

Notice of:	EXECUTIVE
Decision Number:	EX57/2016
Relevant Officer:	Karen Smith, Deputy Director of People (Adult Services)
Relevant Cabinet Member	Councillor Amy Cross, Cabinet Member for Adult Services and Health
Date of Meeting	15 December 2016

ADULT SOCIAL CARE CHARGING

1.0 Purpose of the report:

- 1.1 To consider the proposed Adult Social Care Charging Policy which will replace the current Fairer Contributions Policy and set out a framework for charging for non-residential and residential care and support services provided by the Council to adults aged 18 and over. The Adult Social Care Charging Policy is attached at Appendix 7a, to the Executive report.

2.0 Recommendation(s):

- 2.1 To approve the Adult Social Care Charging Policy, set out at Appendix 7a, to the Executive report, and agree that it will be effective from 1 January 2017.

3.0 Reasons for recommendation(s):

- 3.1 To provide an established and Care Act compliant framework for calculating a person's contribution towards the cost of adult social care and support when charges for services apply.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:

The alternative option is to continue with the existing Fairer Contributions Policy which refers to outdated Department of Health Guidance now superseded by the Care Act 2014 and its accompanying statutory guidance.

4.0 Council Priority:

- 4.1 The relevant Council Priority is: “Communities: Creating stronger communities and increasing resilience”

5.0 Background Information

- 5.1 The Care Act 2014 and its accompanying guidance replaced previous rules and advice on how the local authority can charge for the care and support services it provides. A single legal framework for charging for care and support now exists which means that the guidance provided by the Department of Health’s publications ‘Charging for Residential Accommodation Guidance’ (CRAG) 2014 and ‘Fairer Charging Policies for Home Care and other non-residential Social Services’ (2013) ceased to apply.
- 5.2 The Care Act enables a local authority to decide whether or not to charge a person when arranging to meet their care and support needs or a carer’s support needs. There are some types of support where the local authority is required to arrange care and support free of charge. Changes introduced by the Care Act include the power rather than a duty to charge for residential care. Prior to the introduction of the Care Act, the local authority had a duty to charge people when they received residential care arranged by the Council. Now the Council can decide not to charge for the provision of this service. The proposed new Charging Policy assumes that the Council will continue to charge people for the provision of residential care services due to the significant financial implications if the Council decided not to charge.
- 5.3 Where a local authority decides to charge it must follow the published regulations and have regard to the statutory guidance, which determine the maximum amount an authority can charge a person. The detail of how to charge is different depending on whether someone is receiving care in a care home or another setting, such as at home or in supported accommodation.
- 5.4 The purpose of this policy is therefore to establish how Blackpool Council will calculate a person’s contribution towards the cost of their care and support when charges do apply. The Policy sets out the principles of the financial assessment process which is used to determine how much a person is able to pay towards the cost of their care and support, taking into account their income and capital/ savings.
- 5.5 The Care Act introduces a major change to the law for carers. Many more carers can be offered an assessment of their own needs and they may qualify for support regardless of whether the person they care for is receiving care and support. Under the new legislation, where a local authority is meeting the needs of the carer, it is allowed to ask for a contribution towards the cost of the care and support to be

provided. The proposed new Policy assumes that carers will not be asked to make a contribution to the cost of their support because it is recognised that carers have a very important role in providing assistance to enable people to stay in their own homes for longer.

- 5.6 Many of the principles described in the proposed Charging Policy have been discussed and agreed on previous occasions and the new Policy has been drafted in order to provide a comprehensive and up-to-date document for reference. The main points to note are described in the following paragraphs.
- 5.7 The new Policy includes details of flat rate changes which have been introduced in line with the Care Act 2014 :
- a. Where a person has eligible needs to be met through the provision of non-residential care and has assets above the upper capital limit of £23,250, an annual administration charge will be applied based on the costs to the Council of arranging their care.
 - b. Where a person enters into a Deferred Payment Agreement with the Council, there will be an administration charge for setting up the agreement and its ongoing maintenance.
 - c. Where a person lacks the capacity to manage their own finances and the Council provides support then a charge will be applied based on affordability.
- 5.8 The main changes compared to the previous Fairer Contributions Policy include:
- i. The introduction of the concept of the provisional financial assessment, which is a fixed charge applied from the date that services are put in place if a full financial assessment has not been completed by this time. In this way, charging for non-residential care now starts from the date that services commence as opposed to when the full financial assessment has been completed.
 - ii. The full amount (as opposed to only the first £10) of a person's war disablement pension (or war widows/ widowers pension payments) is now disregarded in the financial assessment process in line with the Council's commitment to the War Veterans Charter.
 - iii. In line with the Care Act, only the income of the cared-for person will be taken into account in the financial assessment, where the person receives income as part of a couple it will be assumed that a person has an equal share of the income and assets held jointly will be shared equally. Joint financial assessments will no longer be applied.
 - iv. The financial assessment process when a person lacks the capacity to manage their own finances is explained and the requirement to work with someone who has the appropriate authority ie an appointee, Power of Attorney or Deputy, is highlighted.
 - v. The charging process for people in residential care is set out for the first time

in the Policy as this is no longer a duty but a power of the Council and it could therefore decide not to apply charges. People can choose accommodation which costs more than their personal budget allows for on the basis that a third party is willing and able to pay the additional cost. Third party arrangements to pay care home top-up fees must be the subject of a formal agreement with the Council with the implications of a failure to make the required payments clearly documented.

