



**ADULTS AND COMMUNITIES OVERVIEW AND SCRUTINY COMMITTEE:**  
**10 JUNE 2014**

**REVIEW OF THE NON-RESIDENTIAL CHARGING POLICY FOR**  
**ADULT SOCIAL CARE**

**REPORT OF THE DIRECTOR OF ADULTS AND COMMUNITIES**

**Purpose of report**

- 1 The purpose of this report is to invite members of the Adults and Communities Overview and Scrutiny Committee to comment on a review of the County Council's non-residential charging policy for adult social care, as part of a consultation exercise.

**Policy Framework and Previous Decisions**

- 2 Section 17 of the Health and Social Services and Social Security Adjudications Act 1983 (HASSASSA Act 1983) gives Councils a discretionary power to charge adult recipients of non-residential services such amounts as they consider reasonable.
- 3 On 3 September 2002, the Cabinet approved the Fairer Charging Policy in order to meet the requirements of the Government's Fairer Charging Guidance. Further guidance by the Department of Health in September 2003 provided a framework to assist Councils in setting individual maximum charges and ensuring that no-one is required to pay more than they can afford.
- 4 In 2009, the Department of Health issued draft guidance to amend charging policies to include personal budgets - "Fairer contributions guidance: calculating an individual's contribution to their personal budget" and, on 15 December 2009, the Cabinet approved a revised Fairer Charging Policy in order to implement the requirements of that guidance.
- 5 On 14 September 2012, the Cabinet approved amendments to the Fairer Charging Policy to include removal of the subsidy for non-residential services (apart from commissioned meals and community meals), charging for Extra Care services, and a revised financial assessment for Housing Related Support Services.
- 6 As part of the Medium Term Financial Strategy (MTFS) for 2013/14, the Cabinet agreed a rate of £13.25 per hour for home care services, £35 per day for day services, £3.25 per meal provided by the Council and 100% for personal budgets.
- 7 On the 5 March 2014, the Cabinet agreed that a consultation exercise be undertaken to seek the views of stakeholders on the charging policy for Extra Care services and removal of the subsidy for community meals and County Council commissioned meals services, with a view to a further report being submitted to the Cabinet in

September 2014 detailing the outcome of the consultation exercise and making recommendations on policy changes.

## **Background**

- 8 In 2002, the Department of Health issued “Fairer Charging Policies for Home Care and other non-residential social services – Guidance for Councils with Social Services Responsibilities” (the Fairer Charging Guidance). The guidance aimed to help Councils to design reasonable and fair charging policies as well as seeking greater consistency in charging policies.
- 9 The Fairer Charging Guidance contained some mandatory principles to which Councils must have regard when designing their charging policies. It also gave Councils some discretion in how those principles should be applied.
- 10 The basic principle was that Councils should have regard to the effect of any charge on a user’s net income and that net incomes should not be reduced below defined basic levels of Income Support or the Guarantee Credit of Pension Credit, plus 25%.
- 11 This principle has been embedded into the Adult Social Care Fairer Charging Policy. All service users receive a means test prior to the charge being applied except for County Council commissioned meals which is not means tested, as described at paragraph 21 below.
- 12 The Adult Social Care Fairer Charging Policy was comprehensively reviewed in 2009 in order to include Fairer Contributions charging options for service users in receipt of personal budgets, and to ensure that the policy was transparent, fair and equitable. The Cabinet approved the revised policy on 15 December 2009.
- 13 The Government has determined that some services should not be chargeable, eg minor adaptations and reablement; these services remain outside the scope of the policy.
- 14 Service users in receipt of personal budgets and hourly based services, ie home care, do not receive any subsidy from the Council towards their care charges and are required to contribute the full amount provided that they can afford to do so.
- 15 The Adult Social Care Fairer Charging Policy requires amendment to ensure that individuals receiving similar services contribute similar amounts towards their care; currently those receiving Extra Care support under a Community Care Assessment (CCA) are charged differently. The Council also needs to review charges for some non-residential care services (ie commissioned meals and community meals) which it currently subsidises: other services (ie personal budgets and home care) are not subsidised. The Council needs to ensure that its charging policy is transparent and continues to be applied fairly and equitably.
- 16 The Council is required to consult with stakeholders on any proposed policy change that will impact significantly on service users, and the consultation will ensure that those affected will have the opportunity to fully engage with the proposals.

### Extra Care services

- 17 In 2010, the Adults and Communities Department implemented the Extra Care Housing Strategy which aims to reform and modernise traditional residential care provision in Leicestershire to help better meet the needs and expectations of older people in the County, including those individuals who live in their own home and fund their own care and support needs.
- 18 In 2012, the Fairer Charging Policy was amended to charge service users for their Extra Care support services which were provided under a CCA. The consultation and subsequent amendment did not specifically mention those Extra Care support services which are provided without a CCA. This has resulted in individuals receiving similar services but contributing differing amounts towards their care. An appropriate charging mechanism needs to be implemented for other Extra Care services (ie service charges and shared support services) in order to ensure that individuals in similar circumstances are treated equitably and to improve transparency and equity in the charging process.
- 19 The Adults and Communities Department commissions Extra Care services in five Extra Care schemes which provide a total of 166 units.

