

9 July 2013		ITEM: 6
Health and Well-being Overview and Scrutiny Committee		
Review of Non–Residential Adult Social Care Charges		
Report of: Roger Harris		
Wards and communities affected: All		Key Decision: Key
Accountable Head of Service: N/A		
Accountable Director: Roger Harris		
This report is Public		
<p>Purpose of Report: In the budget report that was considered by HOSC in February it was noted that the Medium Term Financial Strategy (MTFS) included a figure of £ 75,000 to be achieved through a review of Adult Social Care (ASC) charges in 2014/15. HOSC requested that this review come back to this meeting for consideration before it went out for further consultation.</p>		

EXECUTIVE SUMMARY

This report will explore what we currently charge for, if these charges could be amended and whether new charges could be introduced. This paper also seeks to remove a couple of anomalies that occur under the current policy.

Appendices to this report lay out in table format the information contained within the body of the report relating to charges (Appendix 1), and comparable charges with neighbouring and comparator authorities (Appendix 2). An equality impact assessment has been undertaken and this is available on the Council's website.

It is proposed that Adult Social care will go out to consultation during July/August/September with a further report back to HOSC and Cabinet in the Autumn during the budget setting process for 2014/15.

1. RECOMMENDATIONS:

1.1 To consider and comment on the proposals contained within the report

2. INTRODUCTION AND BACKGROUND:

2.1 Thurrock Council has a duty to facilitate the provision of social care services to those individuals who qualify under its eligibility criteria (currently substantial & critical). The Council has a discretion to charge service users for certain of those services. If the Council decides to exercise its discretion and impose

charges they must be reasonable and fair. Changes in policy should must be the subject of consultation and take into account the Council's duties under the Equality Act.

- 2.2 The Council's Non Residential Adult Social Care Charging Policy must accord with the guidance of the Secretary of State, ***Fairer Charging Policies for Home Care and other non-residential Social Services***, Guidance for Councils with Social Services Responsibilities, which was updated in June 2013 ("the Guidance").

(Residential Care charges are governed by different guidance, Charging for Residential Accommodation Guidelines (CRAG)).

- 2.3 The Council last comprehensively reviewed its ASC charges in 2010; therefore it is timely to review charges again to be implemented in the 2014/15 financial year.

3 EXECUTIVE SUMMARY OF THE GUIDANCE

- 3.1. This guidance on charging does not make any presumption that councils will charge for non-residential social services, nor does it introduce any requirement to charge. Councils have had discretionary powers to charge for many years, subject to a general requirement of reasonableness.
- 3.2. The guidance aims to help local councils which decide to charge for any non-residential services to design reasonable and fair charging policies. It seeks to ensure greater consistency in charging policies. It provides that:
- Deciding whether to charge for non-residential social services continues to be a matter for councils' discretion.
 - Charges for different types of non-residential social service, and allied services, and how they affect individuals should be considered together, not in isolation.
 - Where councils charge for these services, flat-rate charges are acceptable only in limited circumstances.
 - Regard should be paid to the effect of any charge on a user's net income; net incomes should not be reduced below defined basic levels of Income Support or the Guaranteed Credit of Pension Credit, plus 25%. Charging policies which reduce users' net incomes below these defined basic levels are not acceptable and undermine policies for social inclusion and the promotion of independence.
 - With regard to the transition to Universal Credit between October 2013 and April 2017, in the interests of equitable treatment and administrative simplicity, local authorities should continue to allow Income Support or the Guaranteed Credit element of Pension Credit plus 25% to all service users, pending further guidance from the Department.
 - Councils should consider and specifically consult on the need to set a maximum charge.

