

**Open Report on behalf of Glen Garrod, Executive Director for Adult Care and Community Wellbeing**

Report to:	<b>Councillor Mrs P A Bradwell OBE, Executive Councillor for Adult Care, Health and Children's Services</b>
Date:	<b>Between 06 and 09 April 2020</b>
Subject:	<b>Revised Adult Care Charging Policy and Improvements to Financial Assessments</b>
Decision Reference:	<b>I019761</b>
Key decision?	<b>Yes</b>

**Summary:**

This Report informs the Executive Councillor of the outcome of a review of the Council's financial assessment processes for adult care charging in order to improve the customer experience and to reduce any delays in the processing of such assessments.

It also informs the Executive Councillor of the outcome of a review of the current Adult Care Non-Residential Contributions policy dated April 2016.

It proposes and seeks approval for the creation of a single new Adult Charging Policy covering both residential and non-residential services (referred to in this Report as community care).

**Recommendation(s):**

That the Executive Councillor:-

1. Notes the review of the Council's financial assessment processes, the changes made to date and the steps still to be undertaken
2. Approves the adoption of the document attached at Appendix A as the Lincolnshire County Council Adult Charging Policy with effect from 13 April 2020 to replace the Adult Care Non-Contributions Policy which came into force in April 2016
3. Delegates to the Executive Director for Adult Care and Community Wellbeing in consultation with the Executive Councillor for Adult Care, Health and Children's Services authority to approve any necessary future amendments to the policy as shall be necessary to give effect to future business process changes implemented by the Council.

**Alternatives Considered:**

Do nothing – The Council's policy came into force in 2016. There have been changes to legislation and guidance since that time. It is therefore not appropriate to do nothing and to continue with the existing policy

Update the Council's Adult Care Non-Residential Contributions Policy only. This would not provide a policy which dealt with the Council's policy on charging for residential care.

**Reasons for Recommendation:**

The Council's original charging policy was brought into operation in April 2016 with a planned review date of April 2020. Since that time there has been some revisions in the legislation and the Care and Support Act Statutory Guidance ("the Guidance").

The review of the financial assessment process together with the review of the policy has enabled the Council to :-

- a) update its practices and internal processing to ensure that the customer has more choice in the way that the financial assessment is undertaken by the planned roll out of online assessments, whilst still preserving the opportunity for some customers to continue to access paper assessments where they feel more comfortable doing so;
- b) reduce the documentary evidence required to support the assessments to make the customer experience less onerous for the customer and to reduce delays in the time taken to complete a financial assessment;
- c) improve the Council's operating systems to process more efficiently the data required to complete the financial assessment process;
- d) offer a digital experience for those customers who wish to do so in accordance with developed technology;
- e) operate an integrated policy which not only sets out the policy for non-residential care, i.e. community care, but provides a charging policy which covers residential and non-residential care services; and
- f) update the policy to provide for any changes in legislation and any revisions to the Care and Support Statutory Guidance ("the Guidance") which has been implemented since the last policy.

By making these changes it is believed that the customer's experience will be greatly enhanced by less onerous documentation, ease of input and a much better turn around in providing information to them about the charge which they may have to pay for care. The automation will allow for greater efficiencies in the operational process and procedures. Having a single comprehensive Policy will enable service users and their families and carers to understand better the way in which their financial contributions will be assessed and determined.

## **Background**

1.1 This report sets out the following:-

- (a) the work undertaken by the Council to improve the customer's experience of undergoing financial assessments for the purposes of charging for services provided by Adult Care through a programme of improvements.
- (b) The revisions made to the old policy and the creation of a new policy entitled "Adult Care Charging Policy" which deals with adult charging across all residential and non-residential care services provided by the council.

## **The Legal Background**

1.2 The Care Act 2014 ("the Act") together with its associated regulations and statutory guidance provides a legal framework within which the council must operate if it chooses to charge for services provided under the Act. Section 14 of the Act provides the Council with the power to charge for its services. Where a Council charges for its services, as this Council does, a financial assessment must be undertaken to assess how much an individual can afford to pay. The financial assessment is undertaken in accordance with the details contained in s.17 of the Act, and in particular, the Care and Support (Charging and Assessment of Resources) Regulations 2014.

