



# Northumberland

## County Council

### CABINET

Date: 12 February 2019

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### Charges for care and support services for adults

Report of the Executive Director of Adult Social Care and Children's Services

Cabinet Member: Councillor Veronica Jones, Adult Wellbeing and Public Health

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#### **Purpose of report**

To report on comments received during the recent consultation about proposed changes to the Council's charging policy for care and support services, and to ask Cabinet to make recommendations to the Council about what changes to approve.

#### **Recommendations**

**Cabinet is recommended:**

- to note the contents of this report
- to recommend the Council at its budget meeting on 20 February:
  1. To consider the contents of the report on comments made during the consultation, attached as Appendix A
  2. To consider the equality impact assessment, attached as Appendix B
  3. To consider the detailed advice provided in this report, and advice from the Care Act statutory guidance cited in this report
  4. To reduce to £35 the standard allowance for disability-related costs for people getting the highest rates of the main non-means-tested disability benefits
  5. To adopt the minimum income figures for members of a couple set out in national regulations, but capping the additional charge for working age adults at a figure calculated on the same basis as the figure of £19.45 quoted in the consultation document (adjusted as necessary for changes in the nationally prescribed minimum income figures)

6. To adopt a policy that charges for home care will take account of the full cost to the Council of the person's service, up to the limit of what the person is assessed as able to afford to pay, with the exceptions set out in this report for the "very rural" areas of Northumberland and for other special circumstances
7. To decide in principle that all social care day services should from 1 October 2019 be charged for on the basis of their full cost, up to the limit of what each person is assessed as able to afford to pay, including those services operated by the mental health organisation Blyth Star which are currently not chargeable but are similar in nature to other services which are; and to delegate to the Executive Director, in consultation with the Cabinet Member for Adult Wellbeing & Health, the authority to determine what Blyth Star services should be exceptions to this, because charging would undermine the nature of the support which they offer.
8. To end the discount currently offered to service users who pay by Direct Debit, and to introduce in its place an introductory offer for new charge-payers of a discount of £10 on their first three bills
9. To introduce a weekly administration fee for people who choose to ask the Council to arrange services for them when they have savings of more than the capital limit (currently £23,250), and would be able to make private arrangements. This fee to be based on the actual administrative costs, and initially set at £3.45, or £4.00 for people not paying by Direct Debit. The discount for payment by Direct Debit provided for in the previous recommendation will not be available where a person is paying an administration fee.
10. To confirm that all income above the minimum amounts provided for in regulations will continue to be treated as available to pay charges, other than where there are specific exceptions in the Council's policy
11. To confirm that there will continue to be no maximum weekly charge
12. To confirm, after considering the advice from the Care Act statutory guidance quoted in section 9 of this report, and the reasoning set out in that section, that carers should continue to be charged on the same basis as disabled people for any services provided directly to meet their own needs.
13. To adopt the charging policy attached as Appendix C (with any necessary amendments to reflect decisions taken by the Cabinet), to take effect from 8 April 2019

### Link to Corporate Plan

This report is relevant to the "Living" priority in the Corporate Plan.

### Key issues

1. The Council consulted in the two months before the Christmas break on six proposed changes to the charging policy for non-residential care and support services for adults.

Every current service user who could be affected by the changes was written to individually.

2. Since increases to charges would have specific detrimental effects on disabled people, and would tend to have greater effects on women than on men, and greater effects on older people than on the population in general, Members will need to weigh these impacts carefully against the Council's other duties and objectives, including the duty to set a balanced budget.
3. The changes proposed in the consultation document were:
  - a reduction in the standard allowance for disability-related expenditure in the financial assessment, which would increase the weekly charge for most people by £13.30 unless they can show that they have weekly disability-related expenditure of more than £35;
  - ending an anomaly in the treatment of couples in the financial assessment, with the effect of increasing the amount which people who are part of a couple are assessed as able to pay by £43.90 for older people; £19.45 for working age adults [there was an error in this calculation, but this report recommends protecting working age couples by capping the impact on them to match the assumptions made in the consultation document];
  - full cost charging for home care, including ending the subsidy which enables people in rural areas to pay less than the full cost of their services, even if they are assessed as able to pay the full cost (with exceptions when services have very high costs, primarily in the remotest rural areas);
  - introducing charges for some mental health day services which are currently not charged for, and adjusting charges for some other day services which are currently lower than the full cost of services;
  - ending the 4% discount on charges for people who pay by Direct Debit;
  - introducing an administrative charge of £3.45 - £4.00 per week for arranging services for people who have savings of more than £23,250 and could arrange their own services privately, but who choose to ask the Council to make arrangements.
4. Some of these proposals would primarily affect people who have a maximum charge set through a financial assessment, many of whom receive means-tested benefits or have incomes only modestly above that level; other proposals would primarily affect people with savings of more than £23,250.
5. Among other messages, the consultation responses included expressions of concern about the impact on the quality of life of service users on low incomes and a view that people in rural areas receive poorer services and should not have to pay more. **The new home care contract to be introduced from April this year represents a significant investment in improving rural home care; the proposal on full cost charging would mean that the minority of service users who can afford to contribute towards the cost of that investment would be asked to do so.**

