

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Adult Social Care
Date:	14 June 2016
Title:	Permission to consult on proposed changes to the Adult Services Paying for Care Policy
Reference:	7531
Report From:	Director of Adults' Health and Care

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1. Executive Summary

- 1.1. The purpose of this paper is to seek permission from the Executive Member for Adult Social Care to consult on a number of changes to the Adult Services Paying for Care Policy. This policy is the charging framework used to determine what financial contribution service users will make to the cost of their care arranged by Hampshire County Council.
- 1.2. The proposals, if implemented, would form part of the Adult Services Department's response to achieve savings of £43.1 million by April 2017, under the Transformation to 2017 programme.
- 1.3. Even if changes were to be made to the Paying for Care Policy following the proposed consultation, the County Council will always follow the nationally-set regulations on financial assessment, so people who are assessed, using the national criteria, as being unable to afford to contribute anything towards their care will continue to receive their care for free.
- 1.4. This paper seeks to:
 - set out the proposals planned for consultation;
 - consider the financial impact, if the suggested changes were to be implemented following consultation;
 - look at key risks and issues; and
 - outline the proposed plans for how the consultation would be carried out.

2. Contextual information

- 2.1. The proposals being considered form part of the Adult Services Transformation to 2017 savings programme. This programme is needed to transform the service to one that is sustainable: in other words, able to

meet growing demand safely and appropriately within a significantly reduced funding envelope. The suggested changes to the Paying for Care Policy set out here are designed to ensure that people who use services make a fair contribution to the cost of adult social care, in proportion to their needs and their resources.

- 2.2. Adult Services provides care and support to adults (aged 18 or over) assessed as having eligible care needs. Their social care support is not necessarily provided free of charge. Those people who are assessed as being eligible to receive social care support also receive a financial assessment, carried out in accordance with the Care Act 2014, and its accompanying Regulations and Statutory Guidance. No-one is asked to pay towards the cost of their care if they have been financially assessed as not being able to do so.
- 2.3. The Care Act 2014 brought with it new responsibilities but also greater clarity around key issues such as the charging rules for adult social care. With growing demand for adult social care and shrinking resources, clarity around legal duties is fundamental to ensure that limited resource is used as effectively as possible. The suggested changes to the Paying for Care Policy outlined below take account of the new legislation. Hampshire County Council is currently more generous than many other local authorities in its Paying for Care Policy. The proposed changes, if implemented following consultation, would bring the County Council in line with usual practice elsewhere in England in relation to certain aspects of charging for adult social care.

3. Explanation of the proposals for consultation

3.1. Removal of the 'second carer waiver'

- 3.1.1 The first change relates to removing the subsidy that the County Council currently provides for some people who require two carers at the same time (also known as 'double-up care') to meet their assessed eligible care needs. At the moment, if a client is receiving care that is organised by Hampshire County Council and they are paying the full (or almost the full) cost of their care, it is possible for them to apply for the cost of their second carer to be disregarded or 'waived'. The proposal is that this change would only affect individuals with a new requirement for two carers. This could be either people who are receiving care for the first time or existing clients who go from needing one carer to two carers. The consultation document asks for views on the County Council's proposed approach and some alternative options.
- 3.1.2 It is unusual for a local authority to subsidise the cost of a second carer in its Paying for Care Policy. Examples of other counties that do charge for two carers, where needed, include Essex, Oxfordshire, Cambridgeshire, Southampton and West Sussex.
- 3.1.3 The decision to introduce a 'second carer waiver' was taken in 2012 following the outcome of the County Council's last major charging

consultation in 2010, which resulted in the removal of the maximum weekly charge.

