

PLYMOUTH CITY COUNCIL

Subject: Fairer Charging for Non – Residential Services
Committee: Cabinet
Date: 15 July 2014
Cabinet Member: Councillor Tuffin
CMT Member: Carole Burgoyne (Strategic Director for People)
Author: Dave Simpkins, (Assistant Director of Co-operative Commissioning and Adult Social Care)
Contact: Tel: 01752 304407 Email: dave.simpkins@plymouth.gov.uk
Ref: FC/2014
Key Decision: Yes
Part: 1

Purpose of the report:

This report sets out Plymouth City Councils proposed revised Fairer Charging Policy for non-residential services.

It sets out the legal framework for charging in relation to non- residential services and the rationale for changing the existing policy.

This proposed policy will bring Plymouth into line with comparator and neighbouring authorities. It aligns Fairer Charging to the City Council's Fees, Charges and Concessions Policy. It also aligns to the guidance and regulations of the new Care Act 2014. Implementation of the policy will raise additional revenue which in turn will protect front line service delivery.

The report also details the consultation process undertaken in developing this policy and how the policy will meet individual circumstances and needs.

The Brilliant Co-operative Council Corporate Plan 2013/14 -2016/17:

The proposed policy aligns to the Plymouth City Council Corporate Plan objective of creating a Fairer Plymouth where everyone does their bit. It also aligns to the Fees, Charges and Concessions Policy agreed by Cabinet in November 2013. This sets down a consistent and fair approach to fees and charges, in order to deliver the Council's overall objectives whilst protecting, wherever possible, the most vulnerable citizens of Plymouth.

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land:

Additional resources would be required in Client Financial Services to expedite the re-assessment process required for existing service users. It has been estimated that the cost of additional assessment and visiting officers would be in the region of £40,000.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

Due to the population profile of affected service users no specific Child Poverty, Community Safety or Health and Safety Issues have been identified.

To effect the changes of the new proposed policy, a full reassessment of our existing client base, estimated at 2800 service users will be required. If the proposed policy is approved it will be implemented with immediate effect for all new service users. The re-assessment of existing service users will take a minimum of 8 weeks and the policy would be implemented for existing clients immediately upon completion of that process.

Additional resources would be required in Client Financial Services to expedite the re-assessment process and capture additional income during 2014/15. It has been estimated that the cost of additional assessment and visiting officers would be in the region of £40,000.

A review of the Client Financial Services Team will be needed to ensure that there is capacity to conduct annual reviews and ensure that charges reflect any changes in service users' financial situations.

Equality and Diversity:

Has an Equality Impact Assessment been undertaken? Yes (please refer to the background papers)

When considering this proposal it is important to have due regard to the public sector equalities duties imposed upon the Council by section 149 Equalities Act 2010 to

- Eliminate unlawful discrimination, harassment and victimisation and
- Advance equality of opportunity between people who share a protected characteristic from those who do not and to
- Foster good relations between people who share protected characteristics and others

The relevant protected characteristics for this purpose are: (a) age; (b) disability; (c) gender reassignment; (d) pregnancy and maternity; (e) race; (f) religion or belief; (g) sex; (h) sexual orientation”

Compliance with the duties in this section may involve treating some persons more favourably than others.

Detailed equality impact assessments have been carried out and updated through this process and are supplied for you to consider. You are asked to note the adverse impact on some protected groups and the actions proposed to address them. You are then asked to balance any residual impact against the need to implement the proposed changes for the reasons set out in this report.

Recommendations and Reasons for recommended action:

To agree the proposed fairer charging policy as submitted which takes into account 70% of Disability Living Allowance, Attendance Allowance and Severe Disability Allowance as income, with the remaining 30% being disregarded to cover additional disability related expenditure. The proposal includes the ability for individuals to request an assessment and provide evidence of their disability related expenditure if they consider that their expenditure is greater than the equivalent of the 30% disregard.