# Charges for care and support services for adults

## BACKGROUND

### 1. Introduction

- 1.1 The draft Medium Term Financial Plan (MTFP) and budget for 2019/20 includes a saving of £450K in 2019/20 from increased charges for adult social care services, and further annual savings of £6.5m by 2021-22 in spending on commissioned care and support services.
- 1.2 Because of the wider context of an expected need for substantial savings in adult social care, the consultation document about potential changes to the Council's charging policy distributed in October 2018 set out proposals which would lead to a total estimated saving of £1.1m. A number of these proposals would remove subsidies which make it financially advantageous for people who could afford to make private care arrangements to ask the Council to make arrangements for them, and for that reason it is hard to predict what proportion of the savings would take the form of increased income, and what proportion would instead appear as reduced use of Council-commissioned services.
- 1.3 Officers' advice is that it is unlikely to be possible to achieve the demanding adult care savings targets in the MTFP unless the charging policy is revised to achieve savings on the scale proposed in the consultation document. The recommendations in this report include adjustments to the proposals in the consultation document, mostly to take account of issues raised by consultees. There are a number of uncertainties about how the charges will affect decisions made by service users which make precise predictions impossible. However it is anticipated that the net effect would be a saving similar to that proposed in the consultation.

### 2. Context

- 2.1 Changes to the charging policy will affect service users in different ways, depending on their financial circumstances and the services which they are using. For charging purposes, service users fall into three broad groups:
  - a) **Users receiving means-tested benefits** (1547 people at 8 January 2019). Nearly three quarters of this group of users pay charges. The amount which they are assessed as able to pay varies considerably; most pay less than £80 per week.
  - b) **Other users whose charges are capped at a level based on their income** (964 people). Some people in this group have quite substantial occupational pensions, but others have incomes lower than some of those receiving means-tested benefits – indeed *half* of the people in this group are currently assessed as not able to pay charges.
  - c) **Users with savings over the capital limit** (298 people), who are required to pay the full cost of their services, except that some services are currently subsidised.

- 2.2 Most people in the first two groups are currently paying the maximum amount which they are assessed as able to pay. Under the current charging policy, only 6% of users receiving means-tested benefits and 10% of other users with income-based charges would pay more if they needed more services, or if the charges for the services they use were increased.
- 2.3 Different proposals in the consultation document would therefore impact very differently on these three groups:
- a) Reducing the standard allowance for disability-related expenditure would increase weekly charges for almost all users whose charges are based on their income, whether from benefits or pensions, and would mean that some people currently in these groups not paying charges would start to do so. It would make no difference to the charge paid by service users with savings over the capital limit.
  - b) Removing the subsidy for most rural home care would make little or no difference to most people with income-based charges, though a small number of people currently getting a very low number of hours of support each week might pay a few pounds more, and a few people with substantial occupational pensions might pay significantly more. The main impact would be on people with savings over the capital threshold, who would pay the full extra cost.
  - c) Changing the way couples are assessed would substantially increase the charges for most people in a couple with income-based charges, and would mean that a significant number of people who currently do not pay charges would be asked to do so for the first time. It would have no impact on people with savings, and some people getting low levels of support would also not be affected.
  - d) We do not have financial details for most of the users of mental health day services who might be affected by a change in policy, but it is likely that the majority will be receiving means-tested benefits.
  - e) Removing or reducing the discount for payment by direct debit would affect a majority of people in all groups, though the proportion of users paying in this way is rather higher among those with savings over the capital limit (74.5% compared to 68.5% for others). However the cash value of the discount is currently highest for people with savings over the capital limit, averaging £5.42 a week for them, compared to an average of £2.17 for people receiving means-tested benefits and paying the maximum they are assessed as able to afford.
  - f) The administrative charge for people choosing to ask the Council to arrange services when they could have done so privately would affect only people with savings over the capital limit.
- 2.4 In considering whether to proceed with the proposals, and whether to modify them if doing so, Members may wish to bear in mind the differences between the impacts of different proposals.
- 2.5 A further point which Members should be aware of is that the Department of Health and Social Care has now confirmed that, for the fourth year in succession, the figures set out in regulations for the minimum income which people in different

circumstances must be left with after charging, and for the amount of the capital limit above which people can be charged the full cost of their services, will remain unchanged. The effect is that, in real terms, the national requirements incorporated into the Council's charging policy have become less generous in each year.