- 3.1.4 In the current financial climate, it is very costly for the County Council to subsidise those clients who receive double-up care if they have been financially assessed (using the national criteria) as able to afford to pay for the cost of both of their carers.
- 3.1.5 As at March 2016, the total amount of care costs being waived is £1.34 million per year. Most people who receive the waiver have been assessed as required to pay the full cost of their care, however there are some who have an upper limit (ie they are not completely self-funding). With growing demand for adult social care, it is expected that these costs could rise significantly in the future as more people apply for second carer waivers.
- 3.1.6 The proposal is that existing clients with the waiver in place would continue to have this cost subsidised by the County Council at the current rate. Therefore, for those clients, should the cost of the second carer increase in the future, reassessment would be undertaken to review personal and financial circumstances. The reason for the County Council's proposal not to remove the subsidy from existing recipients is that this cohort is by definition a group with high levels of dependency and vulnerability. They may also have a reasonable expectation that the waiver already agreed for them will continue. The consultation document asks people for their views on the County Council's preferred option and alternatives.
- 3.1.7 Applying this proposed change only for clients with a new requirement for two carers (ie they would not be offered a waiver of the cost of a second carer) would mean that over about a three-year period, the County Council would be able to make savings equivalent to the current annual cost of the waiver (which is around £1.34 million), based on the average length of time for which a waiver is currently needed.
- 3.2. **Taking into account 100 per cent of disposable income in financial assessments for non-residential care**
 - 3.2.1 The second proposed change concerns the amount of a client's disposable income that is taken into account when a financial assessment takes place for non-residential care services. Disposable income refers to the amount of income left over once standard outgoings are deducted, such as mortgage/rent, utility bills, council tax, and any disability related expenses. Clients are also always left with a 'buffer' to cover general living expenses such as food and clothing. This 'buffer' amount, the Minimum Income Guarantee, is a standard allowance set by the Government, depending on an individual's age and other circumstances. Currently, the County Council takes into account 95 per cent of a client's disposable income. The suggested proposal for consultation is that this should increase to take into account 100 per cent of disposable income. Other local authorities, including neighbouring authorities such as Portsmouth, Southampton and West Sussex, already take into account 100 per cent of disposable income.
 - 3.2.2 As at Quarter 4 of 2015/16, for clients receiving non-residential care, 13 per cent are already paying for the full cost of their care so would not be

affected by this proposed change. 43 per cent of clients are paying a partial contribution towards their care costs and 44 per cent are paying nothing towards their care costs. Overall, it has been estimated that this change would affect approximately 4,000 service users and bring in an estimated £420,000 additional income based on the clients currently receiving a service. On average, those affected would pay around £2.22 more per week towards their care. Around 220 people who currently pay nothing towards their care costs might have to make a small contribution if 100 per cent of their disposable income were to be taken into account.

3.2.3 An important point to repeat is that even if changes were to be made to the Paying for Care Policy following the proposed consultation, the County Council will always follow the nationally-set regulations on financial assessment, so people who are assessed, using the national criteria, as being unable to afford to contribute anything towards their care will continue to receive their care for free.

3.3 Charging Hampshire County Council in-house residential and nursing home clients during hospital stays or other absences from the care home

3.3.1 The third proposed change would affect clients in permanent residential and nursing beds in in-house Hampshire County Council homes. At the moment, if a client from a Hampshire County Council home goes into hospital or is otherwise away from the home (eg staying with relatives or on holiday) they retain their room in the care home, but they do not have to pay their usual client contribution for the duration of their absence. The proposal for consultation is that these clients would continue to contribute towards their care costs whilst away, since their room is their home and will not be occupied by anyone else whilst they are absent.

3.3.2 Charging clients their usual contribution whilst they are in hospital or otherwise absent overnight is normal practice in the private sector, and indeed Hampshire County Council clients who are placed in private care homes (rather than in Hampshire County Council-run homes) continue to pay their usual contribution if they are in hospital/away and the charge only ceases if a decision is made that they will not be returning to the care home.

3.3.3 This proposed change would therefore mean that clients living in Hampshire County Council in-house residential and nursing beds were not treated differently from those placed in privately-run care homes.

3.3.4 Over the 2015/16 financial year, there were 3,576 lost bed nights in Hampshire County Council-run residential homes and 1,278 in nursing homes, totalling 4,854 nights overall due to service users being either in hospital or otherwise absent. Roughly £160,000 in income may have been lost over the last year, based on the average amount a client contributes towards their care in one of the County Council's care homes. Hampshire County Council currently has 891 permanent in-house residential and nursing beds so at any one time up to 891 people could potentially be affected by this change.