### Community and commissioned meals services

- 20 Community meals are meals services provided to individuals through lunch clubs and day services. Commissioned meals are meals services provided directly to individuals as part of their adult social care services.
- 21 The charges for some non-residential care services (ie community meals and commissioned meals) are currently subsidised by the County Council whilst other services (ie personal budgets and home care) are not subsidised. People subject to Section 117 of the Mental Health Act 1983 are not currently asked to contribute towards meals services. The Council needs to review its charges in order to ensure that the charging policy continues to be applied fairly and equitably. Community meals charges should be exempted from a means test which is justified because meals are different from other care services. All people, irrespective of whether they need care and support require meals, and can reasonably be expected to make a full contribution towards the cost of the meal; this includes people subject to Section 117 of the Mental Health Act 1983. The financial impact of removing the subsidy for all meals services is included in the MTFs 2014/15–2016/17.
- 22 Where service users receive a personal budget which includes a provision towards meal services the subsidised element of the meal cost is included in the personal budget and, therefore, included in the calculation of the individual's contribution towards their personal budget. This anomaly means that those service users are charged differently to individuals who are not in receipt of a personal budget. Because personal budget planning concentrates on the outcomes for the service user rather than the method by which care is delivered it is not possible to determine how many service users receive a personal budget which includes a provision towards meals services as case recording looks at outcomes rather than how the service is provided. With the full implementation of the personalisation programme, all eligible service users will eventually receive a personal budget.

- 23 Approximately 270 service users receive County Council commissioned meals; these service users do not receive a means test and contribute £3.25 towards their meal. Approximately 11 people subject to Section 117 of the Mental Health Act 1983 are not currently required to contribute towards their meals service. Approximately 680 community meals per week are provided for individuals attending lunch clubs and Adults and Communities day services; these services are also currently subsidised.
- 24 Meals are considered, by the Government Fairer Charging Guidance 2002, to be a substitute charge, ie the service user would have to pay for the meal regardless of whether the Adults and Communities Department provides the service. This includes people subject to Section 117 of the Mental Health Act 1983.
- 25 It is acknowledged that there is currently some disparity and inequity in treatment between County Council commissioned meals and the provision of meals services as part of a personal budget. It is intended, as part of this review, to remove meals provision from the personal budget calculation to improve clarity and transparency for staff and service users.

### **Proposals**

- 26 It is proposed that consultation takes place on removing the subsidy for care services, including meals, for all service users. This would ensure that those service users who could afford to contribute towards their care did so and that no one service user group was less fairly treated in relation to contributing to care services. All charges for care services, apart from meals services, would remain subject to a means test so that no service user would be asked to contribute more than they could afford and around 27% would continue to receive a free service. Service users receiving meals services would be asked to contribute the full cost of the meal. People subject to Section 117 of the Mental Health Act 1983 are exempt from contributing towards their care services, but would be required to contribute the full cost of their meals service.
- 27 As outlined above, there is a clear rationale for charging all service users for community meals. The Council places continuing importance on preventative approaches to maintain the health and wellbeing of vulnerable people, but the need to prioritise services to meet savings targets requires that the Council reviews its decision to continue a level of subsidy for County Council commissioned meals. If any individual is placed at risk due to the removal of the subsidy, the Adults and Communities Department will ensure that suitable alternative arrangements are in place.
- 28 It is also proposed that consultation takes place on amending and clarifying the charging policy for Extra Care services so that all individuals receiving these services contribute towards the cost of those services.
- 29 It is proposed that the consultation will consider whether:
- The subsidy should be removed from all non-residential care charges including community meals and County Council commissioned meals.
  - Individuals subject to Section 117 of the Mental Health Act should be required to pay the full cost of their meals.

- The charging policy for non-residential care charges should be amended and clarified to include all Extra Care services whether they are provided by a CCA or not.

30 The outcomes of the proposed consultation exercise will inform the amendments to the Fairer Charging Policy, charge rates, and the MTFs, and will enable a more informed and transparent decision-making process.

### **Consultation**

31 Two consultation exercises commenced on 19 May 2014 and will run until the 11 August 2014. The first of these relates to the proposal to remove subsidies in respect of meals services. The second relates to the proposed changes to the charging policy for care and support services in Extra Care schemes. Both of These exercises will give stakeholders an opportunity to make their views known on all the proposed changes. This will include specific opportunities for current service users of Extra Care services and the County Council commissioned meals service to contribute.

