

DECISION-MAKER:	OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE
SUBJECT:	DRAFT ADULT SOCIAL CARE CHARGING POLICY
DATE OF DECISION:	12 OCTOBER 2023
REPORT OF:	COUNCILLOR FIELKER - CABINET MEMBER FOR ADULTS, HEALTH AND HOUSING

<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY

Not applicable

BRIEF SUMMARY

An update is proposed to the Adult Social Care (ASC) Charging Policy for April 2024. A new policy has been drafted with eight significant areas of change, along with an Equality and Safety Impact Assessment.

A public consultation on the changes is running from 25 th September to 5 th November 2023.

RECOMMENDATIONS:

(i)	That the Overview and Scrutiny Management Committee review and consider the eight proposed changes to the Adult Social Care Charging Policy, for April 2024. These changes are listed below.
Change 1	Improve the process for managing people's disability-related expenses, in order to encourage more customers to claim.
Change 2	Simplify, and explain more clearly, the way we charge for care which is cancelled.
Change 3	Explain more clearly how charges are issued when care first starts.
Change 4	Change the method for calculating the cost for non-residential care, from an average rate to the actual cost. This will result in increased charges, but only for those not eligible for funding support, using the means test.
Change 5	Introduce charges for transport. This will result in increased charges, but only for those not eligible for funding support, using the means test.
Change 6	Increase the administration charges for processing deferred payment loans.
Change 7	Change the Minimum Income Guarantee rate used for new customers aged between 60 and state pension age.

Change 8	Improvements to the general structure and accessibility of the policy document.																		
REASONS FOR REPORT RECOMMENDATIONS																			
1.	The Adult Social Care charging policy was last amended in 2019 and is due for revision. Having an effective charging policy is a key requirement for both Care Act 2014 compliance and CQC inspection readiness.																		
2.	A complete review of our charging practices has highlighted areas where the existing policy is out of date, unclear, impractical to operate or out of step with other Local Authorities.																		
3.	The policy needs to allow annual increases in charges, and explain how this is done. The proposed ASC charging policy has been designed to align with the proposed general SCC fees and charges policy.																		
4.	A moderate increase in income from charges is anticipated if the proposed policy is approved. The extent of this increase depends on the future uptake by customers of the disability-related expenses option.																		
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED																			
5.	For all 8 changes, leaving the existing policy unchanged was an option. The “Reasons for Report Recommendations” section above explains why that option was rejected.																		
6.	Change 4: Charging for non-residential care at actual cost: Alternative proposals were: <ul style="list-style-type: none"> a) Staying with average charging. Rejected because this means we subsidise care. b) Actual cost with a cap. Rejected because we would continue to subsidise the most expensive care for people not eligible for funding support, using the means test. Of the other Charging Policies reviewed, only Blackpool and Essex mention a charge cap. 																		
DETAIL (Including consultation carried out)																			
7.	<u>Timeline</u>																		
	Key dates for the charging policy consultation and implementation are: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">31-Aug-23</td> <td>Cabinet Member Briefing: Executive Director approval to proceed to public consultation; Delegated Decision Notice signed</td> </tr> <tr> <td>25-Sep-23</td> <td>Consultation start date</td> </tr> <tr> <td>12-Oct-23</td> <td>Overview and Scrutiny Management Committee review</td> </tr> <tr> <td>5-Nov-23</td> <td>Consultation end date</td> </tr> <tr> <td>6-Nov-23</td> <td>Analysis of feedback starts</td> </tr> <tr> <td>30-Jan-24</td> <td>Cabinet Member Briefing</td> </tr> <tr> <td>20-Feb-24</td> <td>Cabinet Meeting (alongside budget report)</td> </tr> <tr> <td>March 24</td> <td>If approved, letter to customers explaining final changes and new charges for 2024-25*</td> </tr> <tr> <td>1-Apr-24</td> <td>If approved, new policy goes live</td> </tr> </table>	31-Aug-23	Cabinet Member Briefing: Executive Director approval to proceed to public consultation; Delegated Decision Notice signed	25-Sep-23	Consultation start date	12-Oct-23	Overview and Scrutiny Management Committee review	5-Nov-23	Consultation end date	6-Nov-23	Analysis of feedback starts	30-Jan-24	Cabinet Member Briefing	20-Feb-24	Cabinet Meeting (alongside budget report)	March 24	If approved, letter to customers explaining final changes and new charges for 2024-25*	1-Apr-24	If approved, new policy goes live
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	*March is the usual time for revised charges to be issued for the following financial year. This is constrained by the publication of benefit rates and approval date of council tax rates.
	Details of proposed changes
8.	There are eight changes proposed. These are listed in the Recommendations section above. Seven are changes to policy and the eighth relates to improving the presentation and accessibility of the policy document. Given the complexity of the charging process, a considerable amount of background needs to be provided, to explain what each change will mean in practice. This is written in the Equality and Safety Impact Assessment (see Appendix 4), along with an analysis of the impact and ways in which this impact can be mitigated.
	Background Research and Benchmarking - Other councils' charging policies
9.	<p>Other councils' charging policies (including geographical and statistical neighbours, where the information was available) were reviewed in order to:</p> <ul style="list-style-type: none"> • Assess the most common approaches to charging • Understand where Southampton City Council sits, on the spectrum of charging options • Review and compare other councils' charging rates for specific types of care • Find examples of good presentation practice. <p>From this review, we have noted the following, in relation to each of the proposed changes:</p> <ul style="list-style-type: none"> • Handling of disability-related expenses: There are a wide variety of approaches in terms of how much information is supplied. Nearly all councils base their rates on the data provided annually by NAFAO (National Association of Financial Assessment Officers) as we do. Nothing we are proposing is significantly different, except that we propose to include more detail in our Rates Document than we see in a number of other councils' documentation. • Cancellation of care: Only a minority of councils go into detail about this. Our proposed policy simplifies the previous explanation of cancellation charges, with the aim of reducing the significant number of billing queries we receive concerning charges for cancelled care. • Charges when care first starts: A level of back-dated charging is unavoidable when non-residential care first starts. We now propose to explain this more clearly, using good examples of wording in the policies of Hampshire County Council and Bournemouth Christchurch and Poole Council (BCP). This is alongside other clarifications which are being provided to improve our current policy. • Calculating the cost of non-residential care using the actual cost instead of an average rate: Out of 19 councils we reviewed where

