Wiltshire Council
Cabinet
19 January 2016

Subject: Adult Care Charging Policy
Cabinet member: Keith Humphries Cabinet Member for Health (including Public Health) and Adult Social Care

Key Decision: Yes

Executive Summary
The Care Act (2014) represents the largest change to health and social care legislation since the introduction of the NHS. The Care Act was successfully implemented in Wiltshire in April 2015 when the new law came into effect.

The significant changes to the legislative framework and guidance has prompted a review of adult care policies so that the Council can ensure it complies with the terms of the Act.

This cabinet paper explains the proposals for changes to the Charging Policy. The proposals will bring Wiltshire Council in line with the majority of other Councils and ensure people who can pay for their care and support, pay as much as it is reasonable to ask them to contribute.

The policy will need to go through a period of public consultation.

Proposals
1. To approve the changes to the proposed charging policy, pending consultation, to include;
   a. A clear statement for customers and officers that people will be expected to contribute for social care services
   b. Continue to provide carers services free of charge, along with other prevention services as set out in the care act (equipment and intermediate care)
   c. All of a person’s disposable income will be taken into account when calculating contributions towards their care and support.
   d. The actual rate of attendance allowance will be taken into account when calculating contributions.
   e. The range of costs incurred by people, called Disability Related Expenditure, that can be disregarded in a financial assessment will be updated. (full DRE list changes are listed at appendix 2)
   f. Contributions towards respite care will be based on a person’s personal budget and ability to pay, rather than a standard charge for everyone.
g. Charge an administration fee on a cost recovery basis for arranging care for self-funding customers.

2. To acknowledge that the consultation will be on the basis of establishing if there is reason to believe that people in Wiltshire would be impacted any differently to people in other areas where this approach is already in place.

3. Cabinet is asked to delegate to the Corporate Director following consultation with the Cabinet member for Health (including Public Health) and Adult Social Care to approve the policy, or any minor changes, following the consultation period. If a significant issue is highlighted during consultation it will come back for further consideration by Cabinet.

Reason for Proposal

The Care Act introduced a series of changes to legislation that must be reflected in the Councils policies. The policies have not been reviewed for some time and were due to be updated. The revised policy will ensure clarity and equity for customers and officers who will be operating within the new policies.

The proposed changes will align Wiltshire Councils charging policy with the national and regional trend.

The proposed changes to the charging policy will increase the amount of income generated through client contributions, which will allow the Council to continue to support the most vulnerable customers in Wiltshire.

Maggie Rae
Corporate Director
Purpose of Report

1. The Care Act gives local authorities the power to charge for certain social care services. The Charging policy sets out how contributions will be calculated and should be in line with National Guidance and the Care Act regulations.

2. The significant changes to the legislative framework and guidance has prompted a review of adult care policies so that the Council can ensure it complies with the terms of the Act.

3. The purpose of this report is to set out proposals to update the adult care charging policy, following implementation of the 2014 Care Act.

Relevance to the Council’s Business Plan

4. The Care Act 2014 requires the Council to comply with all relevant legislation. The proposed charging policy includes a number of discretionary items related to the proposal to charge an arrangement fee for brokering care for self-funders and the way contributions are calculated.

5. The proposals have been drafted to ensure compliance with the Care Act but equally to provide the service area with a clear framework within which to deliver the goals set out in the Councils business plan. By ensuring people pay what they can afford to contribute towards social care services the Council will ensure that it can continue to meet the needs of the most vulnerable customers in our communities.

Background

6. The Care Act makes care and support clearer and fairer. The Act introduces a number of new duties that Councils must adhere to and includes a number of discretionary items which Councils can choose to enforce in the delivery of care and support services.

7. The proposals around charging are a key decision for the Council as they represent significant changes which will directly impact everyone paying for
care and support. The principle behind the policy is that people will be asked to pay the maximum they can afford to contribute so that the Council can continue to support the most vulnerable customers.

**Main Considerations for the Council**

8. The proposed changes will align Wiltshire Councils charging policy with the national and regional trend.

9. The proposed policy (Appendix 1) also reflects that the Council believes it is fair and reasonable to ask people to pay what they can reasonably afford to pay towards the costs of any care and support they require.

10. The proposed policy will also mean that people in residential care are financially assessed in the same way as people supported to live independently in the community.

11. The following proposals are being made to revise the Charging Policy.

**Disposable Income**

12. Disposable income is the amount of money a person has to spend once general living costs have been taken away from a person’s total income.

13. The Council currently only takes into account 80% of an individual’s disposable income when charging for care and support services for people living in the community. The Council takes into account 100% of a person’s income if they live in residential care.

14. The policy proposes that 100% of a person’s income will be taken into account for everyone. This change will mean that most people who pay for care and support, living independently in the community, will be required to pay a higher contribution for care.

15. Table 1 sets out the current approach that is taken by Councils across the South West in relation to disposable income and benefits. However, following the Care Act, most Councils are reviewing arrangements on all aspects of charging.