Reasons for Recommendations

These disability related allowances are provided by the Government to pay for the costs of an individual's identified care and support needs. Currently in disregarding these allowances, the local authority is in effect paying again for such care related costs. This is therefore not fair or reasonable.

This will result in more service users having to make a contribution towards their package of care, whilst leaving sufficient funds to meet their expenses. This is consistent with other council policies such as the requirement for everyone (of working age) to contribute something towards their Council Tax and all organisations having to pay something towards their business rates.

Veterans will be afforded protection within the Policy.

The current system of charging is not consistent between service users as it does not take account of all income available to all service users and therefore is not equitable.

The policy will ensure that charging will be based on the ability to pay, and meet the legal framework for such policies.

The policy will bring Plymouth into line with the requirements set out in the new Care Act 2014 regulations and guidance.

Alternative options considered and rejected:

An option of keeping the present system has been considered however this has been rejected due to: the inequity of the current policy, the financial situation facing the Local Authority and our agreed policy on Fees and Charges. Without a revised Fairer Charging Policy the Local Authority would be required to make significant additional savings which may have the effect of reducing frontline service delivery.

Published work / information:

None

Background papers:

Title	Part I	Part II	Exemption Paragraph Number						
			1	2	3	4	5	6	7
DH Guidance	X								
Equality Impact Assessment	X								
Full Consultation Document	X								

Sign off:

Fin	Peop leF ACI 415 001	Leg	LTI 8324	Mon Off	DVS 2042 8.	HR	HR- CS2 5.6. 14.	Assets		IT		Strat Proc	
Originating SMT Member: Dave Simpkins													
Has the Cabinet Member(s) agreed the content of the report? Yes / No													

1. Background and Context

1.1 Charging for non-residential services is discretionary. There is no statutorily defined procedure for assessing non-residential charges. The power to charge derives from Section 17 Health and Social Services and Social Security Adjudications Act 1983 (HASSASSAA) which empowers the local authority to recover such charge (if any) for a service as they consider reasonable.

1.2 Charging under Section 17 HASSASSAA is subject to means testing. Where a person is able to satisfy the local authority that their means are insufficient for it to be reasonably practicable for them to pay the full amount for the service, the local authority shall not require them to pay more than it appears to them that it is reasonably practicable for them to pay.

1.3 Like most local authorities, Plymouth City Council is reliant on the income raised from charging for such services to fund a proportion of the costs. Without this income, service levels would be significantly reduced. Central government assumes that councils will partly fund services from client charges when allocating funding each year.

2. Current Situation

2.1 Prior to 2011 Plymouth City Council took into account the income a person received from their Disability Living Allowance, excluding the mobility element, Attendance Allowance and Severe Disability Benefit. Disability related expenditure was also assessed and taken into account when calculating a person's contribution to their care.

2.2 Following the introduction of Personal Budgets a decision was taken to discount these three income sources when assessing how much a person could contribute towards their personal budget. This change of policy was to simplify the very complicated system of assessment and was also based on an optimistic view that that people would use their disability allowances to buy their care and support on the open market. In reality people continued to seek assessment and the provision of support services from the local authority.

2.3 As a consequence of the Council disregarding disability allowances, people are actually better off coming to the Council for their care services. There is as a result less money available to spend on meeting the care needs of the general population of Plymouth.

3. Comparison to other Local Authorities

3.1 The CIPFA Financial Assessments Benchmarking Club 2012, consisting of 28 members, has identified that Plymouth City Council has the highest number of service users paying no contribution towards the cost of care at 87%, the average being 46 %.

3.2 This benchmarking evidenced that Plymouth is in the minority that totally disregards disability allowances. When we contacted the other 27 councils we were informed that they all included Disability Related Allowances as income and made an allowance for additional Disability Related Expenditure (DRE).

3.3 Devon County Council, Cornwall Council and Torbay Council all take 100% of Disability Related Allowances into account as income. Devon applies a flat rate allowance of £30 for DRE although service users have a choice to agree to this or provide evidence of all outgoings and expenses claimed. Cornwall and Torbay undertake a full assessment for DRE with the average DRE for Torbay being £18 per week.