## **The New Policy and Implementation**

1.3 The Adult Care Non-Residential Contributions Policy, effective from 2016, was due for review in April 2020. That policy only dealt with non-residential services otherwise known as community care. It is proposed that the Council adopt a new policy which as well as addressing changes to the existing Non-Residential Contributions Policy would implement a single unified charging policy across all the Council's services with effect if approved, from 13 April 2020.

1.4 This report sets out improvements to the financial assessment process which provides a critical context for the proposed policy before setting out the main changes in the new proposed Policy compared with the existing Non-Residential Contributions Policy. The main changes within the new policy relate to

- evidence required when completing a financial assessment
- minimum Income Guarantee
- approach for short term care
- removal of provisional assessments for residential care
- changes in circumstances resulting in backdating / refunds

## **Improvement of Processes and the Customer Experience - The Financial Assessment Improvement Programme (FAIP)**

- 1.5 The Council began working on a Financial Assessment Improvement Programme in December 2018 with its aim of improving the customer experience by reducing the time taken to carry out financial assessments and notify customers of their charges, to reduce complaints and to streamline and improve the technical process management, including piloting an automated on line financial assessment.
- 1.6 The work has been overseen by a Programme Board chaired by Director of Adult Care & Community Wellbeing and has included input from a senior programme manager, senior lead for adult care finance, finance staff including of Head of Finance (Strategy), Practice Supervisor ASW, commercial staff, senior adult care operational staff, SERCO and where needed Legal Services. This work has focussed on the technical process management and performance improvement alongside the review of the charging policy. This board has regularly reported on its work to Councillor Mrs Bradwell.

### **Technical Process Management**

- 1.7 The work has included the introduction of an online assessment form and calculator (currently being piloted), development of the back office workflow system and integration with the current systems alongside the updating of the Council's existing software. This will not only improve the customer experience, but also reduce the level of manual inputting which has historically been required by staff in SERCO. The following sets out the steps taken and planned:-

(a) A fully integrated system

Officers have commenced a development programme which will integrate the care assessment and management system known as "Mosaic" with the financial assessment system, "Abacus". Abacus is being upgraded to enable the mobilisation of the new policy from April 2020 in order to deliver automatic feeds. This means that the two systems will be able to communicate with each other. The automation of payments from Mosaic is being rolled out, with community supported living payments now live and direct payments, community care and residential care payments planned to follow through to 31 March 2021.

(b) Reduction in the provision of supporting evidence supplied by the customer

In 2019 in consultation with Councillor Mrs Bradwell a reduction in the amount of supporting documentary evidence to be provided by the customer with their financial assessment was undertaken. Whilst checks can still be undertaken in more complex cases, this had made the process less onerous for the customer and less resource intensive for staff in SERCO undertaking the assessments. The financial assessment team began implementing this change from

1 November 2019 and this has resulted in a significant reduction in the number of pending cases over the last three months. (See Performance Improvement below)

(c) Online financial assessment and going digital

The Council is planning to expand its offer to its customers by providing an option for the customer to complete their financial assessment by introducing an online solution. This means that information can be inputted electronically and an online calculator can provide an indicative figure of the charge which will be confirmed once the assessment has been completed. The digital experience will include any correspondence between the customer and the Council and vice versa.

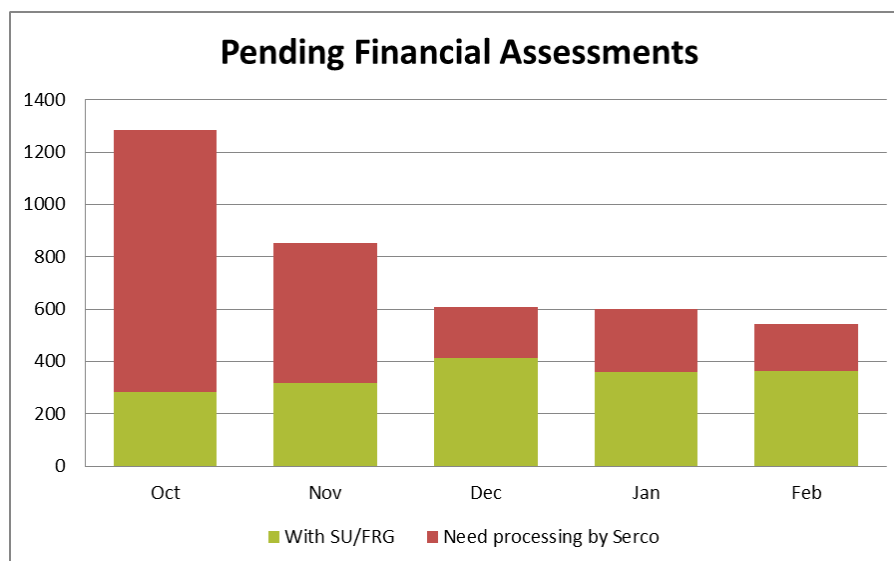
Acknowledging that some customers may be unable to access an online system or may feel unable to navigate through the system, the customer will still be able to provide their information on a hard copy form of the financial assessment which can be posted to the financial assessment team.