- Where disability benefits are taken into account as income in assessing ability to pay a charge, councils should assess and allow for the individual user's disability-related expenditure. Councils should specifically consult on the need to assess disability-related expenditure for other users. It is not acceptable to make a charge on disability benefits without assessing the reasonableness of doing so for each user.
- Councils should ensure that comprehensive benefits advice is provided to all users at the time of a charge assessment. Councils have a responsibility to seek to maximise the incomes of users, where they would be entitled to benefits, particularly where the user is asked to pay a charge.
- As a minimum, the same savings limits as for residential care charges should be applied. Councils are free to operate more generous rules, as with other parts of the guidance.
- Guidance is included on the treatment of partners' resources.
- To ensure that disabled people and their carers, who wish to do so, are able to enter and progress in work, the guidance expects that earnings will be disregarded in charge assessments.
- Where carers receive services in their own right under the Carers and Disabled Children Act, 2000, the guidance includes specific advice on ensuring the fairness of any charges.
- Good management by councils of charging policies continues to be important. Councils need to monitor the impact of charging policies on users and need to know how much it costs to administer their system. As with other services, the user's and carer's needs, including their need for good information, should be put first.

4. ISSUES, OPTIONS AND ANALYSIS OF OPTIONS

4.1 All current discretionary charges will be reviewed except the following

- Blue Badge Scheme – legal maximum charges are already applied to this scheme
- Day Care charges - review being undertaken of Provider Services which will include review of charges.
- Council run provision of Respite Services – also part of the above review.

Existing charges

4.2 Meals on wheels

The contract for meals on wheels ends 31 March 2015. The current charge to service users for each meal is £4.00 (estimated cost per meal is £7.78). In recent years demand for this service has plateaued. The Star Chamber process in 2012 (review of spending in Adult Social Care aimed at seeking efficiencies) recommended that a full service review take place before further decisions in

regard to retendering the contract are made. A full consultation will take place prior to the end of the contract and a report submitted to cabinet.

Recommendation - Charges remain the same for the remainder of the contract term.

4.3 Homecare

The Council has recently re-tendered the Homecare service provision, commencing on 29th April 2013 it has entered into a contract with 3 external providers.

The current charges of £13ph made for the provision of Homecare are at full cost recovery (e.g. the service user is charged the same amount as the council pays the homecare provider).

Recommendation – maintain current charge

4.4 Pendant Alarms

The current charges made in respect of the monitoring aspect of a pendant alarm were originally set by Housing and based on tenure type and are as follows;

- If you live in a Council house = Free of charge
- If you live in private tenancy and meet ASC critical and substantial need FACS criteria = 93p per week.
- If you live in private tenancy and do not meet critical or substantial need FACS criteria = £4.13 per week.

For service users in respect of whom a pendant alarm is commissioned through the Adult Social Care assessment process these charges must be reviewed in accordance with the Guidance.

Proposal – The current criteria for charging to be discussed further with Housing colleagues. These charges will remain out of the scope of this review and will be subject to a separate consultation.

New Charges

4.5 Telecare

Currently the council does not make any additional charges for the monitoring aspect of equipment that is linked to the Careline Centre over and above a pendant alarm as detailed above. It is proposed that a charge be applied in addition to the pendant alarm, for the monitoring of telecare.

The following proposals replicate the current charges that are applied as detailed in appendix 2 and reflect the lowest, highest and average charge.

There is a further proposal of a 'charge per item of equipment installed', to reflect the higher demand of monitoring required the more equipment installed.

Option 1 – No charge to recognise that this is a preventative service

Option 2 - Charge £1.10pw flat fee for telecare irrespective of the total number of items installed (this is equal to the lowest charge across comparator LA's excluding Havering as this is a monitoring & response service)

Option 3 - Charge £2.80pw flat fee for telecare irrespective of the total number of items installed (this is the average charge across comparator LA's excluding Havering as this is a monitoring & response service)

Option 4 – Charge £3.85 flat fee for telecare irrespective of the total number of items installed (this is the highest charge across comparator LA's excluding Havering as this is a monitoring and response service)

Proposal 5 – Charge 50p pw for each item of telecare technology installed

Income*

As of May 2013 the total number of service users with telecare is 326, with a total of 966 items installed, the potential income generated from the proposals is as follows

