

## Report to the Cabinet

Meeting to be held on Thursday, 9 November 2017

### Report of the Director of Financial Resources

**Part I**

Electoral Divisions affected:  
All

### Approval of consultation on Lancashire County Council's updated and revised non-residential care charging policy

(Appendices 'A' and 'B' refer)

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#### Executive Summary

The current charging policy for non-residential care generates c£14.3m of annual recurring income. The policy does, however, not go as far as most other local authorities, and there is scope to generate additional income but based on an individual's ability to pay, as identified by a detailed financial assessment.

S18 of the Care Act 2014 ["The Act"] places a duty upon the County Council "*to meet needs for care and support in relation to an adult who is ordinarily resident in the authority's area or is present in its area but of no settled residence*". S14 of "The Act" provides the County Council with the power to charge most service users for meeting the needs referred to in s18. Statutory Guidance issued by the Department of Health relating to "The Act" establishes a requirement that "*local authorities should develop and maintain a policy, setting out how they will charge people in settings other than care homes*".

This report sets out a proposed updated and revised Non-Residential Care Charging Policy, which complies with the provisions of "The Act" and its associated statutory instruments & guidance.

The policy, once consulted upon and approved in its final form by the County Council, crucially establishes a policy platform which provides authority to act for officers and clarity of intent and operation for the affected service users.

## **Recommendation**

The Cabinet is recommended to approve an 8-week public consultation of the revised policy with key Stakeholders, after which the policy will be considered for final approval by Cabinet, taking into account the outcome of the consultation and any proposed changes.

## **Background and Advice**

### **Existing charges & charging mechanism**

Certain types of service users cannot be charged and these are listed at section 2.4 of Appendix 'A'. It is proposed that prisoners are also not charged, on the basis that all past assessments have resulted in a nil charge. However, the majority of service users (95%) can be charged, and for homecare are currently levied at a flat rate of £11.96 per hour. There is also currently an overall weekly maximum charge of £655.

Service user needs are assessed by Social Workers, and their ability to pay established by virtue of a detailed financial assessment, usually conducted in the service user's home, by Exchequer Services assessment staff.

### **Changes included in this Charging Policy**

Given the requirement to allow for an 8 week consultation period for this Charging Policy, coupled with the time required to reflect on the results and formally approve the final policy, the effective date for this Charging Policy to commence is recommended to be 1<sup>st</sup> April 2018.

It is proposed that all of the Net Disposable Income (NDI) of a service user will be taken into account when assessing their ability to pay a charge, rather than the current level of 85%. A review of other Local Authorities has revealed that they all charge based on consideration of 100% of NDI and charge at actual cost. Details of how NDI is dealt with during detailed financial assessments are available at Appendix 'A'.

The current hourly charge of £11.96 will be uplifted to the actual current cost of providing services to the County Council. The revised hourly charge rate will therefore be £13.71(14.6%) - this being the Pan Lancashire average of the individual costs.

The Charging policy has to address the movement away from paying one unit hourly rate to service providers (currently £13.30 per hour) to the situation following the

recent procurement of such care across the County, whereby there are now 177 rates which are paid to the providers who successfully bid for the work.

The dilemma this places the Council in when devising a charging policy is that it is practically impossible to determine and maintain the actual cost of providing care for every single care user, thus some form of average cost needs to be used as a surrogate for actual cost when devising the level of charge to use. The proposed Charging Policy uses a Pan Lancashire average rate of £13.71 per hour to calculate the maximum charge payable. 94% of service users only pay what they can afford based on a detailed financial assessment with only 6% of service users paying the maximum charge.

Competing provisions exist in the Care Act which, on the one hand, require that *local authorities must not charge more than it costs to provide or arrange for the service, facility or resource* but also require that charging must be *"Sustainable for local authorities in the long-term"*.

Adoption of the Pan Lancashire average charge approach is designed to satisfy these competing strictures.

The proposed removal of all current caps, including the current weekly cap for total care charges of £655 and the cap on rates of £60, applies to those with care packages at 6<sup>th</sup> June 2011. The number of service users subject to a capped charge has reduced from the original 294 to the current 94.

The estimated increase in annual income for each of these proposed amendments to the policy is shown below:

	<b>£m</b>
Increase in % NDI	1.821
Uplift to actual cost	0.804
Removal of current caps	0.300
Total	2.925

It should be noted that estimated increased income in 2018/19 will be reduced by £100k, due to the phased introduction of the recently negotiated Home Care rates which are scheduled for complete implementation by December 2018.

## **Consultations**

It is proposed that the revised policy is consulted upon.

## Implications:

This item has the following implications, as indicated:

Implications for service users, as indicated in the tables below:

Increase to Service User's Weekly Charge £	No. of Service Users	%	Older People (OP)	Physical Disability / Sensory Impairment (PDSI)	Learning Difficulties (LD)	Mental Health (MH)	Estimated increased income £m
0 - £10	4,070	71.48	2418	554	1004	93	1.370
£10.01 - £20	1,168	20.51	761	141	249	18	0.760
£20.01 - £30	236	4.14	192	32	9	3	0.202
£30.01 - £40	92	1.62	74	13	4	1	0.088
£40.01 - £50	41	0.72	33	7	1	1	0.040
£50.01 - £60	4	0.07	4	0	0	0	0.012
£60.01 - £70	38	0.67	33	4	1	1	0.038
£70.01 - £80	2	0.04	0	1	0	0	0.007
£80.01 - £90	3	0.05	2	1	0	0	0.013
£90.01 - £100	2	0.04	3	0	0	0	0.010
over £100	38	0.67	22	8	6	0	0.385
<b>Grand Total</b>	<b>5,694</b>	<b>100.00</b>	<b>3,542</b>	<b>761</b>	<b>1,274</b>	<b>117</b>	<b>2.925</b>

In addition to the 5694 service users currently assessed to pay either the full cost of, or in the majority of cases a part contribution to their non-residential social care, a further 6161 are either assessed as nil charge, funded by the NHS under continuing healthcare or are exempt under S117 of Mental Health Act.

## Financial

It is estimated that the totality of changes proposed by the revised policy will generate additional annual income of £2.925m, with this figure being reduced in 2018/19, due to the phased introduction of recently let contracts for Home Care provision to a figure of £2.825m. This annual total compares with the £2m of additional annual income budgeted for in the MTFs.

It is emphasised that these figures take no cognisance of the propensity of service users to pay the charges levied, any bad debts which result act to effectively reduce income billed, although accounted for separately.

This Policy represents implementation of a previous budget decision.

## **Equality and Diversity**

The Care Act 2014 – the basis for the revised policy – was implemented following a period of consultation and its provisions were assessed for their equality impact. However, there is a risk that the revised policy may contravene the Equality Act 2010 if it is not consulted upon.

An Equality Analysis has been completed and is set out at Appendix 'B'.

## **Risk management**

The Care Act Statutory Guidance sets out that the county council should develop and maintain policies in relation to a number of subject areas covered in the Act. If the recommendations are not taken forward, the county council may be at risk of future legal challenges.

## **List of Background Papers**

Paper	Date	Contact/Tel
Care Act 2014	April 2014	Derek Jackson/ (01772) 530639.

<a href="#">Care Act– update of care and support statutory guidance</a>	February 2017	
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Reason for inclusion in Part II, if appropriate

N/A