32 The consultation exercises will use appropriate ways to engage with stakeholders through communication with service user groups, service providers, forums representing older and disabled people, voluntary organisations and the general public. This will include information on the County Council website, some targeted meetings, press releases, adverts, and questionnaires.

### **Resources Implications**

33 As outlined in the MTFs from 2014/15, the Adults and Communities Department have £5.2m of budgeted savings to deliver in 2014/15 rising to £22.8m by 2017/18. These savings include increasing income and the proposals outlined in this report contribute to these targets as follows:

- £150,000 part year increased income contributions in 2014/15 increasing to annual increased income of £300,000 for "Removing the subsidy for Community and Day Centre meals".
- Extra care charging is estimated to generate £6,000 part year in 2014/15 increasing to £25,000 annually from and including 2015/16. This contributes to the "Increased income from Fairer Charging and removal of subsidy/aligning increases" increased income line in the MTFs."

34 The Director of Corporate Resources and the County Solicitor have been consulted on the contents of this report.

### **Timetable for Decisions (including Scrutiny)**

35 A report detailing the results of the consultation exercise and proposals for changes to the charging policies for removal of the meals subsidy and for Extra Care will be submitted to the Cabinet in September 2014.

36 Subject to agreement by the Cabinet, any policy changes would be implemented from 3 November 2014.

## **Background Papers**

- Report to the Cabinet: 3 September 2002 – The Outcome of the consultation on “Fairer Charging” for Home Care and other Non-residential Social Services  
[http://politics.leics.gov.uk/Published/C00000135/M00000764/AI00004794/\\$CABFairerCharging3902.doc.pdf](http://politics.leics.gov.uk/Published/C00000135/M00000764/AI00004794/$CABFairerCharging3902.doc.pdf)
- Report to the Cabinet: 15 December 2009 – Proposal to Amend the Policy for Non-Residential Care Charges for Service Users  
[http://politics.leics.gov.uk/Published/C00000135/M00002688/AI00024133/\\$GNonResidentialCareCharges.doc.pdf](http://politics.leics.gov.uk/Published/C00000135/M00002688/AI00024133/$GNonResidentialCareCharges.doc.pdf)
- Report to the Cabinet: 14 September 2012 – Outcome of the Consultation on the Review of the Non-Residential Charging Policy for Adult Social Care  
[http://politics.leics.gov.uk/Published/C00000135/M00003613/AI00032267/\\$CReviewoftheNonResChargingPolicyforAdultSocialCare140912.doc.pdf](http://politics.leics.gov.uk/Published/C00000135/M00003613/AI00032267/$CReviewoftheNonResChargingPolicyforAdultSocialCare140912.doc.pdf)
- Report to the Cabinet: 5 March 2014 – Review of the Non-Residential Charging Policy for Adult Social Care  
[http://politics.leics.gov.uk/Published/C00000135/M00003988/AI00037202/\\$6reviewofnonresidentialchargingpolicy.docA.ps.pdf](http://politics.leics.gov.uk/Published/C00000135/M00003988/AI00037202/$6reviewofnonresidentialchargingpolicy.docA.ps.pdf)

## **Circulation under the Local Issues Alert Procedure**

- 37 This Cabinet reported dated the 5 March 2014 was circulated to all members of the Council via the Members’ News in Brief Service.

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## **List of Appendices**

Appendix A - Equality Impact Assessment Questionnaire

## **Relevant Impact Assessments**

### **Equal Opportunities and Human Rights Implications**

- 38 If the charging policy is not reviewed there is a risk that service users receiving similar services will be charged differently and that people in similar circumstances will be assessed differently. An Equality Impact Assessment Questionnaire is attached as an Appendix to this report.

- 39 If all Extra Care services were included in the policy there would be a clear policy in place for all Extra Care users regardless of how care is commissioned or funded.
- 40 If the Council's subsidy was removed from all non-residential care services all service users who could afford to do so would contribute equally towards their care.
- 41 Removing the cost of meals from individual personal budget calculations would improve transparency and equity for service users.
- 43 Reviewing the charging policy will ensure that all service uses are treated fairly and equally according to their individual circumstances. A comprehensive Equality Impact Assessment will be undertaken as part of this review and will be reported to the Cabinet in September 2014.
- 43 A full consultation exercise would ensure that vulnerable service users and carers are able to contribute to the decision making process.
- 44 A full consultation would assist the Cabinet with the exercise of its Public Sector Equality Duty under the Equality Act 2010. The Equality Act 2010 imposes a duty on the local authority when making decisions to exercise due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between people who have a protected characteristic and those who do not.

#### Risk Assessment

- 45 If the review is not undertaken the Council will be at risk of challenge from individuals in receipt of non-residential services due to lack of clarity, equity and transparency in the charging policy.

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