



## **ADULT SOCIAL CARE AND PUBLIC HEALTH COMMITTEE**

**Monday, 24<sup>th</sup> October 2022**

<b>REPORT TITLE:</b>	<b>SOCIAL CARE REFORM</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF CARE AND HEALTH</b>

### **REPORT SUMMARY:**

This is a summary report to inform the Committee on the Social Care Charging Reforms and the implications for people who access care and support services and the considerations that are required for the Council's Adult Social Care services.

This is not a key decision as the decision to apply the new charging regime is mandated by Government. This affects all wards.

The report supports the following priority from the Council's Wirral Plan:

- Working to provide happy, active and healthy lives for all, with the right care, at the right time to enable residents to live longer and healthier lives.

### **RECOMMENDATION/S**

The Adult Social Care and Public Health Committee is recommended to:

- 1) Endorse the approach to the Council's implementation of the charging reforms
- 2) Recognise the significant impact of the social care charging reforms, including on the Adult Care and Health budget and resources.
- 3) Accept a further report on progress of implementing the reforms in Spring 2023.

## **SUPPORTING INFORMATION**

### **1.0 REASON/S FOR RECOMMENDATION/S**

- 1.1 The Social Care Charging Reform is a significant change in the Council's response to people who need care and support. The reforms require support for implementation from across the Council. The Charging Reforms are both a complex and costly exercise for all local authorities to implement and they will have far reaching implications. Guidance and information on the reforms is developing nationally, regionally and locally. It is important that Committee Members are appraised of the significance of the reforms and the arrangements for implementation in Wirral.
- 1.2 The reforms present significant additional budgetary pressures for Adult Social Care and for the wider Council.
- 1.3 The reforms also present a more generous financial contribution to more people who need care and support and who currently pay all of, or more of, their care costs themselves.

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 No other options are considered as it is a statutory requirement to implement reforms, Council's approach is detailed in the report. The reform necessitates a review of the charging policy which is underway.

### **3.0 BACKGROUND INFORMATION**

- 3.1 On 07/09/2021, the Government set out its new plan for Adult Social Care reform in England 'Build back better': our plan for health and social care (background papers). This was further detailed in the White Paper, People at the Heart of Care (background papers).

The plan sets out a range of measures, including reforming the way that adult social care is paid for and funded. There are key elements of the plan's social care proposals which include:

- a lifetime cap on the amount anyone in England will need to spend on their personal care
- a more generous means-test for local authority financial support
- the ability for self-funders to ask their council to arrange their care
- moving towards a fair rate of care in respect of councils' fees to providers

- 3.1.1 The plan announced the creation of a new Health and Social Care Levy to fund the changes. This measure provides for a 1.25 percentage point increase to National Insurance contributions for the 2022 to 2023 tax year, and revenue raised will go directly to support the NHS and Social Care.
- 3.1.2 The reform proposes a more generous means-test for those with eligible care and support needs for local authority financial support, tabled below; existing financial charging under the Care Act 2014 is linked in background papers. The proposal will

result in more individuals becoming eligible for Council support to fund their care costs.

	<b>Current Threshold</b>	<b>Proposed Threshold</b>
Lower limit (Below which the Council will fund care costs)	£14,250	£20,000
Upper limit (above which the person is responsible for the full cost of their care)	£23,250	£100,000
Means test (where the Council will contribute funding towards care costs on a sliding scale)	£14,250 to £23,250	£20,000 to £100,000
Cap of what people will pay for their social care	£ unlimited	£86,000

This is to be implemented from October 2023 when the new lower and upper thresholds for charging will apply and when people can start metering their care costs towards the lifetime cap.

- 3.2 Currently, charging for care and support is arranged under the Charging and paying for adult care and support services in Wirral guidance. This means that people who have over £23,250 are responsible for the full cost of their care and support. There is no limit as to how much a person has to fund themselves for their care and support during their lifetime.
- 3.3 As such, individuals face the risk of unpredictable and unlimited social care costs - one in seven individuals over 65 will face care costs above £100,000 and roughly one in ten individuals will face care costs above £120,000 over their lifetime.
- 3.4 The primary objective of charging reforms is to provide people with financial protection from unlimited care cost and increase the protection of those with lower wealth and incomes.
- 3.5 In line with the intention of personalisation in the Act, as part of the person's needs assessment, local authorities must consider all of the adult's care and support needs; establish the impact of those needs on the individual's day-to day life; and decide how the person's needs will be best met, for example whether they are best met in a care home, or whether the person could benefit from community-based services. It is the provision of care to meet eligible care needs which forms the basis of the costs that count towards the cap (less daily living costs where applicable).