3.4 Plymouth nationally is in the extreme minority who do not take Disability Related Allowances into account as income. We were able to make contact with 124 of the 130 English local authorities. 123 of the 124 take Disability Related Allowances into account as income.

3.5 Disregarding a % of Disability Related Allowances rather than applying a flat rate, is fairer as it will correspond to the level of need. For example those with higher needs will receive a higher level of benefit and the disregard will equally be greater.

3.6 An example of the impact is shown in the table below which reflects the most common types of disability related income. The average for Plymouth equating to £26.97 per week.

Benefit	Rate	30%
AA low rate only	£54.45	£16.34
AA Low rate plus SDP	£115.55	£34.67
AA high rate only	£81.30	£24.39
AA high rate plus SDP	£142.40	£42.72
DLA low rate only	£21.55	£6.47
DLA mid rate only	£54.45	£16.34
DLA mid rate plus SDP	£115.55	£34.67
DLA high rate only	£81.30	£24.39
DLA high rate plus SDP	£142.40	£42.72

4. Proposed Fairer Charging Policy

4.1 The revised proposed policy (Appendix A) would take account of 70% of the core Disability Related Allowances as income (Disability Living Allowance, Attendance Allowance and the Severe Disability Allowance.) If a service user is in receipt of disability allowances, there is acceptance that there will be additional disability related expenditure and that they need to use some of this money towards this. The policy therefore automatically disregards a standard allowance of 30% of disability related allowances to cover these expenses. However an individually assessed allowance may be calculated in respect of those who feel their additional needs exceed the standard 30% disregard.

4.2 This proposed policy change would ensure that Government allowances paid to people to meet their care and support needs, is properly used to contribute to their assessed care and support package and that the local authority does not effectively have to pay for the costs of such services again. This is fair and in keeping with the new Fees, Charges and Concessions policy.

4.3 The policy meets the statutory guidelines as set out in “Fairer Charging Policies for Home Care and other non-residential Social Services: Guidance for Councils with Social Services Responsibilities”, Department of Health 2003 and Non-Residential Social Services’ and Fairer Contributions Guidance issued in November 2010 under section 7 of the Local Authority Social Services Act 1970.

4.4 The proposed policy will bring Plymouth into line with the requirements set out in the new Care Act 2014 regulations and guidance.

- 4.5** Veterans would be afforded protection within the proposed new policy as the following will be disregarded:
- Guaranteed income payment paid under Armed Forces Compensation Scheme (payable to veterans only)
 - War pensions mobility supplement
 - Full disregard of any War pension
 - War Widows Special Payments
 - An element of Armed Forces Independence Payment
- 4.6** A detailed list of benefits and allowances that will be disregarded under the new proposed policy is included in the table set out below.

Benefits Counted as Income	Benefits Disregarded as Income
<p>State benefits (e.g. Retirement Pension, Pension Credit, Incapacity Benefit, ESA, Severe Disability Allowance, Income Support and/or Universal Credit, Disability Benefits including Attendance Allowance, Disability Living Allowance Care Component and/or Personal Independence Payment.)</p> <p>Occupational and private pensions or other regular income from investments</p> <p>Tariff income on savings above £14,250 (this assumes £1 for every £250 of capital, or part thereof, between the lower and upper capital limits as stated in CRAG)</p> <p>Any other income from other sources, e.g. rental from property, etc.</p>	<p>Earnings from employment</p> <p>Mobility Component of; Disability Living Allowance, Attendance Allowance Personal Independence Payment,</p> <p>War Pensioner’s Mobility Supplement</p> <p>Full disregard of any War Pensions</p> <p>War Widows Special Payments</p> <p>Savings credit element of Pension Credit</p> <p>Night rate of Disability Living Allowance (Care Component) or Attendance Allowance</p> <p>Guaranteed Income Payment paid under Armed Forces Compensation Scheme (payable to veterans only)</p> <p>Child Tax Credit</p> <p>An element of Armed Forces Independence Payment</p> <p>Working Tax Credits</p> <p>Child Benefit</p>