### **3. Reducing standard allowances for disability-related expenditure**

- 3.1 The social security system includes three main non-means-tested disability benefits – Attendance Allowance (AA), Disability Living Allowance (DLA), and Personal Independence Payment (PIP). There is no standard term for these three benefits; in this report they are referred to as the “disability payments”. AA is paid to people who first meet eligibility criteria for one of the disability payments when they are above state pension age. DLA was before 2013 the equivalent benefit for working age adults; it is now being replaced in that role by PIP.
- 3.2 DLA and PIP have two elements, one linked to disabilities affecting mobility, the other intended to provide support with other disability-related costs (called the “care component” in DLA, the “daily living part” in PIP). AA does not include a mobility element, though older people who qualified for DLA or PIP can continue to receive both elements after they reach state pension age. Local authorities are not permitted to take mobility allowances into account in setting charges; unless otherwise stated, all references in this report to disability payments are to the care/daily living elements.
- 3.3 The highest and second highest rates of all three disability payments are set at the same rates. Currently these are £85.60 and £57.30 per week; from April 2019 they will be £87.65 and £58.70. DLA also includes a third lower rate, currently £22.65 per week. The rates have different names for each benefit; in this report they are referred to as “high” and “middle” rates. People who receive means-tested benefits generally receive a further additional premium if they live on their own and get the high or middle rate of a disability payment (though the situation for working age adults has become complex during the welfare reform programme, with a number of changes of policy, driven in part by court cases).
- 3.4 There is a broad relationship between the level of disability payment which a person is assessed as eligible for and the level of care and support services which they are assessed as needing under the Care Act. Currently, among those receiving chargeable services, the average cost of the care package for someone receiving one of the high benefit rates is £317; for someone receiving the middle rate £230; for someone receiving the low rate of DLA £147; and for someone not receiving any disability payment £143. (These are the full costs<sup>1</sup> of the services – it would be unusual for a service user receiving care packages at any of these levels to be required to pay the full cost, unless they have savings above the capital limit of £23,250.)
- 3.5 Since national guidance on charging was first issued in 2003, local authorities have been permitted to take into account in setting charges both the disability payments

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<sup>1</sup> The cost figures used in this calculation are those currently used to set charges, some of which are subsidised.

and the extra means-tested benefit premiums linked to middle and high rate disability payments, but with a requirement if doing so to take account also of other disability-related expenditure that people may need this funding for. In law, authorities have a duty to carry out an assessment of each person's disability-related expenditure. However experience locally and elsewhere has been that few people wish to share with the local authority the detailed evidence about their spending which such assessments require. The Council therefore makes standard allowances for disability-related expenditure, and lets people know of their entitlement to have a detailed assessment of their actual expenditure if they wish. Few people have in practice chosen that option.

- 3.6 The preferred proposal in the consultation document was a reduction in the standard allowance for people receiving the high rate of any of the disability payments. Currently, the standard allowance for people receiving the middle rate is £20 per week, and the standard allowance for people receiving the high rate assumes that *all* of the additional benefit they receive is required for other disability-related costs, so that none of it is available to pay for care. The consultation proposal was to set a standard allowance for people receiving high rate disability payments of £35 per week. The consultation document compared this with the figure in the current year of £48.30. If the existing policy was not changed, this figure would become £48.95 from April.
- 3.7 We know of no evidence that people who qualify for the high rate of a disability payment usually have costs over and above the costs of their care and support services which differ from those of people qualifying for the medium rate by an amount similar to the whole difference between the two benefit payments. It would seem likely that the actual difference in disability-related costs will vary considerably from person to person, which is why the legislation requires authorities to make individual assessments. The main reason why the existing policy makes the assumption that this income is not available for charging is that, before the implementation of the Care Act, statutory guidance did not permit it to be taken into account unless overnight services were being provided. This no longer appears to be the case, and for the reasons set out in the following paragraphs, it appears reasonable to assume that the 2000 court judgement which was referred to in the statutory guidance is no longer relevant.

### **High rates and overnight care**

- 3.8 Under the rules for DLA and AA, people qualify for the highest rates only if they need support both during the day and at night. In the court case in 2000, the judge agreed with objectors that it was unlawful for Coventry City Council to treat the extra amount paid to people getting high rate DLA or AA as income available to pay charges, if the council was not providing services at night. The judge did not explain how he had reached this view, and we do not know what information he had been given.
- 3.9 There have been two relevant changes since 2000:
- a) The legislative framework has changed. Regulations issued under the Care Act state explicitly what income can and cannot be taken into account in assessing ability to pay charges. The disability payments are listed as income which can be taken into account, subject to the qualification that disability-related

expenditure must be assessed in that case, but with no other restriction.

b) The benefits system has also changed. The eligibility rules for PIP do not link the high rate to a need for overnight care, though the amount of the high rate is the same as for AA and DLA. This makes it seem clear that the additional amount above the middle rate is not specifically intended to reflect costs of night-time needs. Instead, it now appears reasonable to assume, the criteria used for all three benefits are different ways of trying to establish how substantial a person's disability is. The different benefits have been designed at different times, using different criteria, but the underlying purpose in each case has been to establish a practicable set of rules for classifying people according to their broad level of need.