Option 1	No income
Option 2	£18,647 (326 users X £1.10 X 52 weeks = £18,647)
Option 3	£47,465 (326 users X £2.80 X 52 weeks = £47,465)
Option 4	£65,265 (326 users X £3.85 X 52 weeks = £65,265)
Option 5	£25,558 (966 items X £0.50 X 52 weeks = £25,558)

*There will be additional internal costs associated with any new charges for telecare for the raising of invoices, which has been calculated at 0.25 of a FTE staff member, therefore these cost would need to be offset against any additional income.

4.6 Administration costs for Homecare provision

It would be difficult to ascertain how many services users and potential income this charge could generate for the Council due to the through flow for clients and fluctuation on the eligibility status as a result of charging. In addition we do not have the relevant data to calculate what the overall amount of invoices raised are and average amount of deliverable hours. These would be required over numerous years to construct an acceptable median before we can work out if this will raise any additional monies.

(A rough estimate based on a short analysis of the past 3 years indicated that there the average number of invoices raised per year is 7070, based on this information this could potentially generate an income of approximately £88,375 per annum (7070 invoices ÷ 13 X £162.50 = £88,375), this is however based on average gross costs, the potential income would need to be looked at based on service users assessable income)

Proposal – Further work to be undertaken in 13/14 by finance colleagues to explore potential numbers of service users that would be affected by this charge and gain more accurate information in regard to the potential income. Work would also need to be undertaken as to how the costs are recovered to ensure transparency – eg included as part of Homecare charges or imposed separately

This will then be brought back to HOSC for consideration in 2015

Deferred Payments

- 4.7 The deferred payment scheme is a scheme which allows someone who goes into care to keep their property and still get help from the local authority with paying care home fees. The local authority recovers the fees from the proceeds when the property is sold. This scheme can also be used if there is a delay in selling a property.

Local authorities are empowered to make an administration charge for this service and many Authorities do so. Details are given in the CRAG guidelines (section 7.024). The charges vary greatly (from £100.00 upwards). In adhering to the Councils Legal Duties (as explained above), the main premise on charging for this is to establish reasonableness in the costs.

Whilst we operate this scheme in Thurrock, we currently do not impose any charges; currently the basic costs incurred for this scheme are as follows:

1. £40.00 Charge registration.
2. £4.00 per title search.
3. £100.00 External checking process on the property which covers:
 - A visit to the address and a report of the condition of the property.
 - Taking photographs
 - Knocking on door to ascertain if property is occupied and who the occupant is and enquire if there is power of attorney over the subject's affairs.
 - Ask who they pay rent to, if appropriate.
 - If not occupied make contact with neighbors to gather any relevant information, and to assess if there are any environmental health issues.
 - Make an estimate of valuation from sighting and comparing values of similar properties in the area.
 - Report on any financial information found.

It is worth noting that in more complex cases, or in cases where disputes arise additional legal costs and title searches may be required, which would increase the costs

Recommendation – A minimum charge of £144.00 to be applied where the council implements a deferred payment. Based on current numbers that are provided care under the deferred payments scheme (31) this would generate an income of £4,464

Anomalies within current charging policy

4.8 Charges made for Double Handed Care provision

In cases where 2 carers are required for the provision of homecare the provision of the 2nd carer is currently not charged for

Recommendation – All double handed care is charged at the total commissioned hours. Based on current figures for both council commissioned homecare and direct payments this would impact 144 services users

4.9 Charges for externally purchased respite

At present there is disparity between the charges applied for the provision of respite between working age adults and over 65's

Currently working age adults are charged £20 per night, whereas over 65's are charged at full cost recovery.