5. Consultation Process

5.1 In developing the revised policy a Consultation process ran from the beginning of January 2014 to the 6 April 2014, which was subsequently extended to 1 May 2014

5.2 The consultation process consisted of a number of elements -

- Letters and survey questionnaires were sent out to all service users receiving community based services and financial representatives. The information was produced in large print for the visually impaired and easy read format and contact telephone number given for queries. Over 1102 surveys have been returned of which 20 were completed on line leaving the bulk of surveys posted or handed to us and collated by staff at Windsor House.
- Information sent out to umbrella voluntary organisations and interest parties (Job Centre Plus, Plymouth CAB, Age UK Plymouth, SEAP, Plymouth Guild, PAGES Advocacy, Plymouth Highbury Trust, Plymouth Independent Living, The DOVE Project, Regard, Shared Lives SW, Colebrook SW/Healthwatch, Spectrum, Scope, Hanover, Pocklington Trust, A4E)

- Consultation documents were published on the Council’s consultation portal. These included the Fairer Charging Guide, with hard copies provided to those who requested and a set of “Frequently Asked Questions” was published.
- Letter sent to all service users, financial representatives and interested parties providing details of the four Drop-In consultation events.
- Three two hour Drop-In events were held across the City; Plymstock Library, The Highbury Trust and the Devonport Welcome Hall together with an all-day drop-in event at the Plymouth Guildhall. Around 200 service users and their carers attended these events with the majority finding the event helpful. Comment received on a completed survey “The people at the Guildhall consultation were very helpful and caring, and eased several of my concerns. Thank you.”

6. Consultation Findings

6.1 There were a number of themes/issues that are emerging from the consultation-

Consultation Themes	Response
Why are we charging for services?	The level of charging for non-residential services is discretionary. We are proposing to include all disability related benefits in our financial assessments. We aim to bring ourselves in line with other authorities who operate their fairer charging policy in this way. Like most Local Authorities providing care, Plymouth City Council must charge for some services provided in order to meet part of the cost of running the service. If the Council didn’t charge for services we wouldn’t be able to offer such a wide range of services to meet individual’s needs. Our comparators take account of 100% of the disability related benefits and then either apply a standard discount for disability related expenditure or request evidence of expenditure incurred by service users to calculate the exact discount
Is this Legal?	The power to charge derives from Section 17 Health and Social Services and Social Security Adjudications Act 1983 (HASSASSAA) which empowers the local authority to recover such charge (if any) for a service as they consider reasonable.
Affordability of services	A service user will only ever pay up to the maximum assessed charge for means tested services, which will take into account the ability to pay. The Council follows Government guidance to assess the maximum assessed charge which will ensure that service users are left with income support/pension credit guarantee level plus 25% after paying adult social care charges. The financial assessment also takes into account disability related expenses and basic housing costs.

<p>Significant increase in charges for some service users</p>	<p>The level of potential increases for existing users is of concern but service users will only ever be required to pay that which they have been assessed as able to afford. The current system of charging is not consistent between service users as it does not take account of all income available to all service users and is therefore not equitable.</p>
<p>Level of disability related expenses greater than the 30% proposed.</p>	<p>This is mitigated by the proposed policy including the ability for individuals to request a full assessment of their disability related expenditure where they can evidence that this is greater than the proposed 30%. Feedback included comments where service users had been encouraged, when devising their support plan under the current operating model, to use their disability benefits to supplement or support their personal budget and have been using their DRB to pay for additional personal assistant or day care related expenses. The impact on taking these benefits into account could reduce the service user's ability to fund these elements of their support plan. Therefore the current personal budget operating model will be reviewed to ensure that we were not asking service users to in effect use their DRB to pay twice for services or compromise the ability to collect the required level of income.</p>
<p>What if I cannot afford my usual care/expenses because of this change?</p>	<p>Service users will have the opportunity to discuss certain costs and expenses they have, that they may use their DRB to pay for. The sustainability of services is acknowledged and Government guidance states that the effect of service users refusing or withdrawing from services because of charge should be monitored.</p>
<p>Unfairness towards savers.</p>	<p>Those service users who have savings over £23,250 are deemed able to pay the full cost of services. The "capital threshold" is consistent with the Government's guidance for the charging of residential and nursing care and it is not appropriate to have a different level for those receiving non-residential services. The value of property is not taken into account when assessing the contribution for non-residential services.</p>
<p>Impact on Carers.</p>	<p>The impact on carers is a theme which is linked to the affordability of services and the potential for service users to withdraw from existing services or carers to withdraw from providing support. This will be mitigated by the fact that service users will only be charged their maximum charge as contained in their financial assessment.</p>
<p>How/when will these changes be implemented?</p>	<p>The revised policy cannot be applied until it has had agreement by Cabinet. If agreed the proposal is that the revised policy will be applied to new service users straight away with no change to existing service users' contributions until all have been reassessed. It is proposed that any change in the contribution will then be applied on the same date following completion of all re-assessments.</p>

