

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	11 th November 2014
Report of:	Director of Adult Social Care and Independent Living
Subject/Title:	Adult Social Care Charging Policy Review (Ref CE 14/15-31)
Portfolio Holder	Cllr Janet Clowes, Care and Health in the Community

1.0 Report Summary

- 1.1 The Care Act implementation places financial and resource pressures on Adult Social Care Services nationally. The Care Act is a statute in Law which drives Councils to deliver personalised services consistently and equitably to support individuals to remain in their own homes for as long as possible regardless of means. The Act enforces equity and choice; ensuring care needs are the primary focus and protecting those who are unable to financially contribute. Cheshire East Council recognises the need to support the community to understand the changes introduced by the Care Act and to mitigate the impacts on individuals by these changes. Adult Social Care Services are additionally drawing together new ways of working internally and through the integration agenda with health partner organisations. This paper sits within the context of the care Act implementation and the service improvement and modernisation agenda.
- 1.2 The Care Act regulations and formal guidance have been issued on 23.10.14. Whilst these are still subject to final approval through the parliamentary process the Council fully understands its responsibilities for Phase 1 implementation from April 2015 and work is actively underway to deliver the Council's implementation plans.
- 1.3 The Council currently has in place the Fairer Charging policy which governs charging for community based care services. There are implications of the Care Act on the current policy and public consultation is required on the Council's proposed response to this. The formal consultation is planned to run for 8 weeks from 1st December 2014 to 25th January 2015.

2.0 Recommendations

- 2.1 In order to provide a range of options to address the Care Act requirements, a formal public consultation be required in respect of changes to the Council's Charging Policies and Scheme of Delegated Charges.
- 2.1 Cabinet be requested to approve the proposed consultation.

3.0 Options

The consultation will give the Community information about new ways of working and Care Act legislative changes and will explore the following:-

3.1. To remove the subsidy from the Non-Residential (Fairer Charging) charging formula currently set at 97% of disposable income and to move to a position where this is taken as a maximum charge of 100% of disposable income once housing, living and disability costs have been accounted for. This would be in line with near neighbouring authorities and consistent across most other Local Authorities.

3.2. In respect of domiciliary care services, removing the current practice of a higher charge than the price which is paid per unit of care by the Council to the care market. It is proposed that the Council equalises the charge and price paid for commissioned domiciliary care so they are the same, applying a small 3% charge to cover Council overhead costs. This proposal would benefit many people by reducing charges and costs would only be paid by those who could reasonably afford to contribute.

3.3. Remove the automatic deduction which is currently applied to all financial assessments for community services as a standard Disability Related Disregard of £4 or £10 depending upon the customers level of disability benefit income. The proposal is to move to a system where the customer provides evidence of their personal disability related costs to be verified to accurately account for disability costs in the financial assessment. This change would be under-pinned with improved information and advice as required by The Care Act.

3.4. A proposal that the Council introduces a fee to those customers who have the means to pay for their own care privately, but who choose the Council to commission and manage their care services on their behalf. A small flat rate fee is proposed which would contribute in a small way towards the costs the Council would incur in providing such services as well as managing care accounts from 2016. Cheshire East Council is liaising with other Councils over this and will adapt proposals to be in line with other Local Authorities once the Care Act has been reviewed fully.

3.5. Remove the current subsidy applied to the prices charged for internal community based services provided through Care4CE.

3.6. To apply interest charges to deferred payment agreements in accordance with the Department of Health Guidance for the duration of any Deferred Payment Agreement term. Interest would be calculated daily and applied every 4 weeks to deferred costs.

3.7. To ensure the administrative charge for Deferred Payment arrangements accurately reflect the Council's costs in managing Deferred Payments. Administration charges would apply to the deferred costs to be settled at the close of an agreement.

3.8. To revise the charges for the provision of Tele-care (Assisted Technology) including a link into 'new build' planning and regulations through Communities Department. This would introduce a model of provision and charges based on response times associated with three levels of service; Environmental, Lifestyle and

Advanced Tele-care Services. It is proposed a small flat rate fee applies to Environmental Tele-care services with Lifestyle and Advanced Tele-care Services being subject to means test.

3.9. To extend financial assessment and income maximisation services to services specifically for Carers in line with the new legislation.

3.10. To introduce a revised Direct Payment offer with improved information and advice services with clear guidelines to the customer around their responsibilities in receiving a Direct Payment from the Council.

3.11. To introduce a new Third Party Top-up Policy with placement sustainability checks to protect the customer and care market from unwise placement decisions which cannot be financially sustained.

3.12. To brief the community on proposed new ways of working to deliver adult social care. The communication brief will include references to promoting personalised services which enable people to live longer in their own communities along with improved information and advice around preparing for later life needs and costs.

4.0 Process

4.1 In order to deliver the above a number of key actions will follow:-

- Release of an approved press and public statement, proactively managing publicity.
- Communicate directly with service users through bill-flyer, website information/feedback forum and consultation events to encourage feedback and participation through consultation to the proposed changes.
- Take account of any Equality Impact issues following consultation and in developing detailed implementation plans.
- Issue timeline of process and implementation.

5.0 Reasons for Recommendations

The implementation of the Care act requires a number of changes to existing Council policies. The charging policy needs to be reviewed to accommodate the required changes. The policy has therefore been fully reviewed and in line with the new legislation.

6.0 Wards Affected - All

7.0 Local Ward Members - All

8.0 Policy Implications

Adult Services Pricing and Charging Policy: To be reviewed following consultation and Cabinet approval of changes.

Public Information: in accessible format for all. Approved through “readers panel” as simple, plain English and available in alternative format/language.

Brokerage and advocacy services exist to assist customers to access alternative services where needed.

Whole System Commissioning:– welfare benefits advice and improved information in respect of complex financial issues to manage down debt issues and maximum take up of welfare benefits through partnership working.

9.0 Financial Implications

Consultation will run alongside the existing processes for budget setting. There will be costs associated with the processes following consultation i.e. temporary resources will be required to change policy, systems and processes in a phased manner according to an approved action plan – these temporary resources will be needed by Social Care Business Support and Finance service.

10.0 Legal Implications

Section 17 of the Health and Social Services and Social Security Adjudications Act 1983 gives councils a discretionary power to charge adult service users who receive non-residential services. The current guidance is entitled 'Fairer charging policies for home care and other non-residential social services: Guidance for Councils with Social Services Responsibilities' issued in September 2003. Charging for Residential and Nursing Care falls under the Department of Health's national statutory Charging for Residential Accommodation Guidance (CRAG). New charging legislation comes into effect from April 2015 and again 2016 under the Care Act which will replace existing legislation.

10.1 Consultation must contain four elements:

- Must be at a time when proposals are still at a formative stage
- Must give sufficient reasons for any proposal to permit of intelligent consideration and response
- Adequate time must be given for any consideration and response
- Result of the consultation must be conscientiously taken into account in finalising any proposals

10.2 The local authority must have regard to the Public Sector Equality Duty.

Section 149 of the Equality Act 2010 states:

(1) A public authority must, in the exercise of its functions, have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it... “

Case law has established that : 'The PSED challenge is not concerned with the lawfulness or even the adequacy of the solution that was adopted. It is only concerned with the lawfulness of the process' (R (MA) v Secretary of State for Work and Pensions 2014 EWCA Civ 13).

- 10.3 An Equality Impact Assessment must be completed before reaching any final decision to substantially vary charging.
- 10.4 Further consideration will be required in relation to the specific options at section 3 of the report as the implementation date for the Care Act approaches and in response to further DoH guidance.

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