3.10 When people need help at night, they sometimes get it from paid care workers, whether arranged by the Council or privately. But in other cases the night-time support itself may cost them little or nothing. When someone needs assistance during the night, they may prefer to get it from a partner or family member, because it would be intrusive to have paid care workers in the house at night. But if someone's condition is such that they do need help at night, it is highly probable that they will also have a high level of support needs during the day; and the partner or family member who provides support at night may have a particular need for a break during daytime.

3.11 We raised this issue explicitly in the consultation materials which we sent to all users. While a number of consultees told us that they would struggle financially if their charges increased, none of them mentioned night-time needs as an issue. However if the proposal is confirmed, we will ensure that during financial assessments we ask specifically about whether the person has any disability-related costs because of help they get during the night.

## **Discussion**

3.12 This consultation proposal would affect more service users than any other. On current numbers, 867 people in receipt of means-tested benefits would be told that unless a detailed assessment of their disability-related costs showed that these were higher than £35 per week, the amount they were assessed as able to pay would increase by £13.30 a week, with 804 being asked to pay more for their current services. 328 other people with income-based charges would be affected, of whom 270 might be asked to pay more for their current services. A further 259 people who do not currently pay charges would be asked to do so, with weekly charges of between £4 (the threshold below which no charges are made) and £13.30. All of these people would be reminded of their entitlement to ask for a detailed assessment of their expenditure.

3.13 It is not possible to predict the exact financial impact of implementing the proposal, since this would depend on how many people asked to have a detailed assessment of their disability-related costs, and what the outcome was of these assessments. Past experience has been that few people do choose to have detailed assessments of their expenditure – as at 8 January 2019, only two current service users had higher allowances set on the basis of such an assessment – though it is not possible to be certain what decisions people would make in this new situation. If only a modest number of people ask for a detailed assessment and do provide



evidence of disability-related expenditure in excess of £35 per week, this proposal would achieve the largest annual saving of any of those consulted on, possibly in excess of £600K. If a substantial proportion of service users were to do so, the saving would be lower, and there would be significant additional administrative costs.

- 3.14 On the face of it, the very small number of people currently asking for a full assessment of their disability-related expenditure does suggest that the current standard allowances may be higher than the amounts which would be identified if allowances were made only on the basis of detailed assessments of expenditure (though an unknown number of people may have declined such an assessment because of reluctance to provide financial information, when they could have demonstrated costs higher than the standard amounts).
- 3.15 If the Council does decide to reduce the standard allowances, there is a clear case for focusing the reduction on the allowance for people on the high rate of the disability payments. The current policy in effect assumes that people on the high rate of benefit need to spend a greater proportion of their disability benefits on other disability-related costs than do people on the middle rate. There is no obvious reason to expect that to be the case; the assumption that payments above the middle rate are not available to pay for care and support services was adopted only because of the former statutory guidance and the 2000 court judgement.

#### **4. Financial assessment of couples**

- 4.1 When assessing people's ability to pay charges, the Council is permitted to take into account only the finances of the person receiving services. If that person has a spouse or partner, statutory guidance says that we should start by assuming that the person benefits from half of the household income, regardless of who this is paid to, though we also consider special circumstances, and assume that disability benefits paid to the service user are specifically intended for them (and likewise for any disability benefits paid to their partner).
- 4.2 At present, when we calculate how much money a service user with a partner must be left with after paying charges, we compare their income with the same minimum figure that we use for single people. This can mean that people who are part of a couple are treated more generously than people who live on their own. For instance if all of a couple's income comes from social security benefits and the state pension, and one or both of them needs care and support services, they will be asked to pay much less in charges than they would pay if they were receiving the same benefits but living on their own. Sometimes this has meant that if one member of a couple is later left on their own, they have faced a sudden increase in the charges they have to pay. The Council adopted its current policy on the basis of statutory guidance issued in 2003, and confirmed with the Department of Health that its interpretation of that guidance was correct, despite its perverse consequences.
- 4.3 The national rules on charges for couples were clarified in 2015 by regulations issued under the Care Act, which sets out specific minimum figures for the income which someone with a spouse or partner must be left with after charging, that are lower than the rates for single people. This brings the underlying assumptions

about the cost of living as a couple into line with those in the social security system, and makes a more consistent charging policy possible.

