

AGENDA ITEM

REPORT TO CABINET

9 FEBRUARY 2017

**REPORT OF SENIOR
MANAGEMENT TEAM**

CABINET DECISION

Adult Services and Health – Lead Cabinet Member Councillor Beall

CARE ACT 2014 – CHARGING POLICY REVIEW AND CONSULATION OUTCOME

1. SUMMARY

- 1.1. The purpose of this report is to present to Cabinet details of the outcome of the charging review consultation, which took place as part of a review of the current Charging Policy, in line with the Cabinet agreement on 4th December 2015.

2. RECOMMENDATIONS

- 2.1. It is recommended that Cabinet:

2.1.1. Receives this report and notes the progress that has been made following the public consultation on the proposed changes to the current charging policy.

2.1.2. Approves the following changes to the existing Charging Policy with effect from April 2017:

- a) The maximum amount payable towards care and support at home is increased to 60% of the cost of Grade 1 Residential Care Home rate.
- b) The extension of the deferred payment scheme to new clients who do not meet the mandatory criteria, where it is appropriate to do so.
- c) The introduction of administration fees is implemented for new clients of the deferred payments scheme: £563.00 for the set up costs and £50.00 annually for administration of the scheme. These fee rates to be reviewed annually.
- d) The level of interest rates for the deferred payment scheme is implemented and set at the rate prescribed by the Office for Budget Responsibility plus 0.15%, as per Care Act guidance, for new clients.

2.2. Reasons for the Recommendation(s)/Decision(s)

To provide Cabinet with the outcome of the consultation outcome, following agreement to review the existing charging policy and to seek approval for the recommendations.

3. MEMBERS' INTERESTS

- 3.1. Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

- 3.2. Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and the business:-
- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or
 - relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.
- 3.3. A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code)
- 3.4. Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

Disclosable Pecuniary Interests

- 3.5. It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.
- 3.6. Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code)

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3. BACKGROUND

- 3.1. With the introduction of the Care Act 2014 and in assessing the requirements of the charging regulations and guidance, it was agreed that the Council's existing charging framework met the requirements as set out in the Act, subject to some minor modifications.
- 3.2. The minor changes that have already been made to the Charging Policy ensured that it is consistent with the Care Act.
- 3.3. It was identified that there were a number of discretionary areas in regulations that provided the opportunity to reconsider the Council's charging policy. It was agreed by Cabinet to consult on these areas, to inform this initial review of the Charging Policy.
- 3.4. It should be noted that the Department of Health revised Charging Regulations have not yet been published, but are expected to be implemented in April 2018.

4. DETAIL

- 4.1. A consultation plan was designed to ensure that the residents of the Borough were informed and consulted on the discretionary areas of the charging policy.
- 4.2. 3328 surveys were sent out, 4 public events arranged and letters were sent to 1889 clients offering them home visits.
- 4.3. Only 103 survey responses were received over the 12 week consultation period and many of the comments reflected a lack of understanding of the questions being asked or have used the opportunity to question national policy around social care.
- 4.4. In terms of the 4 public awareness sessions, only 11 people attended, none of whom were affected by any of the proposed changes.
- 4.5. Of those directly written to, only 12 requested a home visit. These visits lasted approximately 45 minutes and involved providing information and responding to specific questions. Points about value for money in relation to the services provided were made and these have been dealt with by commissioners.
- 4.6. The Consultation questions were as follows:

Question 1	To what extent would you agree that the Council should extend its criteria and let people living in a Supported Living or Extra Care Scheme home apply for a Deferred Payment Agreement (DPA) too?
Question 2	To what extent would you agree that the Council should charge for the setup of the Deferred Payment Agreement Scheme?
Question 3	To what extent would you agree that the charge the Council has calculated as a one off payment of £563.00 is a fair and reasonable amount?
Question 4	To what extent would you agree that the charge the Council has calculated as a £50.00 each year recurring charge is a fair and reasonable amount?
Question 5	To what extent would you agree that the Council should apply the interest rate set by the Government?
Question 6	To what extent would you agree that the Council should no longer set a maximum charge for care and support at Home?
Question 7	To what extent would you agree that the Council should increase the maximum charge for care and support at Home to the equivalent cost of residential care which is currently £465.00 per week?