Furthermore it is not currently an option (in order to negate the inequality) under the current respite scheme for working age adults to impose full cost recovery. Currently it is the norm to commission respite on a daily basis for working age adults, should a service user then return home in that week the local authority will then be placing the service user in poverty for the remainder of the week as describe in the following issue example

E.G - John Smith's income

Employment Support Allowance = £129.59

Disability Living Allowance Care = £53.00

Disability Living Allowance Mobility = £55.25 (Ignored in calculations for TBC and JCP)

Presently for 1 night stay:

Gross cost of breakaway = £339.86 per night.

At present we charge £20.00 per night. He would have £162.59 to live on for the rest of the week which is above the IS + 25% minimum of £126.75.

Under CRAG for 1 night stay:

Income included £129.59 - £23.90 (Person Allowance) -£12.10 (Home Expenses) = **£92.59 per week charge**. He would have £76.90 to live on for the rest of the week which is below the IS + 25% minimum of £126.75 effectively placing the person in poverty.

Recommendation – As part of the review on respite charges all respite charges (including those commissioned with external providers) are included

5. REASONS FOR RECOMMENDATION:

- 5.1 This paper is being brought to HOSC for members comments on the proposals and recommendations and as an opportunity to comment prior to further consultation

6. CONSULTATION (including Overview and Scrutiny, if applicable)

- 6.1 The intention is that once the proposals and recommendations are considered by HOSC that they will then be subject to further consultation, which will include relevant public, user and stakeholder views

7. IMPACT ON CORPORATE POLICIES, PRIORITIES, PERFORMANCE AND COMMUNITY IMPACT

- 7.1 These have been considered in the body of the report; however this will have a direct impact on the one of the council five strategic priorities of improving Health & Well-Being.

8. IMPLICATIONS

8.1 Financial

Implications verified by: **Mike Jones**
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There may be a reduction in the demand in the short term as a result of increases in charges, where those that would have to pay full cost may no longer choose to purchase services from the council, and means testing needs to be taken into consideration.

The proposals for increases in charges are consistent with the Council's revised fees & charges policy. This states, inter alia, that "in determining an appropriate charging policy, proper consideration should be given to the wider equalities implications which may be involved affecting full accessibility of all groups to Council services". In the case of ASC, the policy objective is to make the service widely accessible, but accepting that users of the service should make some contribution from their own resources. It also reflects the possible adverse impact a full cost recovery or commercial charging policy would have on other council services.

8.2 Legal

Implications verified by: **Lucinda Bell Education and Adult Social Care**
Telephone and email: **lucinda.bell@BDTLegal.org.uk**

The Council is able to impose charges for services if empowered to do so by law.

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.

Section 17 of the HASSASSA Act 1983 provides that councils may recover such charges as they consider reasonable in respect of relevant services. Annex A of the Guidance sets out the provisions of HASSASSA on services in respect of which charges may be levied.

The Local Authority and Social Services Act 1970 s7 requires the Council to exercise social services functions under guidance of the Secretary of State. The Guidance referred to in this report is issued under s7.

S149 of the Equality Act 2010 requires the Council, as a public authority, to have "due regard" to:

- The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the EqA 2010
- The need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- The need to foster good relations between persons who share a relevant protected characteristic and those who do not share it. This includes having due regard to the need to tackle prejudice and to promote understanding.

Other legal points have been included in the body of the report.

8.3 **Diversity and Equality**

Implications verified by: **Samson De'Alyn**
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Attached (appendix 3) is a full and detailed Equality Impact Assessment (EIA). This is a draft EIA that will require a refresh to take into account any recommendations that are not approved by HOSC and following a consultation process

8.4 **Other implications (where significant) – i.e. Section 17, Risk Assessment, Health Impact Assessment, Sustainability, IT, Environmental**

Considered within the main body of the report

BACKGROUND PAPERS USED IN PREPARING THIS REPORT (include their location and identify whether any are exempt or protected by copyright):

APPENDICES TO THIS REPORT:

- Appendix 1 – Table format of proposals and recommendations
- Appendix 2 – Neighbouring & Comparator Authorities charges

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