3.4. Deferred Payment Agreements – inclusion of rental income in the financial assessment

3.4.1 The fourth proposed change relates to Deferred Payment Agreements. A Deferred Payment is a mechanism for an Adult Services client to use the value of their property to pay for residential or nursing care costs at a later date. To qualify for a Deferred Payment, a client must be self-funding due to the value of their home being taken into account in their financial assessment, but they have less than or equal to £23,250 in assets, excluding the value of their home. The Council charges interest and administration fees in respect of a Deferred Payment Agreement. The client will still make a weekly contribution to their care costs from their income, but they can defer the remainder of the cost until their home is sold. Currently, if a client with a Deferred Payment Agreement decides to let out their property when they move into a care home, the County Council does not take into account in their financial assessment any rental income that the individual is receiving. The Care Act 2014 allows the council to take rental income into account, and we know that other councils do include this in their assessment of a client's contribution towards care costs. Other authorities take into account around 80–90 per cent of rental income in the financial assessment. There is the potential for this to generate additional income, although it is difficult to estimate how much, as currently the County Council does not enquire of service users whether they intend to let out their property when they move into a care home and arrange a Deferred Payment Agreement.

3.4.2 This proposal would not affect existing clients with a Deferred Payment Agreement in place, as this is a legally binding contract between the service user and the County Council. It would only impact on new clients wanting to arrange a Deferred Payment Agreement for their care in a residential/nursing home, if they chose to let out their home, after any proposed change had been implemented. In 2015/16, the County Council arranged 3 to 4 new Deferred Payment Agreements each month (44 in total), so if this trend continued in future years, only small numbers of individuals would be affected each year (and in any case, not all of these individuals would choose to let out their property when they moved into a care home). The inclusion of rental income in a financial assessment would mean that a client letting out their property could be asked to contribute more towards their care costs in their client contribution each week, and the debt and interest charges that would need to be repaid when their property was sold would be lower.

3.5 Options for consultation that have been rejected

In considering the proposed amendments to the Contributions Policy, a number of other options were also considered.

- a. **Do nothing.** This was rejected as it would not provide the most efficient use of available funding, or enable the County Council to target funding where it is needed the most, ie the most vulnerable adults with the least means. This approach would also limit ability to deliver the anticipated level of savings.
- b. **Charge unpaid carers for services that they receive to support them in their caring role,** which they usually receive in the form of a direct payment. The County Council has rejected this option because unpaid carers make an important contribution in supporting people they care for to remain in their own homes, for as long as possible.
- c. **Charge for early intervention and prevention services,** such as ‘falls prevention’ classes and other wellbeing activities. The County Council has rejected this option because these types of services attract large numbers of people – helping them to live well and independently for longer. In turn, this early intervention drives down the potential cost of more intensive and costly social care support in the future.

4. Key issues

4.1. Financial implications

It is estimated that, on the basis of current figures, the proposed changes, if implemented, could result in savings of around £1.5 million. The estimated financial implications for each of the four proposals are below:

Removal of second carer waiver for new applicants	Around £1.34 million of savings over approximately a three-year period
Taking account of 100 per cent of disposable income	Additional income of around £420,000 per year (based on the clients currently in the system)
Charging clients in HCC residential and nursing homes their usual contribution when in hospital/absent	Around £160,000 per year
Inclusion of rental income in the weekly client contribution for Deferred Payment clients	It is not known how many deferred payment clients may in future let out their property. However, if a client’s weekly contribution were to rise because rental income was included, this would reduce the amount of debt that the client would have to repay when the property was sold. It would also reduce the debt that HCC would be managing that was tied up in the property.

4.2. Legal considerations

Under the Care Act 2014 the County Council has the power to charge for residential and non-residential care. Regulations set out what can and cannot be taken into account when carrying out a financial assessment. The changes to the County Council's Paying for Care Policy proposed for consultation in this report are not excluded under the Care Act and the Regulations.