- 4.4 The consultation document proposed the adoption by the Council of the minimum income figures for couples set out in the Care Act charging regulations. There was, unfortunately, an error in the figures given in the consultation document for the difference that this change would make: for working age couples, these illustrated only the difference between the national minimum figures for people on the lowest rates of benefit (£19.45). For working age adults with additional disability benefits, the gap between the single person and couple minimum income figures is greater (up to £37.45). For older people, the difference is, as stated in the consultation document, £43.90.
- 4.5 An argument put forward against this proposal by some consultees is that the partners of users of care and support services are usually also carers for them who are struggling with difficult life circumstances, and that it would be unfair to make their situation worse by reducing the household income. Consultees also observed that many of the people affected by this change would also be seeing a reduction in their income because of the proposed change to the standard allowances for disability related expenditure. The cumulative effect of both changes would be very substantial, particularly for households whose income comes entirely from benefits.
- 4.6 Two further facts are relevant to this decision:
- a) For working age couples, charges are only likely to be an issue if both members of the couple do not work, since earnings are required to be disregarded under the charging regulations, and the social security benefits payable to someone whose spouse is in work would almost inevitably be below the minimum income which people must be left with after paying charges.
  - b) A older disabled person in an couple who are both not working and eligible for means-tested benefits will in 2019/20 receive weekly payments at least £31 higher than if they were in a working age couple eligible for all disability premiums, though it is not obvious that their spending needs will be substantially greater.
- 4.7 Taking account of this comparison, it is suggested that the amounts included in the consultation document, though they do not correctly reflect the full set of figures in the regulations, would be a reasonable basis for a revised policy on financial assessment of people who are in a couple. Treating working age couples more generously than the regulations require would partially offset the unequal treatment of couples in similar circumstances by the benefits system.

## **5. Full-cost charging for home care**

- 5.1 The consultation document proposed the introduction of full-cost charging for home care, with protection for some service users whose services are exceptionally expensive. This would affect only those who are assessed as able to afford to pay more for their service. The proposal would change those users' charges in two ways:
- a) rural service users would no longer automatically be subsidised to reduce their

charges to match the cost of services in the urban South East of the County;

b) the higher cost of short visits, reflecting greater travel costs, would be reflected in charges.

- 5.2 The proposal to cease subsidising the cost of the service for users in rural areas aroused some strong feelings among respondents to the consultation, generally based on the view that it was unfair to charge different amounts for what respondents saw as being the same service. Consultation responses also made a range of comments about the limited availability of home care and other services in rural areas.
- 5.3 Because of the timing of the consultation, it was not possible to include in the documentation a full account of the wider steps which the Council is taking to address the difficulty in recent years of ensuring that home care needs can reliably be met in rural Northumberland. Current contracts for providing home care terminate at 31 March 2019, and a procurement exercise was launched in December 2018, based on new terms designed to reduce the financial constraints which have made it difficult for providers in rural areas to recruit and retain care workers. The new contract increases the differential between rural and urban rates, with a particularly substantial increase in the “very rural” areas in and near the National Park and the North Pennines Area of Outstanding Natural Beauty, where we have offered new fees averaging £12.24 per hour higher than in the urban South East of the County (an 80% differential), and an increase in the rest of rural Northumberland from a current gap of 72p per hour (a 5% premium) to an average premium of £2.05 per hour (13.3%).
- 5.4 Since the majority of service users in both rural and urban Northumberland pay less than the full cost of their services as a result of the assessment of their ability to pay, most of the additional cost of these improved terms will be met by the Council. Implementation of the proposal in the consultation document would mean that the minority of service users who are assessed as able to pay the full cost of their service would be asked to meet their share of the increase in rates.
- 5.5 The new home care contract would affect the impact of a full-cost charging policy for home care in two ways:
- a) People in rural areas who are paying the full cost, usually because they have savings above the capital limit, would pay on average £2.05 per hour more than if they lived in the South East. However people living in “very rural” areas would continue to be subsidised, and would pay the same as other rural residents would pay for the same service.
- b) The new contract also reintroduces a differential between the equivalent hourly rate paid for shorter and longer visits, reflecting concerns raised by providers about the cost of making short visits, particularly to service users in areas where travel distances are more significant. This would mean that service users receiving regular 15-minute monitoring visits would pay more per hour than users whose plans consisted entirely of visits of 30 minutes or more to provide personal care.

- 5.6 A number of points are relevant to making a decision about this proposal:
- a) Unlike the proposals discussed above, this change to the policy would have little effect on service users with low incomes.
  - b) The general presumption of the charging system, nationally and locally, has come to be that people will pay the full cost of their care, and will be subsidised only when they cannot afford to do so.
  - c) Subsidising the cost of home care in rural areas for people who could afford to make private arrangements means that they have a financial incentive to ask the local authority to make arrangements for them. Given the growing gap between the cost of arranging home care in rural and urban areas, the number of people making this choice might increase, and the cost of this subsidy might therefore also increase over time, from a level in 2019/20 likely to be of the order of £100k-£150k.
- 5.7 In the context of the overall need to focus increasingly stretched adult social care resources on people who rely on publicly-funded services as the only way in which their care and support needs can be met, there is a strong case for proceeding with this proposal.

