elected lead member for the Working Group (WG).

Overview of the meeting:

- Officers explained that BCP Council was required to update and create a new Charging Policy for Adult Social Care by April 2021.
- Members were informed that the predecessor Councils had separate charging policies for the financial assessment of clients who received Adult Social Care.
- Officers provided the Working Group with an overview of Financial Assessments for Non-Residential Care.
- It was proposed that councillors agree a set of principles that would facilitate the development of options available for modelling a future schedule and charging policy.

Outcomes:

- The WG agreed to principles 1a, 3a and 1b,2b,3b of the Principles for Developing Charging Proposals, allowing officers a framework from which to develop the charging proposals.
- The WG, in relation to principle 2a – asked Officers to bring back a series of costed models and contrasting options that included their opinion on what presented the better option;
- The WG, in relation to principle 4b – requested that Officers bring back options and examples and would consider setting out a baseline that could be taken to consultation to determine public opinion;
- A member asked that an 8-12-week consultation period be considered.

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## **Session 2 – Thursday 17 October 2019**

In attendance:

Councillors: J Edwards, L J Evans, L. Northover, K Rampton

Officers: D Vitty, P Courage, C Durrant, A Humphries and J Tyler.

Overview of the meeting:

- Officers explained that the meeting would focus on draft policy proposals for harmonising social care charges.
- The WG were provided with a list of the Adult Social Care charges and a breakdown of the previous rates against the new proposals.
- Members were also provided with a draft list of harmonised Disability Related Expenditure definitions.
- Officers explained the format of the consultation and the ways in which it could be conducted.
- It was proposed that Members discuss and comment on the proposals for both the charges and DRE definitions as well as the format of the consultation.

#### Outcomes:

- The WG, having assessed the recommendations for each Social Care charge, were happy to endorse the public consultation.
- Members agreed that the list of recommended Social Care charges should include a line on meal charges.
- Members also agreed that there should be a question/s on transportation to day centres to enable clients to have their say on the matter and to encourage the use of provided transport over individual car journeys in line with the Council's environmental stance.
- All Members will be able to attend drop in sessions during the consultation period.

## **Appendix 2**

### **Adult Social Care Charging Policy Consultation Document – to follow**

Health and Adult Social Care Overview and Scrutiny Committee will receive a presentation regarding the content of the consultation document. The finalised document will then be included here for Cabinet.