5. Consultation

- 5.1. If the consultation proceeds, all adult social care service users who could potentially be affected (around 12,000 people) would be contacted and asked to give their views via a survey, which could be completed on paper or online. Key stakeholders would be consulted via email containing a link to the survey online. Stakeholders include organisations such as Older People's Forums, disability forums and user-led organisations, carer organisations, Clinical Commissioning Groups (CCGs) and other NHS organisations. Service users with a learning disability who could be affected by the proposals would be contacted with easy-read letters and documentation. Where the County Council normally communicates with a representative (rather than directly with the service user), the consultation information would be sent to the service user's representative. The proposals do not lend themselves to being presented at public consultation events, although Officers would offer to attend a number of regular stakeholder meetings where the County Council routinely briefs stakeholders about proposed changes to services. The consultation would also be published on Hantsweb, allowing the general public the opportunity to comment.
- 5.2. The proposal is to consult over a ten-week period, from 15 June to 26 August 2016. As individuals who could potentially be affected by the proposed changes (or their representative) would be contacted directly, this timescale is considered sufficient for people to be able to respond, even though the 10-week period includes August. A small project team in Adult Services would respond to individual letters/emails/telephone calls from clients, families and other stakeholders. The survey would include a dedicated telephone number for enquiries.
- 5.3. The outcome of the consultation, if permission to proceed is granted, would be reported to the Executive Member for Adult Social Care at her Decision Day in October 2016.

6. Equalities

- 6.1. The changes proposed, if implemented, would have a high impact on older and disabled people, and would affect more women than men, because people who have their care delivered or arranged by Hampshire County Council fall disproportionately into these groups. The negative impact is mitigated to the extent that people only contribute what they are assessed

as able to afford to pay towards their care, following national Care Act Regulations and Statutory Guidance. The options being explored do, however, mean that some people would make a greater contribution towards the cost of their care than they currently do.

- 6.2 It is for the Executive Member as decision maker to have due regard to the need to: Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act and advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

7. Conclusion

- 7.1. The proposals put forward for consultation aim to make Hampshire County Council's Paying for Care Policy more robust, removing historical anomalies and aligning the County Council's approach with that of other local authorities. In difficult financial circumstances, the proposals are aimed at ensuring that the diminishing resources available can be targeted towards meeting the County Council's statutory responsibilities to meet the needs of residents with eligible care and support needs.

8. Recommendation

- 8.1. That the Executive Member for Adult Social Care gives permission for a public consultation on proposed changes to the Adult Services Paying for Care Policy, to be carried out between June and August 2016, as set out in this report.

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	no
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	yes
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	no
Corporate Improvement plan link number (if appropriate):	

Other Significant Links

Links to previous Member decisions:		
<u>Title</u> Review of Adult Services Non Residential Care Contributions Policy in relation to service users who require two carers	<u>Reference</u> 3792	<u>Date</u> 26 March 2012
Direct links to specific legislation or Government Directives		
<u>Title</u> Care Act 2014 Care and Support (Charging and Assessment of Resources) Regulations Care and Support Statutory Guidance, Department of Health		<u>Date</u> May 2014 October 2014 April 2016 (revised)

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equality Duty

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;

Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Due regard in this context involves having due regard in particular to:

The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;

Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;

Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

1.2. Equalities Impact Assessment:

The changes proposed would have a high impact on older and disabled people, and would affect more women than men, because people who have their care delivered or arranged by Hampshire County Council fall disproportionately into these groups. The negative impact is mitigated to the extent that people only contribute what they are assessed as able to afford to pay towards their care, following national Care Act Regulations and Statutory Guidance. The options being explored do, however, mean that some people will make a greater contribution towards the cost of their care than they currently do.

2. Impact on Crime and Disorder:

2.1. No implications.

3. Climate Change:

3.1. How does what is being proposed impact on our carbon footprint / energy consumption?

No implications.

How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

No implications.