

<b>DECISION-MAKER:</b>	CABINET		
<b>SUBJECT:</b>	REVISIONS TO THE ADULT SOCIAL CARE NON-RESIDENTIAL SERVICES POLICY		
<b>DATE OF DECISION:</b>	29 JANUARY 2013		
<b>REPORT OF:</b>	CABINET MEMBER FOR ADULT SERVICES		
<b><u>CONTACT DETAILS</u></b>			
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#### **STATEMENT OF CONFIDENTIALITY**

NA

#### **BRIEF SUMMARY**

The report outlines the proposals for change made by an officer led review group to the non residential care (NRC) charging policy for adult social care, details the public consultation exercise undertaken, reports on the outcome of the consultation, considers the cumulative impact of the proposals and proposed changes to a range of benefits and recommends changes to the policy.

#### **RECOMMENDATIONS:**

- (i) To approve changes to the non residential care contributions policy for adult social care as set out in Appendix 1.
- (ii) To delegate authority to the Senior Manager: Safeguarding Adults, following consultation with the Cabinet Member for Adult Care and the Head of Legal, HR and Democratic Services to review the format and content of the current non-residential care contributions policy for adult social care, to make any textual, formatting or administrative or other minor changes required to update the policy, give effect to recommendation 1 above and ensure it is fit for purpose for 2013 and beyond.
- (iii) To delegate authority to the Executive Director for Adult Social Care to determine which 'one off' services should be included within the Policy as chargeable services and to determine the scale of fees and charges to be applied for these services (Proposal 10 in Appendix 1 – changes to Policy)
- (iv) To note that recommendation 2 above does not extend to making any major or substantive changes to either the services to be provided under the policy or the charges to be applied to any such service, Such matters would require reference to Cabinet for determination following appropriate public consultation

## **REASONS FOR REPORT RECOMMENDATIONS**

1. The changes will
  - Ensure the policy meets national guidance.
  - Support the development of personalisation in adult social care.
  - Ensure equity and fairness in the application of the policy.
  - Maximise income from those who can afford it to support the Council to meet the costs of providing for increased demand due to demographic changes.

## **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

2. To take no action would mean the policy was unable to meet national guidance, would not be applied equitably and would not support the development of personalised social care.
3. Respondents to the consultation asked the City Council to consider the long term impact of the proposed changes. They suggested that if individuals felt they could not afford services they would wait till crisis point and require higher cost services such as residential care. They felt this was counter intuitive to prevention and health and well-being agendas and therefore the changes should not be taken forward.

This proposal was rejected since;

- The Council as a whole is addressing the prevention and health and well being agendas, this is not solely the role of social care.
- No one will ever be asked to contribute more than they can afford
- Individual circumstances can be taken into account and the Council can waive or reduce charges in exceptional circumstances.
- If the Council does not take forward the proposals there will be a need to consider alternative service reductions which are likely to have an impact on residents or to consider restricting social care to those with critical needs only, which would significantly reduce the numbers of individuals receiving support.

4. Respondents to the consultation asked that the Council consider leaving the maximum contribution level at 95% of the figure the individual is assessed as being able to afford rather than the proposed 100% since this was felt to negatively impact on service users quality of life.

This proposal was rejected since;

- To take 100% of the contribution which the individual is assessed as being able to contribute leaves service users with 25% above nationally set minimum income levels.
- A 100% contribution meets national guidance, which was set in recognition of the fact that social care users are likely to have additional expenditure related to their needs.
- Individual circumstances can be taken into account in assessing contributions and in particular any disability related expenditure must be considered.
- If the Council does not take forward the proposals there will be a need to

consider alternative service reductions which are likely to have an impact on residents or to consider restricting social care to those with critical needs only, which would significantly reduce the numbers of individuals receiving support.

5. Respondents suggested that the specific rent allowance that the Council is proposing to end funds additional daily living expenses for people with severe learning disabilities. It was thought that stopping this payment will have a significant impact on these service users' quality of life.

This proposal was rejected since;

- To treat a specific customer group differently would be inequitable, would not meet national guidance and could lead to judicial challenge.
- There is no rationale for the rent allowance since the policy takes account of day to day living expenses. In addition householders who qualify for housing benefit have this reduced when there is a non dependant living in the home and this is taken account of as rent when calculating social care contributions.
- If the Council does not take forward the proposals there will be a need to consider alternative service reductions which are likely to have an impact on residents or to consider restricting social care to those with critical needs only, which would significantly reduce the numbers of individuals receiving support.