## **6. Charges for day services**

- 6.1 Two proposals were made by the consultation document:
- a) the introduction of charges for some mental health day services for people of working age which are currently non-chargeable;
  - b) a review of the costings being used for charging purposes for some day services, to ensure that they reflect the full cost of the service.
- 6.2 The second of these proposals would not involve a change to the charging policy, but more consistent implementation of the existing policy. Anomalies have arisen mainly in services which are or previously have been funded through block contracts or provided directly by the Council. In some of these cases, the costings currently used reflect historic assumptions about the expected number of users of a service, which do not correspond to the actual current position. The expectation at the time when the consultation document was prepared was that revised charges would be calculated during the consultation period. That has not been possible, but it is intended to introduce changes during 2019/20. These will affect only a small number of people.
- 6.3 The more significant issue concerns the working age mental health day services which are currently non-chargeable. These services are all now operated by the charitable organisation Blyth Star, though some of them were formerly run as social care services by the mental health NHS trust serving Northumberland. In the past, the decision has been taken that these services would be excluded from charging, for a number of reasons, including their historical links with the NHS and concerns that charging might cause people with severe mental health problems to drop out from a service whose roles included monitoring their mental state.

- 6.4 The treatment of these services is now anomalous, since some of them are in practice very similar to other day services which are chargeable. For instance the Blyth Star nursery in Stakeford has a client group and a service model which fairly closely resembles the Council's directly provided horticultural day services, which are charged for.
- 6.5 The consultation report (Appendix A) describes meetings with users of the Blyth Star services, and officers have also discussed the issues with managers of the services, and with professionals supporting people who make use of Blyth Star services. Officers' provisional conclusion is that there is no clear reason why all of the Blyth Star services should continue to be non-chargeable. However there was convincing evidence that some service users are being given support which goes well beyond what would ordinarily be expected from a day service, operating in a highly-responsive manner when people are in crisis.
- 6.6 The recommendation on Blyth Star services is that the principle of charging should be agreed, but that implementation of this should be deferred for six months to allow for a more detailed review of the different elements of the service. It seems likely that the outcome will be that some services will become chargeable, but with an understanding agreed with the organisation about how to identify specific kinds of support which will continue to be exceptions.

## **7. The discount for payment by Direct Debit**

- 7.1 Currently, as an incentive to avoid the administrative costs of sending four-weekly invoices to service users or their financial representatives, the Council offers a 4% discount for payment by Direct Debit. The consultation document proposed ending or reducing this discount.
- 7.2 Consultation responses which argued against this mostly suggested that it would be a false economy, because administration costs would increase. However it is not clear to what extent this would be the case. Direct Debit has become an increasingly normal and trusted payment method over the years, and the reduction in paperwork for people paying the charges is itself an incentive to pay in this way.
- 7.3 The current policy has had a number of unintended consequences, which were noted by some respondents to the consultation:
- a) It has meant that charges have been higher for people in the most precarious financial situations, who may be juggling bills from week to week and not feel able to commit to a Direct Debit, or may not have a bank account which supports Direct Debit payment
  - b) It has also meant that the financial value of the discount has been highest for people paying the highest charges, who are in general the people with the most resources, though the processing cost of an invoice is not necessarily higher for large sums than for small
  - c) It has in practice been more complex than expected to administer, because of the need to recalculate discounts when payments are adjusted.

- 7.4 Two consultation respondents made suggestions for change which, taken together, would end or reduce these unintended consequences while retaining a more modest incentive to take up the Direct Debit Option. One suggested switching to a time-limited “introductory offer”; another suggested a fixed discount rather than a percentage.
- 7.5 The recommendation is to adopt a revised policy of discounting by £10 each of a service user’s first three bills if they pay by Direct Debit. This offer could be taken up once by any service user. It would have an estimated annual cost of £18,000, compared to the current £200K cost of the 4% discount. The impact on takeup of Direct Debits would be monitored.

## **8. Administration fees**

- 8.1 The final proposal in the consultation document was to take up the option introduced by the Care Act of making an administrative charge in cases where someone is financially able to afford to make arrangement privately (and has the mental capacity to be able to do so safely, or has someone who can make the arrangements on their behalf). The charge would cover only the administrative costs of making the arrangements; the Council is not permitted to charge for assessments of care and support needs.
- 8.2 The Care Act permits an administrative charge only in cases where the service user has savings in excess of the capital limit (currently £23,250). This is not wholly rational, since there may be some people with substantial pensions but a lower level of savings who would also be in a position where they could choose whether to opt for a public sector or privately-arranged service. However the Council appears to have no discretion to extend administration fees beyond the defined group of users.
- 8.3 Some consultees expressed dismay at this proposal, arguing that the Council ought to meet administrative costs from its general income. But given the overall savings requirement, there is no obvious reason not to proceed with this change.
- 8.4 The consultation document put forward a figure for these fees of £3.45 per week, increasing to £4.00 per week for people not paying by Direct Debit. These figures are based on estimated actual costs, and would be reviewed annually to ensure that they stay in line with costs. Some consultees suggested that charges should be made at the start of payment when most costs are incurred rather than as a weekly sum; that option is not recommended, since costs will in practice arise at various times for a variety of reasons, including for instance the stopping and restarting of charges during periods of hospitalisation. It would be administratively burdensome, and might be perceived as unfair, to make charges each time there was a change for reasons such as this.