	<p>the charging approach was clear, we found five councils, including Hampshire County Council and Isle of Wight Council (IOW) who state or imply that they charge at the actual cost, as we are proposing to do. The other 14 councils use average rates.</p> <ul style="list-style-type: none"> • Charging for transport: Many councils charge for transport, including Hampshire and BCP. We are unusual in providing this service free of charge. Three councils (Brighton and Hove, Coventry and Plymouth) go further, and charge the customer for transport on top of their assessed contribution towards their care). • Increasing administration charges for deferred payment loans: Fees vary widely but our new fees are well within the envelope of other councils' fees. For example, Hampshire and IOW charge more than our proposed, increased fees. • Changing the Minimum Income Guarantee (MIG) rate used for people aged 60 to state pension age: Most councils explain MIG rates and many list the allowances published by government annually. We did not find any examples of councils being more generous than the published government allowances. Our proposed policy will: <ul style="list-style-type: none"> a) restore the rates used for people aged between 60 and pension age, down to the government rates, for future new customers, and b) highlight that we apply a more generous MIG rate to people in the 18-25 age group. This is a long-standing policy of being more generous towards the younger age group, which we have not previously stated. • Improvements to the general structure and accessibility of the ASC Charging Policy document: Councils' presentation of their charging policy varies widely. Some present the bare minimum, others have long and complex policies in separate pdf documents. We have worded the proposed policy using good examples of structure, diagrams and language, taken mostly from Hampshire County Council, City of York Council and BCP Council.
	<p>Consultation</p>
<p>10.</p>	<p>The six-week consultation is already underway, with a busy schedule of communications and engagement activities planned.</p> <p>Details of the feedback options and engagement opportunities can be found on the consultation web page here: www.southampton.gov.uk/ChargingPolicyASC</p> <p>The questionnaire includes a description of the proposed changes and can be completed online or by obtaining a hard copy (instructions are provided).</p> <p>Relevant documents are also available on this web site, including:</p> <ul style="list-style-type: none"> -Draft ASC Charging Policy -Rates Document (companion to the policy)

- Flowchart (companion to the policy)
- Draft Equality and Safety Impact Assessment
- Online questionnaire
- Printable version of questionnaire
- Frequently Asked Questions (to be developed as the consultation progresses).