6. The proposal to change the policy so that users with more than £23,250 would organise their own care raised concern that this placed an inappropriate burden on carers. There was also concern raised about the need to handle any changes to individual arrangements sensitively.

The removal of the proposal was rejected since;

- Setting this limit brings the NRC policy in line with the national residential care charging policy and is felt to be fair and equitable.
- A range of support will be offered to those requiring to commission their own arrangements including; continued right to social care assessment; support with care planning both from the Council and via services set up by the Council; those who do not have capacity and do not have family carer support will continue to have their arrangements managed by the Council; work will be undertaken throughout the year to support those already receiving services to set up their own arrangements.

7. The results from the telephone helpline showed that paying full cost for care was a key concern. Callers expressed the opinion they are already "charged a lot" for services and contributions should not be raised.

This proposal was rejected since;

- No one will ever pay more than they are assessed as being able to afford.
- Individual circumstances can be taken into account and charges waived or reduced for welfare reasons.

- If the Council does not take forward the proposals there will be a need to consider alternative service reductions which are likely to have an impact on residents or to consider restricting social care to those with critical needs only, which would significantly reduce the numbers of individuals receiving support.
8. The proposal to ask for contributions toward the cost of two carers raised concerns that this might increase the burden on service users and family carers who might try to cope without a second carer on the basis of cost. There was also a concern that this might be inequitable. To remove this proposal was rejected since;
- No one will ever pay more than they are assessed as being able to afford.
  - Carers needs are assessed as part of the assessment process and Individual circumstances can be taken into account and charges waived or reduced for welfare reasons.
  - If the Council does not take forward the proposals there will be a need to consider alternative service reductions which are likely to have an impact on residents or to consider restricting social care to those with critical needs only, which would significantly reduce the numbers of individuals receiving support.
  - Legal advice suggests that since the policy is based on ability to contribute and takes individual circumstances into account it is equitable.
9. Tenants of Extra Care Housing were concerned that they would be charged for overnight care services which they currently did not need and suggested only charging those who used night time care. This proposal was rejected since;
- Individuals make the decision to move to extra care to ensure access to immediate support should they need it. It would therefore be inequitable to charge only those who receive hands on care when all tenants are benefitting from the service.
  - If the Council does not take forward the proposals there will be a need to consider alternative service reductions which are likely to have an impact on residents or to consider restricting social care to those with critical needs only, which would significantly reduce the numbers of individuals receiving support.

## **DETAIL (Including consultation carried out)**

### **Background**

10. The Council has discretionary power to levy contributions towards the costs of NRC provided these are in line with national guidance. The NRC policy was reviewed in 2008. A further review was completed in October 2012. This was undertaken to ensure the policy met revised national guidance, supported the development of personalisation in adult social care, and was equitable and fair and maximised income from those assessed as being able to afford to pay to ensure future sustainability of services given the increasing demands due to demographic changes. The proposals from the initial officer led review

update to outline the impact of changes to the original proposals, the assessed impact on those using services in August 2012 and the results of a benchmarking exercise are attached in Appendix 2 and 3.

11. **Consultation process**

An extensive consultation exercise has been undertaken led by a facilitator commissioned by the Council. This commenced on 8<sup>th</sup> October 2012 and included the development of a website, helpline, letter to current users of social care services and their appointees, meetings with customer groups potentially affected by specific proposals and with advocacy organisations and commissioning 2 DVDs which were used to ensure older people attending day services and people with learning disabilities were able to comment on the proposals. A full report on the consultation approach is attached in Appendix 4 and 5.