## **9. Other issues covered in the consultation**

- 9.1 The statutory guidance requires local authorities when they consult about charges to seek views about some other specific issues:
- a) whether it is appropriate to set a maximum percentage of disposable income (over and above the guaranteed minimum income) which may be taken into

account in charges

- b) whether it is appropriate to set a maximum charge
- c) whether and on what basis to make charges to carers for services provided directly to them

9.2 The consultation document invited views on these issues. Respondents were generally sceptical about whether, in its current financial situation, the Council would seriously be able to adopt policies more generous than those currently in place in any of these areas.

### **Setting a maximum percentage of available income taken into account**

9.3 The Council currently assumes that all relevant income above the minimum levels set out in regulations is available to pay charges (with the specific exceptions discussed in sections 3 and 4 of this report). This could be seen as a “100% marginal rate of tax” on service users’ income, though it applies only to income from benefits, pensions, investments and similar sources – the regulations prohibit authorities from taking earned income into account, so the charging policy creates no disincentive to take up paid employment, in cases where this is a realistic option for service users.

9.4 Consultees made no direct comments on this issue, though it was explicitly raised in the consultation document, with illustrative figures suggesting that if only 75% of income above the minimum was taken into account in setting charges, there would be an estimated cost of £1.1m/year. In current circumstances there does not seem to be a strong argument for a change of policy.

### **Setting a maximum weekly charge**

9.5 The Council’s charging policy included a maximum weekly charge until 2014. This had been increased in stages from £25 per week in 2002 to £251.75 in 2012, as a result of pressures on the Council’s budget. A few consultees did argue for a cap on charges, in some cases linking this to the proposed lifetime cap on charges which was included in the Care Act but has not been implemented. One envisaged a cap set at a level which would mean that everyone would pay the same, whatever their means.

9.6 The consultation document included an estimate that a maximum charge of £200 per week would cost £460,000 a year. This is likely to be an underestimate, since setting a maximum charge would make it financially advantageous for some people who currently make private care arrangements to ask the Council to do so instead. Again there does not seem to be a strong case for a change of policy in current circumstances.

### **Charges for services provided directly to carers**

9.7 Under the Care Act, the Council has a duty to provide services directly to carers such as partners or family members when that is necessary in order to meet their eligible needs, as well as meeting the care and support needs of the people who they care for. In practice, the Council does so largely by grant-aiding Carers Northumberland, the county-wide organisation which provides carers with

information and support, and helps carers to make contact with others in similar situations. Over the years, carers have repeatedly told us when consulted that the two things which matter most to them are that they can talk to others who know what issues they are facing, and that the person they care for has good quality support planned in a way which takes account of the carer's own needs – for instance by enabling them to have breaks from caring, and by relieving them of the need to carry out care tasks which they cannot carry out safely. Carers Northumberland do not charge for the support which they provide; and the costs of services provided to the cared-for person to give their carer a break are chargeable to the cared-for person not to the carer.

9.8 The other form of support which the Council may have to arrange for carers is services provided directly to them. One example would be help with household tasks or child care for the partner of someone very seriously ill, if they choose to provide constant care to them themselves rather than getting support from care workers. Other examples given in the Care Act statutory guidance include paying for a relaxation class or driving lessons for the carer.

9.9 The Care Act statutory guidance strongly discourages authorities from making charges for these kinds of support provided directly to carers. The guidance says, in particular:

When deciding whether to charge, and in determining what an appropriate charge is, a local authority should consider how it wishes to express the way it values carers within its local community as partners in care, and recognise the significant contribution carers make. Carers help to maintain the health and wellbeing of the person they care for, support this person's independence and enable them to stay in their own homes for longer. In many cases of course, carers voluntarily meet eligible needs that the local authority would otherwise be required to meet. Local authorities should consider carefully the likely impact of any charges on carers, particularly in terms of their willingness and ability to continue their caring responsibilities. It may be that there are circumstances where a nominal charge may be appropriate, for example to provide for a service which is subsidised but for which the carer may still pay a small charge, such as a gym class. Ultimately, a local authority should ensure that any charges do not negatively impact on a carer's ability to look after their own health and wellbeing and to care effectively and safely.