- 3.6 As set out in the Care Act, in order for costs to accrue the local authority must consider whether the person's eligible needs are being met in whole or in part by a carer, as defined in section 10 of the Care Act. Any eligible care needs met by a carer do not count towards the cap. A carer's assessment may need to be undertaken at the same time as the needs assessment, to ascertain the extent to which a person's eligible needs will be met by a carer.
- 3.7 Councils are encouraged to maximise the use of trusted assessment, online assessment processes and IT solutions to manage the impact of the changes and to support people to access the available support.
- 3.8 Councils are required to develop and manage care accounts to track the costs that self-funding people are paying towards their eligible care and support, and as the balance meters towards the cap and the point at which the Council will be responsible for meeting the costs of care.
- 3.9 Under the new arrangements, for a self-funder paying for services to meet their own eligible care and support needs, the costs that the Council will count towards the care cap are the costs that the local authority would pay to meet the eligible needs of the person, at the rate that the Council would pay for the services provided and less the daily living costs (where applicable). This is to ensure that the council are unduly burdened by excessive care costs from self-funding.

**The following costs do not count towards the cap:**

- costs of meeting eligible care and support needs incurred before October 2023, unless the person is resident in a local authority that participates in the trailblazer initiative
- any financial contribution from the local authority towards an individual's care package
- for people who receive residential care, daily living costs at the level set in regulations
- for people whose needs are being met by the local authority, any top-up payments the person or a third party chooses to make for a preferred choice of accommodation
- any administrative or brokerage fees that the local authority may charge for arranging support
- costs of meeting non-eligible needs, even where the local authority has chosen to meet those needs
- costs of any services that the local authority are providing as a means of prevention and that do not meet an eligible need
- the cost of care and support services that are provided under other pieces of legislation (for example, free care provided under section 117 of the Mental Health Act 1983) (Linked in background papers)
- services that the local authority does not charge for (for example, NHS funded nursing care for people in care homes, Continuing Health Care (Linked in background papers))

- interest or fees charged under a deferred payment agreement
- 3.10 The local authority must make self-funders who want to progress towards the cap aware that they can ask the local authority to meet their needs at any time. A local authority will have a duty to meet the self-funder's needs, if all of the following conditions are met:
- the person asks them to
  - the local authority finds (through an assessment) that the person has eligible care and support needs (defined as such under the Act)
  - the person is not, and has not been, in residential care in the 6 months preceding October 2023 (unless this residential care was paid for by the NHS, or purchased by the individual on a temporary basis, for example respite care)
- 3.11 The local authority should ensure that the person understands from the outset that their independent assessment of the cost of their care must reflect, and will only reflect, what the cost would be to the local authority of meeting their eligible care and support needs as defined in the Act, which may be different to the rate the person has been quoted, is paying, or is expecting to pay. In particular, the local authority should communicate clearly to the person that the monetary values contained in an independent assessment of the cost of their care is reflective of what the local authority (and not the person, or their current provider) deems to be sufficient for meeting a person's needs, following the needs assessment and eligibility determination.
- 3.12 Currently in Wirral 1738 people live in care homes funded by the Council. Work is underway to identify the likely number of additional people who will come forward for assessment, but it is estimated that there are a further 950 people who are self-funding their own care in care homes who will come forward for assessment and to create a care account to meter their care costs towards the cap.
- 3.13 Currently in Wirral 1122 people are in receipt of chargeable care services in their own homes which are funded by the Council. Work is also underway to identify the likely number of additional people who will come forward for assessment, but it is estimated that there are a further 900 people who are self-funding their own care in their own homes who will come forward for assessment and to create a care account to meter their care costs towards the cap. These figures are subject to change with further modelling taking place and more detail is provided in appendix 4.

#### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 It is accepted that there will be an additional financial burden both in administrative and professional staffing resource in conjunction with the additional costs to the Council, due to the care cap and the changes in the lower and upper thresholds, leading to a more generous contribution to care costs by the Council. It is also important to note that institutes such as Newton Europe have estimated significantly larger cost burdens to Councils than the Department of Health and Social Care (DHSC) have for the implementation of the reforms. However, DHSC have communicated that they will keep this under review.