Consultation Responses

- 4.7. The Council introduced a deferred payment scheme many years ago and was well received and used. This is reflected in the responses to the first question, with a resounding 94% agreeing that the scheme should be extended.
- 4.8. The remaining questions related to charging and were, therefore, always less likely to receive favourable responses. That said, 49% of respondents agreed that an administration charge should be applied although only 36% agreed that it should be £563.00. 54% also agreed that a £50.00 annual charge was fair and reasonable.
- 4.9. Detailed costing work has been undertaken to inform the set-up fee rate of £563.00 and £50.00 annual charge. The rates will be reviewed annually and will be published in accordance with the Care Act.
- 4.10. In terms of the question about interest rates, 40% agreed that the Council should continue to set the interest rates against the deferred payment agreements.

4.11. The Council has always applied interest, currently set at the Bank of England base rate plus 4%, however, there is no robust rationale for this if challenged. The differing interest rates applied by Councils have clearly been an issue considered by Government and, as a result, the Office for Budget Responsibility (OBR) has introduced a maximum rate. This would be set in January and July each year (currently 1.7%), with Councils applying an additional 0.15% to this rate. Compound interest will be applied and will be added in line with payments to Providers of care home services, which are currently made on a four weekly basis. The current rate is 1.85% and it is recommended that this be applied. For information, the Tees Valley Authorities currently apply the following:

Authority	Interest rate
Darlington	Maximum rate proposed but will consult
Hartlepool	Maximum rates set
Middlesbrough	Maximum rates set
Redcar & Cleveland	Maximum rates set

4.12. In terms of the maximum charge question, only 36% agreed that this should be increased. The maximum charge approach to non-residential care was introduced by the Government's Fairer Charging guidance in 2002 in order to encourage and facilitate people to remain at home. The original guidance suggested that the charge should be 75% of the residential care fee. The Council at the time decided that, in order to support people in their own homes, a charge of only 60% be applied to the Grade 3 residential home fee. The resulting charge applied currently is £237.00 per week and is applied to 15 clients. These clients have not provided financial information; any change could result in them doing so and the charge reducing as a result. The charge applied by Tees Valley Authorities is as follows:

Hartlepool	Charge up to the weekly cost of residential care for the client group approx. £475 per week
Middlesbrough	Charge full cost of the package
Darlington	Charge full cost of the package
Redcar & Cleveland	Charge full cost of the package

4.13. The majority of residential care homes in the Borough are now Grade1; therefore the basis for the calculation needs to be reviewed. A number of options are available, including removing the maximum charge or applying a greater percentage of the residential fee.

4.14. It should be noted that the 60% of care home fee rate relates to the proportion of the fee that is linked to the provision of care, with 40% linked to accommodation costs. This information was provided in the Care Act 2014 detail as part of the care cap information and therefore provides a rationale for the calculation.

4.15. The amendments to the charging policy will bring additional income from the increase to the maximum charge of £34,000 per annum. It is not possible fully to predict the additional income from administration fees and interest rates from the deferred payments scheme, as this can only be applied to new agreements made from 1st April 2017; however based on the number of agreements registered in the last financial year it is estimated that an income of £22,000 in administration fees if the number of clients requesting deferred payments remains around 40 per annum. However interest rates are calculated on monthly basis at compound

interest on the amount of debt owed per client and, therefore, it is not possible to calculate the amount that will be additional in income.

- 4.16. Given the consultation feedback, it is recommended that the percentage of 60% applied in 2001 remains, with the Grade of home amended to Grade 1, reflecting the current residential care home market. This will increase the maximum charge, currently to 279.00 per week and result in additional income of £34,000 per annum. Many of the consultation responses were general in nature, making reference to charging and activity outside of adult social care. Therefore, although there is a general response from the consultation that the Council showed not implement these discretionary areas of the policy, it is felt that it is appropriate to recommend that all areas are approved for implementation for new clients from 1st April 2017. Detail of response to the consultation is attached at **Appendix A**.