<table>
<thead>
<tr>
<th>County</th>
<th>% of disposable income taken into account</th>
<th>Attendance allowance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wiltshire (current)</td>
<td>80%</td>
<td>Lower Only</td>
</tr>
<tr>
<td>Wiltshire (proposed)</td>
<td>100%</td>
<td>Actual</td>
</tr>
<tr>
<td>Devon</td>
<td>100%</td>
<td>Actual Amount</td>
</tr>
<tr>
<td>South Gloucestershire</td>
<td>100%</td>
<td>Actual for services involving night time care Lower for care at home without night-time care</td>
</tr>
<tr>
<td>Dorset</td>
<td>100%</td>
<td>25% of the lower rate of Attendance Allowance</td>
</tr>
<tr>
<td>Gloucestershire</td>
<td>100%</td>
<td>Actual Amount</td>
</tr>
<tr>
<td>Location</td>
<td>Percentage</td>
<td>Disregarded</td>
</tr>
<tr>
<td>----------------</td>
<td>------------</td>
<td>----------------------</td>
</tr>
<tr>
<td>Torbay</td>
<td>75%</td>
<td>All disregarded</td>
</tr>
<tr>
<td>Bournemouth</td>
<td>100%</td>
<td>Actual</td>
</tr>
<tr>
<td>Plymouth</td>
<td>100%</td>
<td>30% disregarded</td>
</tr>
<tr>
<td>Bristol</td>
<td>75%</td>
<td>Actual</td>
</tr>
<tr>
<td>Cornwall</td>
<td>100%</td>
<td>Actual for services involving night time care Lower for care at home without night-time care</td>
</tr>
<tr>
<td>BANES</td>
<td>100%</td>
<td>Actual</td>
</tr>
<tr>
<td>Somerset</td>
<td>100%</td>
<td>Actual for services involving night time care Lower for care at home without night-time care</td>
</tr>
<tr>
<td>Poole</td>
<td>100%</td>
<td>Actual</td>
</tr>
<tr>
<td>Brighton and Hove</td>
<td>100%</td>
<td>Actual</td>
</tr>
</tbody>
</table>

**Attendance Allowance and Benefits**

16. Many people who receive care and support funded by the Council also receive benefits, the most common one being Attendance Allowance. People will either receive attendance allowance at a low or a higher rate depending on their needs.

17. The Council currently only includes the lower attendance allowance rate when calculating a person’s disposable income. The policy proposes that the Council will take into account the full amount of attendance allowance when calculating contributions.

**Disability Related Expenditure**

18. Disability related expenditure is when people incur additional costs as a result of their disability. These costs are then not included in calculations to establish what disposable income a person has.

19. The Council has discretionary powers to decide what items it considers appropriate to include within their policy and what range of costs it would consider reasonable expense. However, there is guidance in the Care Act to suggest to Councils what it should allow as a minimum.

20. The policy proposes to update the list of Disability related expenditure (DRE) items (see appendix 2) in line with the 2014 Care Act guidance with some exceptions:
   
   a. the removal of any allowance for continence products, as these costs should be met by the Health commissioned continence service.
   
   b. The addition of costs related to use of the internet, where they directly support a person’s independence
Respite Care Contributions

21. The current policy applies a standard contribution for respite based on a customer’s age. The new policy will mean all contributions for Respite will be calculated in the same way contributions for any other forms of care and support is made.

Arrangement Fees

22. The Care Act allows people with eligible needs to ask the Council to arrange their care. However, Councils can charge people the costs they incur. The power to do this for people in residential care has been deferred until 2020, so this will only apply to people supported in the community.

23. The policy proposes to take up this discretionary charging power if;
   a. they have eligible needs, but
   b. are deemed to be full-cost payers, as they are assessed as having enough income to pay the full costs of their care

Consultation Approach

24. The consultation process will involve informing people currently funding their care and support through a letter. People will also be invited to workshops that will be facilitated by Healthwatch Wiltshire. These sessions will be open to people receiving care and support as well as those who are not.

25. The policy will be available through the consultation portal, for people to complete a questionnaire about changes to the policy.

26. Consultation will run for 90 days between January and May 2016

27. Discussions have already taken place with voluntary sector partners, representing a wide range of people who will be affected by these changes. They have contributed to the design of the consultation approach and the format of the letter

28. A full report of the consultation will be prepared, to support a delegated decision to be made.

Overview and Scrutiny Engagement

29. Changes to policies have not been discussed with Overview and Scrutiny but will be scheduled in as part of the consultation.

Safeguarding Implications

30. Like all policies affecting customers who receive care and support, this policy and any officers or individuals involved in delivering the policy shall be subject to Wiltshire Council’s safeguarding procedures.
Public Health Implications

31. The policy is likely to mean that people will need to pay more towards the cost of their care and support. This could mean people have less disposable income to pay for activities that support their health and well-being and prevent a need for further support in the future.

Corporate Procurement Implications

32. There are no immediate Procurement implications. The policies will provide the service area with a framework within which contracts will be commissioned. Future procurement exercises will need to take into account the principles and statements included within the policy statements.

Equalities Impact of the Proposal

33. The proposed policy will have an impact on a wide range people, but primarily those that currently pay towards their care and support, or will do so in the future.