- 4.2 DHSC are making an additional £5.4bn nationally available in the first 3 years to implement and fund the charging reforms (background papers).
- 4.3 DHSC has estimated the national financial implications of the charging reform, along with the fair cost of care, will be £19bn over a 10 year period from implementation. Analysis by Newton Europe suggests the impact could be nearer to £29bn - £32bn for the same period (background papers). Newton Europe estimate the impact for Wirral over this same period to be between £248m - £269m, of which £107m - £128m relates directly to the charging reform.
- 4.4 At this time it is estimated that there is a potential need for approximately an additional £1m (recurrent) for additional staffing to support functions such as Care Act assessments and financial assessments. Wirral Adult Care and Health have undertaken preliminary calculations based on the reports available and the suggested increases to the workforce which validates this estimate. This is planned to be mitigated, in part, by increased online functionality such as, IT system provider solutions, metered care accounts, online financial assessments and online care assessments, once these are developed (Appendix 1).
- 4.5 The calculations for Wirral provided by Newton Europe have identified the potential impact due to lost income relating to the means test and cap on care could be between £1.7m - £2.2m in the first year commencing October 2023. This is expected to increase to a yearly impact of £21.5m - £25.6m by year 10. Wirral Adult Care and health are currently working to validate these expected costs by learning from the experiences of the trailblazers, particularly Cheshire East.
- 4.6 Wirral Adult Care and Health are currently gathering information from market care providers on self funders to inform the true financial impact of the reforms.
- 4.7 The Council's Personal Finance Unit, who administer the Council's financial assessment, charging and invoicing for care services, are working with Adult Care and Health to model and validate the anticipated impact and also to implement the necessary arrangements for the reforms.

## **5.0 LEGAL IMPLICATIONS**

- 5.1 If Wirral does not implement the charging reforms it will be in breach of its statutory duties under the Care Act 2014. The Care Act 2014 and Health and Care Act 2022 provide the legal framework for the proposed changes.

## **6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

- 6.1 Newton Europe estimate that to implement the charging reforms under the current system it will require up to 6000 more Social Workers for England. This can be mitigated through a number of means, such as trusted assessments and online access and functionality. It is also widely recognised nationally that there is a lack of available workforce for the social care sector and a risk that the staff required will not be available.
- 6.2 ICT and asset implications are being considered and IT service provider development work is under way with our system partners to review and plan for the

increased need and functionality regarding online assessment and the creation of online care accounts

- 6.3 Programme Management Office support to create a robust project management structure around the reforms implementation has been requested.
- 6.4 Consideration is being given as to the need for external specialist support for the implementation of the reforms.

## **7.0 RELEVANT RISKS**

- 7.1 The potential financial and staffing risks cannot be overstated at this point. The social care charging reforms require support across all levels of the directorate and wider Council. It is also important to note that the recruitment and retention of the Adult Social Care workforce remains a challenge, as it does across the region and nation.

## **8.0 ENGAGEMENT/CONSULTATION**

- 8.1 Government have consulted on the Charging Reforms, and it is expected that publications and communication materials will be coordinated on a national level. This will inform the Wirral communications plan that will also be required, and which will form part of the project planning.

## **9.0 EQUALITY IMPLICATIONS**

- 9.1 An Equality Impact Assessment (EIA) has been completed and is located: - <https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments/equality-impact-assessments-january-202-6>.

## **10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS**

- 10.1 There will be no environment or climate implications as a result of this report.

## **11.0 COMMUNITY WEALTH IMPLICATIONS**

- 11.1 The Community Care market is a significant employer of staff in Wirral, employing approximately 6000 staff across all social care sectors. This proposal will result in more individuals becoming eligible for council support to fund their care costs, which may bring more job opportunities for people in the community.
- 11.2 This will support vulnerable people in receiving affordable care at the right time, enabling independence for individuals to live fulfilling lives to the best of their abilities.

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## APPENDICES

- Appendix 1 Systems Update/Timeline on progress to implementing the Social Charging Reforms
- Appendix 2 Short, medium and long term plan for implementation
- Appendix 3 Presentation for Adult Social Care Charging Reforms
- Appendix 4 Charge Reform Modelling

## BACKGROUND PAPERS

Preparing for reform: understanding the impact of adult social care charging reform and planning for successful implementation

Department of Health and Social Care – National costs for charging reform and estimating demand at a local level

Care Act Statutory Guidance on Financial Charging and Assessment:

<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#Chapter8>

Build Back Better - Our Plan For Growth

<https://www.gov.uk/government/publications/build-back-better-our-plan-for-growth>

People at the Heart of Care White Paper

<https://www.gov.uk/government/publications/people-at-the-heart-of-care-adult-social-care-reform-white-paper>

Care Act: Charging and Financial Assessment Factsheet

<https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets/care-act-factsheets#factsheet-5-charging-and-financial-assessments>

S.117 Mental Health Act 1983 (as amended 2007)

<https://www.legislation.gov.uk/ukpga/1983/20/section/117>

Continuing Health Care (CHC) under the NHS.

<https://www.nhs.uk/conditions/social-care-and-support-guide/money-work-and-benefits/nhs-continuing-healthcare/>

## SUBJECT HISTORY (last 3 years)

Council Meeting	Date