5. COMMUNITY IMPACT IMPLICATIONS

- 5.1. The charging policy is consistently provided to all social care clients who receive chargeable services and does not take account of age, race, gender or disability.
- 5.2. All residents of the borough were invited to take part in the consultation. Details were provided through the Council's website 'Consultations: have your say' and through Stockton News.
- 5.3. Letters were sent to all social care clients who have already received a financial assessment informing them of the consultation and how they could respond.
- 5.4. Letters were sent to all social care clients who are currently paying the maximum charge towards the cost of their social care packages or could be affected in the future due to their personal financial circumstances.
- 5.5. Details of the consultation were circulated through Viewpoint, STEPs to employment and through places of faith, providing details of the consultation, public sessions, leaflets and posters.
- 5.6. Public information sessions were held throughout June throughout the Borough for people to attend to hear more information on the consultation and to be able to ask questions or to have ask about their own circumstances from Officers from the charging team.
- 5.7. It is evident from some of the responses received to the consultation that many did not fully understand the questions raised in relation to what is a complex area in charging for services, which can be viewed in the consultation outcome report.

6. FINANCIAL IMPLICATIONS

The financial implications from the amendments to the charging policy will increase income from the increase to the maximum charge by £34,000 per annum, however it is not currently possible to quantify the extent of the income from the administration fee or interest rates as this can only be applied to new agreements from 1st April 2017, however it is estimated that an additional £22,000 in administration fee income alone will be received.

7. LEGAL IMPLICATIONS

There are no legal implications.

8. RISK ASSESSMENT

- 8.1. This report is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

9. COUNCIL PLAN POLICY PRINCIPLES AND PRIORITIES

9.1. The report meets the Councils policies, principles and priorities by:

- Developing strong and healthy communities to target those vulnerable clients through financial assessments ensuring that they have access to full welfare benefit checks, assistance to claim benefits for themselves and their families as appropriate. To sign post them to other services as appropriate that they may be unaware of
- Creating economic prosperity across the Borough by ensuring that clients have access to the right benefit entitlements, are provided with good financial advice and support and charged fairly for services they receive.

10. CORPORATE PARENTING IMPLICATIONS

There are no corporate parenting implications with this report.

11. CONSULTATION INCLUDING WARD/COUNCILLORS

This issue is not ward specific.

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Education related? No

Background Papers: Care Act 2014, Charging & Assessment of Resources Regulations:
Department of Health October 2014

Ward(s) and Ward Councillors: Not ward specific

Property: No property implications

Consultation Outcomes

Key responses to the questions raised:

Background to the Deferred Payment Scheme questions

- The Deferred Charge scheme is administratively intensive and the costs to implement the scheme have been based on the principles of applications for mortgages; that is staff and legal costs. These would be reviewed and published annually.
- The Care Act and the charging regulations created new areas for deferred payments and gave local authorities discretion on how to or whether implement these elements in its charging policies.
- The scheme can now be extended to those clients who move into extra care schemes or supported living to best meet their care needs but may own their own home and would benefit from deferring the full cost of their care costs until they have made decisions around their home.
- The responses to the consultation 94% of those answering the question supported the extension to the scheme to extra care and supported living.
- The charging regulations also now allow local authorities to charge clients for this work when they apply to use the Deferred Payment Scheme in order to not have to sell their home when they initially enter residential care.
- The fee reflects the up front and termination work required. There are also annual changes to be made to charges, re-evaluations and statements therefore a recurring annual fee could also be implemented. Any costs must be reviewed and published.
- In considering introducing administration fees this received a mixed response and perceived as a way for the Council to make money which was clear from the responses received. Although 49% agreed that a charge should be applied for the scheme only 36% of respondents agreed that the one off administration fee of £563.00 was fair and reasonable but 54% felt that the £50.00 annual recurring administration charge was fair and reasonable.
- It would not be practical for the Council to continue to offer a scheme that is administratively expensive to operate and not charge for it.
- The Government has set interest rates for the scheme at a maximum rate but local authorities can choose to set this rate lower than that provided or choose not to charge interest at all.
- The current deferred payment scheme has an interest rate at the Bank of England base rate plus 1% but has no basis for how this has been reached.
- The introduction of interest rates for the revised deferred payment scheme is prescribed by the Office for Budget Responsibility and therefore is a tangible set figure which is published and can be evidenced.
- From the consultation results 40% agreed with the Council adding interest to the agreements as the Council is loaning funding to people with properties, in order that they can defer the need to sell their homes.
- Other local authorities particularly in the Tees Valley area have already implemented the maximum interest figure.
- It is clear from the text commentary that this is perceived as a way for the Council to make money and it is also clear from some of the comments made that the deferred charge scheme is a complex area particularly to understand where a discussion about the detail and how it works is not explained.
- It is evident from some responses that people did not understand what they were being asked or also took the opportunity to address other issues that they had with the Council.