- vi. The Policy sets out the minimum levels (or minimum income guarantee) below which charges cannot reduce a person's income. These levels are now set with reference to the Care and Support (Charging and Assessment of Resources) Regulations 2014 as updated by Local Authority Circulars and are defined amounts rather than a calculation based on benefit entitlements.
- vii. The Policy allows for certain household expenses to be taken into account as part of the financial assessment process. However, insurance premiums and board, as allowed for in the previous Fairer Contributions Policy are now considered alongside food and utility costs as expenses which a person is expected to meet with their basic income retained after charging (minimum income guarantee).
- viii. There is no change to the banded assessments of disability related expenditure which are applied in the first instance unless the individual can demonstrate that this expenditure is exceeded. However the guideline amounts which are referred to when an individual wishes to claim more than the banded amounts have been reviewed with a view to introducing more clarity and consistency. Ultimately there is discretion on the amount allowed in each assessment but there is more emphasis on providing evidence and checking with the social worker if the expenditure is disability related. Please see separate paper "Appendix 2" for more details.
- ix. There is also a new section on the deprivation of assets where it is believed that a person has deliberately transferred or deprived themselves of their assets with the intention of avoiding or reducing care charges. As with other debt the Council's usual debt management procedures will be followed.

5.9 Does the information submitted include any exempt information? No

5.10 **List of Appendices:**

Appendix 7a: The draft Adult Social Care Charging Policy

Appendix 7b: Proposed Disability Related Expenditure 2016/17

Appendix 7c: Equality Analysis

6.0 **Legal considerations:**

6.1 The Care Act 2014 and its accompanying statutory guidance replaced the Department of Health's 'Charging for Residential Accommodation Guide' and 'Fairer Charging Policies for Home Care and other non-residential Social Services'. The Fairer

Contributions Policy was based on and referred to these guidance documents. The proposed new Charging Policy ensures that the Council maintains compliance with the latest legislation and statutory guidance.

7.0 Human Resources considerations:

7.1 Not applicable

8.0 Equalities considerations:

8.1 An Equalities Analysis has been completed (attached at Appendix 7c, to the Executive report) and this concluded that there would be a differential impact on older people including older women and people with disabilities due to the nature of the services being provided exclusively to people with eligible care and support needs.

9.0 Financial considerations:

9.1 The draft Policy sets out the process for undertaking a financial assessment when charges for services are applied. The additional income anticipated from the introduction of new charges and increases in existing charges has already been included in the Adult Social Care Budget 2016/17. There are no other associated financial implications from the implementation of the new Charging Policy.

10.0 Risk management considerations:

10.1 There is a risk that people may decide not to go ahead with the provision of services or cancel services as a result of charges which may be applied. However, the application of the Policy will ensure that charges are calculated consistently and in a way that does not result in people being charged more than it is reasonably practicable for them to pay.

11.0 Ethical considerations:

11.1 Not applicable

12.0 Internal/ External Consultation undertaken:

12.1 The introduction of new charges for services or increases to existing charges from 1 April 2016 was considered as part of the budget setting process for 2016/17.

12.2 Letters were sent out to service users as soon as the new charges were approved and well in advance of implementation.

13.0 Background papers:

- 13.1 Care Act 2014
The Care and Support (Charging and Assessment of Resources)
Regulations 2014
Care and Support Statutory Guidance

14.0 Key decision information:

- 14.1 Is this a key decision? Yes
- 14.2 If so, Forward Plan reference number: 12/2015
- 14.3 If a key decision, is the decision required in less than five days? No
- 14.4 If **yes**, please describe the reason for urgency:

15.0 Call-in information:

- 15.1 Are there any grounds for urgency, which would cause this decision to be exempt from the call-in process? No
- 15.2 If **yes**, please give reason:

TO BE COMPLETED BY THE HEAD OF DEMOCRATIC GOVERNANCE

16.0 Scrutiny Committee Chairman (where appropriate):

Date informed: 7 December 2016 Date approved:

17.0 Declarations of interest (if applicable):

- 17.1 None

18.0 Executive decision:

18.1 The Executive agreed the recommendation as outlined above namely:

To approve the Adult Social Care Charging Policy, set out at Appendix 7a to the Executive report, and agree that it will be effective from 1 January 2017.

18.2 Date of Decision:

15 December 2016

19.0 Reason(s) for decision:

To provide an established and Care Act compliant framework for calculating a person's contribution towards the cost of adult social care and support when charges for services apply.

19.1 Date Decision published:

16 December 2016

20.0 Executive Members in attendance:

20.1 Councillor Blackburn, in the Chair

Councillors Benson, Cross, Jackson, Kirkland, Smith and Mrs Wright

21.0 Call-in:

21.1

22.0 Notes:

22.1 The following non-Executive member was in attendance: Councillor Singleton.