The phasing of the online implementation is shown in the table below

PHASE 1	PHASE 2	PHASE 3
End April 2020	To begin May 2020	Target date July 2020
Non-residential pilot complete 10 online cases by 29 Feb, a further 10 by the 31Mar and complete roll out in April.	Scanning of paper forms submitted  Integration with other LCC systems	Residential application online

**Performance Management**

- 1.8 A pilot has been running in the West of the County where field workers have been handing out the financial assessment forms and providing initial information and support, rather than it being posted out, typically by second class post. This has resulted in the forms being received at the beginning of the face to face contact with a person requiring an assessment rather than the average time taken of one week later. The pilot has demonstrated a decrease in time taken to return the forms (from an average of 21 days down to 16) with 100% of pilot forms being returned within 3 weeks compared to just 72% in August 2019, pre pilot. A plan is currently being developed to roll out the new scheme to the whole County during 2020-21.
- 1.9 The reduction in the supporting evidence has led to a significant reduction in the number of cases which were still awaiting completion. The table below shows that the number of financial assessments is now at a "business as usual" level. The process of completing a financial assessment is within the expected 28 days.



## The Policy and its changes

### A unified policy

1.10 The new policy attached at Appendix A will incorporate how the Council proposes to charge against all of its services instead of just non-residential services (i.e community care) as is the case with the Council's existing Policy. This will enable our customers to find information they need in one policy. It is acknowledged that the Policy attached at Appendix A is a complex document. This reflects the need for the Executive Councillor to have a full understanding of the Policy at the point of approving it. Work is underway to develop accessible, user-friendly versions of the policy known as factsheets. An example fact sheet is included as Appendix C.

### Minimum Income Guarantee

1.11 When receiving services (other than residential care), the customer must be allowed to retain enough income after their charge to be able to ensure that they can meet basic needs such as buying food, paying their utility costs, rent etc. Early statutory guidance had based the amount on the value of Income Support or the Guaranteed Credit element of Pension Credit plus a minimum buffer of 25%. Subsequently the amount was set out in Regulations and each year the Council receives a Local Authority circular from the Department of Health and Social Care providing details of any changes. The calculations are based on age, status (single/ married etc), disability benefits and the number of any dependent children. The Council sees approximately 5,000 customers who require some support outside of a residential setting.

1.12 As the Council had based the amounts on age only, a number of customers may be entitled to a refund and will be contacted in person by Adult care staff to discuss their assessments. Financial modelling demonstrates the majority of customers will see minimal change. Where customers may see an increase in their charges, this will be phased in over 12-18months.

## **Evidence required by customers to support their financial assessment**

1.13 Since 1 November 2019, the documentary evidence required to be provided by customers has been streamlined. A clearer evidence checklist is now in use. For self-funders who now qualify for support from the Council with their care, they will now only need to provide two years of supporting evidence unless there is some evidence that the case is more complex and an individual may be seeking to put assets out of the reach of the Council in order to reduce any charge they may have to pay. In those cases, these will be examined individually and may require the provision of further supporting evidence.