7. Impact on Service Users

7.1 The policy will have a less favourable impact on older people and people with a disability, the higher proportion of which will be female but the nature of the users demographic of social care is such that this is to be expected.

7.2 The demographic spread of Adult social care community based services users is broadly consistent across all post codes and areas of the City.

7.3 As requested by the Portfolio Holder we undertook to review a controlled sample of 100 service users across the various service types. This sample is reflective of the demographic spread of service users across the City. We were able to examine the impact of the proposed policy change for 95 services users as follows:

49 of the 95 people currently make no contribution and the impact for them is:

Remaining on a nil contribution	13 out of 49
Increase from nil	36 out of 49 Av. £33.80 per week

46 of the 95 people who do currently make a contribution will have the following impact:

Current contribution same	10 out of 46
Current contribution decreased	2 out of 46
Current contribution increased	34 out of 46 Av. £17.68 per week

It should be noted that it is difficult to be more precise in this report about service user impact as the outcome of assessments will be highly variable dependent on an individual person's circumstances and needs, their income and expenses.

7.4 As a result of the extended period of consultation we also carried out an in depth review of six cases looking at the assessment of need, the support plan and the financial details relating to income and the client contribution under our proposed charging policy. As a consequence:

- We have amended our operational practices and proposed policy to ensure equity of service provision, for example, where a service user lives at home supported by family members compared to a service user living independently supported by paid carers.
- We will ensure that we apply the Department of Health's guidance for Councils on Fairer Charging that states if the council purchases no element of night care, the night care element of the AA, DLA, CAA or ESDA should not be taken into account as income in the assessment.
- We will ensure that we help service users to maximise their entitlement to benefits and allowances that will support their disability.
- Where people are already using their disability allowances to fund a portion of their agreed care and support needs, we will make an adjustment to their charges to reflect this.

7.5 In order to ensure that the proposed new arrangements are being applied in accordance with the policy and in a fair and equitable way for service users, we will undertake to conduct a detailed audit of the process six months after implementation.

8. Equality Considerations

8.1 This policy aims to be fair and implementation should not lead to anyone being unfairly disadvantaged. If a customer feels that this policy does not treat them fairly, they can ask for a review of their assessment. Plymouth City Council aims to ensure equality of treatment and access to services for all.

8.2 No person or groups of persons applying for services from the council will be treated any less favourably than any other person on the grounds of age, gender, sexual orientation, race and nationality, nature of disability, marital status, religion or belief. Information about council services will be accessible and, where necessary, targeted to those who may otherwise have trouble accessing information or services

9. Implementation

9.1 Once the policy is agreed all new service users will be charged under the new policy. This will involve signposting to maximise benefits. Existing service users will all be reassessed over an 8 week period and the policy will then be implemented on completion.

Appendices

- Appendix A – Fairer Charging Policy



Draft Fairer Charging
Policy V3.doc

- Appendix B – Consultation Feedback



Consultation
feedback