Some examples of direct responses to the questions about the deferred payment scheme are:

The council already have in place the staff and legal departments needed for this work and they are paid for through council tax charges - there is no need for their services to be paid for a second time by the elderly and ill.

Everyone has money problems

A reduction in service delivery is not equally reflected in a reduction of taxes. You can't have your cake and eat it!

Sheltered accommodation ought to be provided on a standard rent basis regardless of what background circumstances people have. It should be based on their health needs only elderly have worked all their lives, paid into the state system and have a right to leave their house /estate to their family when they die.

Most estate agents give free valuations so why should the council charge and admin fees are always over the top. A statement once a year for £50 is expensive when all you are talking about is a sheet of paper run off the computer and the cost of a stamp.

In all honesty if a charge had to be enforced i think the £50-£70 a year would suffice then you wouldn't be seen as ripping of those in need. Although you explained why the fees are high it seems to me that you are taking advantage of those that require help to prevent selling their homes etc.

The charges are high enough and are higher than they should be, due to paying for those who don't pay. Added interest to that is just a disgrace.

The rate set by the Government is too high. Much higher than CPI which is the rate the Council should use. It should also only be changed once a year just another way of ripping off people who have already paid their way disgraceful

The council should set rates according to their own financial status

Background to the Maximum Charge questions

- The maximum charge is currently set against the cost of the previous Grade 3 residential care fees. There are no longer any Grade 3 care homes in the Borough.
- The future of commissioning of care home funding is under review and therefore is not a rationale for setting of future maximum charges.
- The existing method for charging based on a maximum charge is complex and confusing for clients.
- The overall response to this area of the consultation provided the most reaction and concern particularly amongst existing clients.
- In response to the question should the Council remove the maximum charge currently set for paying for care and support at Home 64% of people who answered the question disagreed with any further options to increase the existing maximum charge.
- The overall general response is that people feel that they already pay too much for the care that they receive and that the Council and Government should help or pay for care.
- It is clear from the text commentary that this is perceived as a way for the Council to make money.
- It is evident from some responses that people took the opportunity to address other issues that they had with the Council.

Some example direct responses to the questions answered are as follows:

No because in a residential home there food is provided, staff are on duty 24hrs to meet their needs. In residential they don't have utilities to pay, equipment to by to support their physical needs.

Your obligation should be capped regardless of wealth. Why should the better off - who have paid more taxes anyway - be expected to continue to subsidise others.

There is no set amount that would suit everybody but think the amount should be reviewed and if necessary increased annually. The fact that the Council has to reduce its budget does not mean those people that need care have to pay more or suffer

Before any reasonable cost could be forecast, I believe that the threshold figure of £23, 250 should first be raised THEN, look at revised costs to both Council and Customer.

The questions in this survey are set out in such a way as to try and bias the answers people give. If the council is getting less money they should look at cutting the waste elsewhere instead of targeting people who have worked to own their own homes and have paid more than their fair share already. The council is being greedy as usual and is trying to further fleece people who have played by the rules.

Background to the 'About You' questions

- The 'About You' questions also identify that the vast majority of surveys have been completed by existing chargeable clients whose views on charging potentially are very different to those within the community and, therefore, may not provide a balanced view on the overall outcome.
- *Of the people that completed the surveys and answered the question 38.54% were male and 58.33% female*
- *Of those 31.96% were aged 60-69 years old*
- *93.88% classed themselves as White – English/Welsh/Scottish/Northern Irish/British*
- *73.12% felt they were in fair to good health*
- *46.88 considered themselves to have a long term health condition or disability*
- *92.47% were not currently in residential care but 77.66% stated that they were receiving home care, day care services already within the Borough.*
- *82.98% stated that they were not currently caring for someone already receiving home care or day care services in the Borough*
- *79.57% stated they were not related to someone currently receiving home care or day care services in the Borough*

The full response to the consultation questions can be made available to Members.