34. The financial assessment team have looked at recent assessments to apply the new policy and gauge what impact the changes would make on the amount a person contributes to their care and support. It is important to point out that the impact will be different for each person, so the figures arrived at are an average of the increases that resulted from applying the proposed policy.

   a. The change to 100% of eligible disposable income resulted in a £12 per week increase in what a person would contribute.
   b. The change in attendance allowance resulted in a £27 per week increase.
   c. Averages for the impact of changes to DRE could be established as every person was affected differently.

35. The total potential increase for a person is therefore expected to be between £12 and £40 per week. (In some cases it could be higher than this)

36. The actual amount a person would need to pay under the proposed policy will depend on

   a. how much they are already paying
   b. what the value of their care and support is

37. If a person is paying £80 towards a support plan that costs £90, although the overall impact could be a £40 increase, their contribution would only go up by £10, as they are paying nearly the full cost of their care and support already.

38. Each year the financial assessment team assess 1340 new people who require support in the community. Typically 55% of those people need to make a contribution towards the cost of their care.
39. An equalities impact assessment has been started and will be completed as part of the consultation process. The working draft of the equalities impact assessment is included as Appendix 3. This assessment will help provide the evidence as to whether any parts of the proposed policy need to be changed as a result of the consultation process.

40. Although the change in policy will mean vulnerable adults will have to pay more for their care and support, the financial assessment will always mean they are never asked to pay more than they can afford.

Environmental and Climate Change Considerations

41. There are no considerations related to the charging policy.

Risk Assessment

42. The charging policy is being changed to ensure compliance with the Care Act and will align Wiltshire Council’s charging policy with the national and regional trend.

Risks that may arise if the proposed decision and related work is not taken

43. There would be continued inequity between the way people in residential care are assessed compared to people living in the community.

44. The Council’s charging policy will be out of date and there will be a lack of fairness and transparency in how social care is paid for in Wiltshire, as well as not being aligned to most parts of the region and country.

45. Pressures increase on resources to support vulnerable people in Wiltshire.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

46. Changes to the charging policy may be unpopular amongst those people who are required to pay more for their care and support. The consultation process will highlight that this change is about aligning charging for care and support with other councils in the region and country. The consultation process has been designed to identify the impact changes would have so that appropriate support mechanisms can be developed.

47. There is a risk that if all of a person’s income is taken into account there will be no incentive to maximise other benefits they could be entitled to, as additional income will be used to pay for increased contributions for care and support. This risk will be mitigated by the financial assessment team working with people to ensure they claim all benefits they are entitled to.

48. By charging an arrangement fee for setting up care at home services it is possible customers will arrange care independently without taking proper advice, which could lead to them buying unnecessary support which uses up their financial assets quicker, leading to them requiring the council to fund
future care and support. This risk will be mitigated through the development of effective information and advice.

Financial Implications

49. The Council already has a charging policy in place and charges for care and support services in accordance with this policy and relevant legislation. The Council does not charge for carers services or any services prohibited in legislation such as Section 117 aftercare, intermediate care or community equipment.

50. The proposal will increase the amount customers have to pay for care and support based on the principle that customers should contribute the maximum reasonable amount that they can afford.

51. The full year impact will depend on

   a. the number of new people requiring care and support in the community who are assessed as having to make a contribution
   b. the number of people currently making a contribution who stop making a contribution
   c. the number of people currently making a contribution who can be financially re-assessed during the year.

52. The Council has built into the budget for 2015/16 an increase in income of £300,000, based on only assessing new people requiring care and support and that only a partial year impact will be achieved. The full year impact will be closely monitored as financial assessments are completed in the first year.

53. The new policy will mean more people would have to make a contribution. Additional income could be generated if people currently receiving are and support were re-assessed against the new policy. There is no capacity in the team to currently conduct these reassessments but the Adult Care teams are working on a business case that balances investment in the staff to assess people against the likely additional income that could be collected.

54. The ability to charge for arranging care will not have a financial impact as the Council can only collect the costs incurred from making those arrangements.

Legal Implications

55. Section 14 of the Care Act gives Local Authorities a general power to make a charge for meeting needs for care and support under sections 18 – 20 of the Act. Detailed provisions in respect of charging and the assessment of resources are set out in section 19 of the Care Act, the Care and Support (Charging and Assessment of Resources) Regulations 2014 and relevant chapters of the Care and Support Statutory Guidance. Failure to implement the Care Act 2014 leaves the Council open to challenge by way of Judicial Review, however the Council was advised that it should ensure there was a period of consultation before any decisions are made as it has consulted previously on similar policy changes.
56. A comprehensive equalities impact assessment (EIA) should be carried out to ensure any decision was based on the impact it could have on any stakeholder group. The EIA will be completed following the consultation.

57. Where the Council is proposing to exercise discretionary powers this has been highlighted.

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Background Papers

None

Appendices

Appendix 1 – Draft Charging Policy
Appendix 2 – Disability Related Expenditure List
Appendix 3 – Equalities Impact Assessment