## **Quicker financial assessments**

1.14 It is expected that financial assessments will be carried out within a 28 day period. Exceptions to this include those cases where there is a delay in providing information by the customer or where their finances are particularly complex. The changes to our financial systems will assist with ensuring that a timelier outcome for the customer can be achieved. (see Performance above). The Council will no longer operate "provisional assessments" for residential care. These were introduced as lengthy financial assessments were delaying payments to care home providers. To maintain cash flow for the providers if there are any delays the Council will pay the provider directly until the financial assessment has been completed and appropriate recoupment can occur from the customer. Completing the financial assessment quicker means customers have greater clarity with their finances earlier in the process, greatly improving their experience of the service. The Council receive customer contributions quicker, avoiding the need to enter into debt recovery processes.

## **Short term residential care**

1.15 The Council has approximately 1,200 people enter short term residential care per year. This may be for the purposes of providing some respite or for longer periods with the exception of those that are placed in permanent residential care.

1.16 Those who have entered short term care for a period of up to eight weeks have been charged a "flat rate" for their care. This rate has also varied on the age of the individual. The Ombudsman has raised some concerns around the existence of a flat rate and the fact that the Council does not undertake a financial assessment. A final report from the Ombudsman is still awaited.

1.17 It is proposed that going forward all customers will have a financial assessment so that customers do not pay more than they can afford to pay. This will effectively remove the flat rate. Whilst the Council has a power to charge the customer as though they were receiving care outside of a care home, the Council is not planning to exercise that discretion and will charge the individual as though they are receiving temporary care in a residential

home. This reflects the fact that the care is not long term but also recognises that a stay that may originally have been intended to be eight weeks or less may due to circumstances extend beyond that period. This charge will ensure that the service is affordable, as the majority of charges remain at a consistent level, but also sustainable for the Council. Under the Care Act, a temporary resident means a resident whose stay is unlikely to exceed 52 weeks or, in exceptional circumstances unlikely to substantially exceed that period. They will therefore receive a financial assessment and will be charged in accordance with the rules according to temporary care as set out in the regulations and the Guidance.

1.18 The above practice will simplify the charging for those entering residential care in the following way

- For those receiving temporary care (up to 52 weeks), they will be charged in accordance with the rules set for temporary care contained within Chapter 8 of the Guidance and Annexe F
- For those placed in permanent care – they will be charged accordingly to the usual residential care rules in accordance with both the regulations and the Guidance in Chapter 8.

### **Deferred payments**

1.19 Following the introduction of new regulations, known as the Care and Support (Deferred Payment) (Amendment) Regulations 2017 which came into force on 5 February 2018, the Council's deferred payments section has been amended in the policy to meet the Council's duty to offer "loan type" deferred payment agreement for those customers who would be eligible but for the fact that they have assets over the capital threshold. This follows the Government's intended policy that no one should have to sell their home to pay for care.

### **Change in a customer's circumstances**

1.20 Backdating or refunds due to change in circumstances used to go back to the beginning of care. This could often be a number of years causing significant challenge in tracking and collating the relevant information. The proposal is to ensure the customer is aware to contact the financial assessments team to notify any change in circumstance. This will be further reiterated as part of their annual review. Any backdating of charges will be from the start of the change or the beginning of the financial year, whichever is the shorter. Any refund due to a change in circumstances will be from when the notification of change was given.

### **Options Analysis**

1.21 The options have been dealt within the Alternatives section and within the body of the report more generally



## Legal Issues

### Legal Context

- 1.22 The Act together with its associated regulations and statutory guidance provides a legal framework within which the council must operate if it chooses to charge for services provided under the Act. Section 14 of the Act provides the Council with the power to charge for its services. Where the Council charges for its services, as this Council does, a financial assessment must be undertaken to assess how much an individual can afford to pay. The financial assessment is undertaken in accordance with the details contained in s.17 of the Act, and in particular, the Care and Support (Charging and Assessment of Resources) Regulations 2014.
- 1.23 The Government has set out the principles for charging, which are set out in the Guidance (March 2020) issued under the Care Act 2014. This states that the policy should:-
- ensure that people are not charged more than it is reasonably practicable for them to pay;
  - be comprehensive, to reduce variation in the way people are assessed and charged;
  - be clear and transparent, so people know what they will be charged;
  - promote wellbeing, social inclusion, and support the vision of personalisation, independence, choice and control;
  - support carers to look after their own health and wellbeing and to care effectively and safely;
  - be person-focused, reflecting the variety of care and caring journeys and the variety of options available to meet their needs;
  - apply the charging rules equally so those with similar needs or services are treated the same and minimise anomalies between different care settings;
  - encourage and enable those who wish to stay in or take up employment, education or training or plan for the future costs of meeting their needs to do so; and
  - be sustainable for local authorities in the long-term.
- 1.24 The Executive Councillor must have regard to these principles in reaching her decision. These principles have been borne in mind in developing the proposed changes to the Council's policy and the recommendations in this Report are considered to comply with the Act, the Regulations and the above Guidance.