RESOURCE IMPLICATIONS

Capital/Revenue

11. Increase in annual income from the proposed changes has been estimated as:

Change	Impact on income	Notes
1. Improved DRE process (disability-related expenses)	£300K reduction	Estimate only. Extent of reduction depends on how many new customers apply for DREs. £300K represents a 150% increase in uptake.
2. Care cancellations	Cost-neutral	
3. Charges when care starts	Cost-neutral	
4. Charging non-residential care at actual cost	£350K increase	Estimate is £250K-£450K. Any mitigations for significantly impacted customers, will reduce this.
5. Charging for transport	Negligible	Low customer numbers
6. Increased deferred payment loan fees	Negligible	Low customer numbers
7. Adapt minimum income guarantee rate for people aged 60 to pension age	£150K increase	Estimate is £100K £200K. Depends on number of new customers in the affected age range
8. Improve readability and clarity of documentation	Cost neutral	
Net total estimated savings	£200K	Saving is at risk due to uncertain impact of disability-related expenses (change 1)

	<p>If the new policy is adopted, savings will apply from the 2024-25 financial year.</p> <p>It is proposed that the Council budget for a £200K saving but add in a payment to reserves to take account of the risk of DRE claims increasing by more than estimated. Uptake and cost of DREs will be closely monitored.</p>
<u>Property/Other</u>	
12.	Not applicable
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
13.	Care Act 2014: The Council has the power to charge individuals for social care provision pursuant to S14 of the Care Act 2014 and in compliance with the Care Act statutory guidance, particularly part 8 and in accordance with The Care and Support (Charging and Assessment of Resources) Regulations 2014.
<u>Other Legal Implications:</u>	
14.	<p>The public sector equality duty imposed by s149 of the Equality Act 2010 is a duty imposed on public authorities to consider how their policies or decisions affect people who are protected under the Equality Act. In taking any decision to adopt the policy, public authorities, when exercising their functions are obliged to have 'due regard' to the need to:</p> <ul style="list-style-type: none"> • Eliminate discrimination, harassment and victimisation and other conduct which the Acts prohibits; • Advance equality of opportunity; and • Foster good relations between people who share relevant protected characteristics and those who do not. <p>The relevant protected characteristics under the Equality Act are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.</p>
RISK MANAGEMENT IMPLICATIONS	
15.	<p>Risk of adverse publicity during consultation and implementation.</p> <p>To be mitigated by explaining the changes as clearly as possible, and highlighting the positive impacts, as well as maximising the opportunities for feedback via multiple channels including face-to-face engagement sessions.</p>
16.	<p>Risk of lack of engagement during consultation, due to complexity of subject.</p> <p>To be mitigated by attempting a more "plain English" policy and production of an Easy Read version of the policy changes.</p>
17.	<p>Risk that Financial Assessment and Benefits team (FAB) are overwhelmed by requests from customers for their financial assessment to be updated.</p> <p>To be mitigated by use of the online financial assessment (already live) which automates part of the process, and by reminding customers that we can only re-assess if fresh information is available.</p>

18.	Risk that customers ask to reduce their care packages (to reduce the cost). We cannot agree to this if it means that the customer's needs are not met. May be mitigated by opportunities for customers to reduce their contributions by claiming disability-related expenses. If not applicable, other solutions need to be considered including alternative providers, direct payments, or waiving some of the charges in extreme cases.
19.	Risk that the assets of customers who pay the full cost of their care, deplete faster, to the point where SCC funding is required. However, the risk of needing to fund care in future is offset by increased income in the short term.
20.	Specific to Change 4 (charging non-residential care at the actual cost): Risk of complaints, if charge increases are back-dated due to provider rate increases being back-dated. To be mitigated by new homecare platform (which manages rate increases more systematically) and by reducing the volume of back-dated provider rate increases for other types of non-residential care.
POLICY FRAMEWORK IMPLICATIONS	
21.	Other policies and strategies which the charging policy supports, are: Southampton City Health and Care Strategy 2020-2025 Southampton Adult Carers Strategy 2021/26 Southampton City Council Corporate Plan 2022/30

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	All
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Draft ASC Charging Policy
2.	Draft Rates Document (companion to the policy)
3.	Draft Flowchart (companion to the policy)
4.	Draft Equality and Safety Impact Assessment

Documents In Members' Rooms

1.	No
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out?	Yes
Data Protection Impact Assessment	
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out?	No
Other Background Documents	
Other Background documents available for inspection at:	

Public consultation web site - [Adult Social Care Charging Policy public consultation \(southampton.gov.uk\)](http://southampton.gov.uk)

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	Consultation questionnaire
2.	FAQs (to be developed as consultation progresses)