12. **Consultation response**

Issues highlighted in the consultation included

- There was general understanding that the City Council needs to fairly and equitably source funding to help meet the increasing costs of Adult Social Care services.
- There was recognition that people who can afford to do so should contribute towards the cost of their care.
- There was consensus that people paying more for day services should have their increased contributions phased in to allow time for adjustment.
- It was felt the Council should provide proactive additional support for those most affected by the proposed changes.
- Respondents asked the Council to consider the long term impact of the proposed changes which were felt to be counter intuitive to prevention and health and well-being agendas.
- Respondents felt increasing the Net Disposable Income taken into account from 95% to 100% would be a “grossly unfair”, “harsh,” “regressive” or “draconian” measure. Although it was acknowledged that this leaves the service user with 25% over the Government’s minimum income levels, it was thought that this would still negatively impact on service users’ quality of life. It was said that the 25% above minimum income meets expenditure most people would think of as essential and is not enough for individuals’ to save towards purchasing essential items (such as disability related equipment) or covering additional disability related living costs.
- The meeting to discuss the rent allowance and the People’s Panel highlighted that the specific rent allowance that the Council is proposing to stop helps fund additional daily living expenses for people with severe learning disabilities. It was thought that stopping this payment will have a significant impact on these service users’ quality of life.
- On charging the full cost for Day Care and Home Care, there was some concern that this would result in individuals not accessing these services and ultimately lead to more people being placed in residential care leading to higher net costs for the Council.

- There was also concern that the day care charges proposals would result in reduced accessing of carers respite.
- The results from the telephone helpline showed that paying full cost for care was a key concern, with callers expressing their opinion that they are already “charged a lot”.
- The proposal to change the policy so that service users with more than £23,250 would organise their own care was called “regressive”. There was also a concern that this placed an inappropriate burden on carers. However others thought that the proposed limit was set too low.
- The proposal to ask for contributions toward the cost of two carers raised concerns that this might have a significant impact and increase the burden on service users and family carers who might try to cope without a second carer on the basis of cost. There was also a concern that this might be inequitable.

Appendix 6 fully reports on all key consultation themes and officer responses to these.

13. **Cumulative Impact of proposed changes to NRC policy and benefit changes**

It is recognised that the proposed changes to the NRC policy is being proposed at the same time as changes to the Benefits system, Council Tax and Housing Benefit are being developed. A review has been undertaken of these changes and the impact for social care users. Consideration has been given to the cumulative impact and proposed approaches to minimise this have been developed. Appendix 7 details the impact and the actions required to ameliorate the cumulative impact.

14. **Proposals**

As a result of the consultation a change is suggested to the original proposals. It was recognised during the consultation that the proposal to ask those who can afford to do so to contribute up to the full economic costs of day care services including an element of overheads would have a significant impact on attendance at day services. Such a reduction would destabilise individual care arrangements and increase pressure on carers and would affect the stability of the day services market. In addition the Joint Commissioning Team in Adult Social Care will be reviewing day service contracts with a view to developing personalised approaches, This is expected to change models of provision and reduce costs.

It is therefore proposed that maximum contribution rates are raised over 2 years with an increase in 2013/14 to £22 and to £42.57 in 2014/15. This increases the maximum contribution by approximately 50% in 2013/2014 and taking it to approximately half the current economic cost of the service. This proposal reduces the expected income by approximately £125,000.

A Local Authority Circular; Charging for Residential Accommodation and Non Residential Care Services was received on 15<sup>th</sup> October 2012, after the consultation had commenced. This gives guidance on setting the level of charges. The circular states:

*“Councils should take account of no more than the full cost of providing the service, excluding costs associated with the purchasing*

*function and the costs of operating the charging system.”*

The proposal to include overhead costs when calculating the maximum contribution for services has therefore been removed.

The amended proposals are attached in Appendix 1

## **RESOURCE IMPLICATIONS**

### **Capital/Revenue**

15. The proposed Non Residential Charging Policy, after amendments arising from the consultation, is estimated to increase income to the council by £285,000 assuming a 1<sup>st</sup> April implementation date. Of this sum £135,000 has been included within the 2013/14 savings submission from Adult Services, whilst £150,000 had been submitted in a previous budget round.
16. The calculation of this level of additional income was achieved through a model comprising of live client data as at August 2012. Therefore it is possible, due to changes in clients etc that the actual impact regarding achievable income and client numbers affected may vary. To acknowledge this and mitigate risk a 5% margin of error has been applied to the income assessed as being achievable.
17. There are five key recommendations that impact materially on the achievement of this income. These are shown in Table 1 on Appendix 8 along with the additional income that has been estimated for each. Please note that the proposed changes to the full cost rates and the level of Net Disposable income have an impact on the level of income estimated under the other three key financial recommendations.
18. The proposal to phase in the full cost rate for Day Care has reduced the potential income in 2013/14 by £125,000. In 14/15, once fully implemented, this income will be achievable.
19. Proposed benefit changes in conjunction with these proposals to change the Non Residential Charging Policy may have a significant adverse impact on some clients. Where this occurs and there is no other form of mitigation to the client to prevent falling into hardship it is proposed that some or part of the additional social care charge is waived. It is not possible to predict accurately with current information what the call on this is likely to be. It is estimated that a reasonable provision would be £150,000. If this sum is not required in full in 2013/14 it will be offered as a saving in later budget rounds.
20. It should be noted that all figures are quoted at 12/13 rates and will be subject to an annual uplifting in April 2013, in line with increases in rates paid to providers. This uplifting will be subject to a separate approval by the Executive Director under Delegated Authority.