## Equality Act 2010

- 1.25 Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
  - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 1.26 The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation
- 1.27 Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:
- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
  - Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and
  - Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 1.28 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 1.29 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.
- 1.30 Compliance with the duties in section 149 may involve treating some persons more favourably than others.
- 1.31 The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

The matters set out in this report relate generally to elderly people, people with a learning disability, with mental health needs and people more generally with a disability. People with those protected characteristics will continue to receive services which are in themselves unaffected by the issues raised in this report.

The Policy changes and the changes to the financial assessment process have the potential to impact differentially on people with a protected characteristic and an Equality Impact Analysis setting out the impacts and mitigations are set out in Appendix B.

### Joint Strategic Needs Analysis (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

1.32 The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision.

There are no direct implications of this Report for the JSNA or the JHWS. The Services which the charging Policy covers contribute to the wellbeing of older people and people with a disability. The Policy makes the financial aspects of receiving those services more transparent and ensures that they continue to reflect the law and guidance. The changes to financial assessment processes should ensure that the Council determines the contributions to be made by service users more quickly and efficiently and ways which are easier for those service users.

### Crime and Disorder

1.33 Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

No implications relevant to section 17 of the Crime and Disorder Act 1998 have been identified in respect of this report.

### **Conclusion and next steps**

1.34 The Council has in shaping its Charging Policy taken into account changes in legislation and Guidance. It has also reviewed the policy in the light of the FAIP which has helped to inform how improvements can help to better the experience of the customers of the Council.

1.35 Phase 1 of the FAIP is delivering an improved customer experience by completing the assessment within 28 days. Processes are becoming more efficient through system automation and streamlining the number of manual steps. Relationships are being strengthened across the teams involved in delivering the services to our customers.

1.36 The introduction of the revised charging policy will further improve the customer's experience of the financial assessment process through the updating of this policy.

1.37 Phase 2 of the programme has commenced with the

- Mobilisation of the revised charging policy from 2020
- The development of an integrated care and financial system by 31 March 2021

**Legal Comments:**

The Council has the power to adopt the Charging Policy proposed.

The decision is consistent with the Policy Framework and within the remit of the Executive Councillor.

**Resource Comments:**

The financial modelling suggests that the majority of service users are not expected to see a material financial impact from the changes. For the small number of customers who may see an increase in their charges, they will be phased in over the next 12/18 months (see 1.12 above). This has been taken into account in the budget 2020 programme.

**Consultation**

**Has The Local Member Been Consulted?**

Yes

**Has The Executive Councillor Been Consulted?**

Yes. Engagement has also taken place with the People's partnership.

**Scrutiny Comments**

The report and accompanying appendices are due to be considered by members of the Adults and Community Wellbeing Scrutiny Committee for informal comments and any comments will be reported to the Executive Councillor.

**Has a Risks and Impact Analysis been carried out?**

Yes

**Risks and Impact Analysis**

See the body of the Report and Appendix B.

## Appendices

These are listed below and attached at the back of the report

Appendix A	Adult Care Charging Policy
Appendix B	Equality Impact Analysis
Appendix C	Draft Fact sheet Overview of Charging
Appendix D	Draft Annual Statement of Charges

## Background Papers

The following Background Papers within the meaning of section 100D of the Local Government Act 1972 were used in the preparation of this Report

Background Paper	Where it can be found
Report to Executive dated 3 November 2015 "Non-Residential Care Contributions Policy	<a href="https://lincolnshire.moderngov.co.uk/ieListDocuments.aspx?CId=121&amp;MId=4212">https://lincolnshire.moderngov.co.uk/ieListDocuments.aspx?CId=121&amp;MId=4212</a>

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