While charging carers may be appropriate in some circumstances, it is very unlikely to be efficient to systematically charge carers for meeting their eligible needs. This is because excessive charges are likely to lead to carers refusing support, which in turn will lead to carer breakdown and local authorities having to meet more eligible needs of people currently cared for voluntarily.

9.10 Members will need to consider this guidance carefully, but the view of officers is that the issues which it raises are not in fact pressing ones in our local experience, perhaps because of the quality of the support available to carers from Carers Northumberland and from other sources. For instance one respondent to the consultation told us that

As a carer I wouldn't like you to change your policy. However I don't benefit or have any contact with Carers Northumberland. I've never felt the need or been



contacted by them. The organisations who do help me are the County Blind Association, who provide a visitor to visit Mother in Law, Citizens Advice, for welfare benefit and other advice and information and the local Development Trust who provides a library, cinema, groups training and a new self help group for carers funded by a charitable trust. These give me 'time out' from caring. These agencies are funded by different sections, if at all, of NCC. It's important to see the issues in the round and see how lack of support can have unforeseen results. [R32]

9.11 Other carers told us that they would like to get more support, but did not argue that charges were the main issue. For this carer, for instance, the support she would ideally like is more time away from caring for her husband, which would require him to get alternative care which would be chargeable as a service provided to him:

Taking carers' needs into account when planning care services is laudable. The reality is, however, that I do not think the system could possibly cope with giving us a truly adequate amount of support. The costs would be astronomical. I believe many carers like myself would be reluctant to ask for more free time either because of the cost to themselves or their partner or because of the cost to the Council. I attend one two hour class on those weeks when I can get a friend or relative to sit with my husband. Going for walks, attending a gym, pursuing former hobbies or attending events run by Carers Northumberland are all out of the question. [R27]

9.12 Currently, the Council's policy is to charge for services provided directly to carers in the same way that they charge disabled people for the services provided to them. This has the advantage of consistency, enabling us largely to avoid situations where the same service might or might not be chargeable depending on whether it was classified as support for the disabled person or for their carer.

9.13 The Council should not lightly depart from advice given in statutory guidance, but in this case the guidance is expressed in terms of what is "likely", and otherwise says only that authorities *should consider* the arguments against charging. Officers' advice is that maintaining and when possible improving the level of support provided to the people who carers look after appears to be a higher priority for limited public funding than removing charges for direct services to carers.

## IMPLICATIONS ARISING OUT OF THE REPORT

|                      |  |
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| <p><b>Policy</b></p> | <p>The proposed charging policy aims to make a significant contribution to the Council's programme of budget savings, while minimising the detrimental impact on people with care and support needs.</p> |
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|---|--|
| <b>Finance and value for money</b>  | Officers' best estimate is that the recommendations would achieve a saving of around the £1.1m figure cited in the consultation document, though there are a number of uncertainties. As explained in the report, only part of this saving may take the form of additional income; there is also likely to be some reduction in the number of people choosing to arrange support privately rather than ask the Council to make arrangements for them, which would have a similar net financial effect. |
| <b>Legal</b>  | The Government's advice before the implementation of the Care Act was that taking account of the highest rates of non-means tested disability benefits in the way proposed was unlawful. The advice of the Council's legal services department is that this approach does now appear to be both lawful and reasonable, although it is understood that the current position has not been tested in a judicial setting.  |
| <b>Procurement</b>  | There are no direct implications for procurement.  |
| <b>Human Resources</b>  | No direct HR implications have been identified.  |
| <b>Property</b>   | There are no direct property implications.   |
| <b>Equalities</b><br>(Impact Assessment attached)<br>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> | The attached impact assessment concludes that the proposals will have a direct and significant negative impact on disabled people, and less direct negative impacts on some other protected groups. These impacts need to be balanced against the Council's duty to set a balanced budget, and its other statutory and policy objectives.  |
| <b>Risk Assessment</b>  | Risks to individual service users are considered during needs assessments and financial assessments.   |
| <b>Crime &amp; Disorder</b>   | There are no direct implications for crime and disorder.   |
| <b>Customer Considerations</b>  | The proposals have been designed to minimise the impact on service users, so far as possible.  |
| <b>Carbon reduction</b>   | No implications for carbon reduction have been identified.   |
| <b>Wards</b>  | All  |

## BACKGROUND PAPERS

Consultation documents (available on the Council's website at [www.northumberland.gov.uk/carechargesconsultation](http://www.northumberland.gov.uk/carechargesconsultation)).

### **Report sign off.**

*Authors must ensure that officers and members have agreed the content of the report.*

|  |                     |
|--|---------------------|
| Monitoring Officer/Legal                     | Liam Henry          |
| Executive Director of Finance & S151 Officer | Suzanne Dent        |
| Executive Director                           | Cath McEvoy-Carr    |
| Chief Executive                              | Daljit Lally        |
| Portfolio Holder(s)                          | Cllr Veronica Jones |

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