### **Property/Other** No implications

21. There are no implications in relation to property or other assets.

## **LEGAL IMPLICATIONS**

### **Statutory power to undertake proposals in the report:**

22. Section 17 of the Health and Social Services and Social Security Adjudications Act 1983 (HASSASSA Act 1983) gives the Council discretionary power to charge adult recipients of non-residential services. The Council may recover such charges as are reasonable in respect of relevant services
23. Section 7 of the Local Authority Social Services Act 1970 allowed the Secretary of State to issue guidance to Councils on the exercise of their social services functions, including those which are exercised under discretionary powers. In exercising those functions, Councils must have regard to guidance issued under section 7.
24. In 2003, The Department of Health issued guidance entitled 'Fairer Charging Policies for Home Care and other non-residential Social Services. In 2010 guidance entitled "Fairer Contributions Guidance: Calculating an individual's contribution towards their personal budget" was also issued. The proposed policy changes comply with the relevant provisions of the guidance documents.
25. Local Authorities may also charge for services provided directly to carers under the provisions of the Carers and Disabled Children's Act 2000.
26. Where the 'Fairer Charging Policies for Home Care and other non-residential Social Services does not provide clarity in a general area, the Council also observes the Department of Health's Charging for Residential Accommodation Guide (CRAG) and the Guidance for Council's with Social Services Responsibilities published in October 2012 for fairness, clarity and consistency reasons.

### **Other Legal Implications:**

27. The proposals in the report are compliant with the requirements of both the Human Rights Act 1998 and the Equalities Act 2010. Consideration of the impact of the proposed changes under these Acts has been carried out as part of the preparatory work and ongoing consultation process and, taking the overall changes into account, the Council is satisfied that the proposals are necessary and proportionate in terms of individual impact having regard to the needs of the wider community and the need to target available resources at the most vulnerable. Detailed consideration of the impacts of the proposals are as set out in the report and appendices.

## **POLICY FRAMEWORK IMPLICATIONS**

28. The proposals in this report are wholly in accordance with the Council's budget and policy framework.



KEY DECISION? Yes

WARDS/COMMUNITIES AFFECTED:	All
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**SUPPORTING DOCUMENTATION**

**Non-confidential appendices are in the Members’ Rooms and can be accessed on-line**

**Appendices**

1. NRC Charging Policy Review – Proposals to Cabinet
2. NRC Charging Policy Review - Officer led review recommendations
3. NRC Charging Policy - Benchmarking exercise (information used in Officer led review)
4. NRC Charging Policy Review - Consultation Process
5. NRC Charging Policy Review – detailed timeline of consultation exercise
6. NRC Charging Policy Review - Consultation response
7. NRC Charging Policy Review - Benefit changes and Charging Policy – Cumulative impact
8. NRC Charging Policy Review – Estimated levels of income - Summary Table

**Documents In Members’ Rooms**

1.	None
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**Equality Impact Assessment**

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	Yes
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**Other Background Documents**

**Equality Impact Assessment and Other Background documents available for inspection at:**

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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Local Authority Circular – Charging for Residential Accommodation and Non Residential Care Services

Impact Assessments:

1.	Equality Impact Assessment AS10	Overarching
2.	Equality Impact Assessment AS10	Capital
3.	Equality Impact Assessment AS10	NDI Increase
4.	Equality Impact Assessment AS10	Domiciliary and Day Care
5.	Equality Impact Assessment AS10	Overnight Care

6.	Equality Impact Assessment AS10	2 Carer Packages
7.	Equality Impact Assessment AS10	Rent Allowance