

**TO: ADULT SOCIAL CARE AND HOUSING OVERVIEW & SCRUTINY PANEL  
13 JUNE 2017**

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**CHARGING FOR ADULT SOCIAL CARE  
Director of Adult Social Care, Health & Housing**

**1 PURPOSE OF REPORT**

1.1 To provide Overview & Scrutiny with information on Charging for Adult Social Care.

**2 RECOMMENDATION**

2.1 That the Panel notes the report.

**3 REASONS FOR RECOMMENDATION**

3.1 To ensure members of Overview and Scrutiny are informed about National and Local charging policies for Adult Social Care.

**4 ALTERNATIVE OPTIONS CONSIDERED**

4.1 No alternatives.

**5 SUPPORTING INFORMATION**

**Overview of Powers and Duties in respect of Charging**

- 5.1 The power for Local Authorities to charge for adult social care is enshrined in legislation, specifically chapters 14 and 17 of the Care Act 2014, with further detailed regulation and guidance laid out in Statutory Instrument 2014 Number 2672 (The Care and Support Charging and Assessment of Resources Regulations 2014) and in the Care Act Statutory Guidance.
- 5.2 Prior to the introduction of the Care Act on 1st April 2015 the charging regulations in respect of residential and nursing care charges, known as CRAG (“Charging for Residential Accommodation Guidance”), were mandatory. This meant that Local Authorities had to charge for residential and nursing care, and had to do so according to nationally set regulations. Since the introduction of the Care Act, it is not mandatory to charge for residential and nursing care, but if Local Authorities choose to do so they have to do so according to nationally set regulations. No local authority in England has chosen to make residential and nursing care free of charge, and therefore every local authority, including Bracknell Forest, charges according to these regulations. Bracknell Forest raises approximately £2.75m in client contributions to residential and nursing care.
- 5.3 The Care Act did not fundamentally change the powers to charge for non residential care services, although there were some changes to the details. The most significant of these was in respect to the treatment of the financial resources of couples, and the Council amended its policy in this respect, following consultation, in 2015. It is not, and has never been, mandatory to charge for non residential services. The power to charge, prior to the Care Act, came from Fairer Charging legislation, amended at various points over time. Most, but not all, local authorities chose to have a charging policy for non residential services. Local Authority funding from central government

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when Fairer Charging was introduced assumed that local authorities would recoup 9% of their adult social care costs for non residential care from charges, which was a significant driver in local authorities opting to charge. Bracknell Forest raises approximately £1.75m in non residential charges per year.

- 5.4 The regulations specify which services cannot be charged for, and which people cannot be charged, as follows:
- Community equipment (aids and minor adaptations for the purpose of assisting with nursing at home or aiding daily living, and which costs less than £1000)
  - The first 6 weeks of intermediate care and reablement
  - The cost of meeting needs of someone with variant Creutzfeldt-Jakob disease
  - After care services provided under section 117 of the Mental Health Act 1983
  - Any service or part of service the NHS is under a duty to provide, which includes Continuing Healthcare and the NHS contribution to Registered Nursing Care.
  - Assessment of needs and care planning
- 5.5 People can only be charged for services following a financial assessment. If people have more than £23,250 in capital they are not entitled to local authority funded support. If someone receives their service in a care home and has assets of more than £23,250 then the local authority is precluded from paying for that person's care and support. If support is provided in the community, and the person has more than £23,250 the local authority can pay for that person's care and support, and it is the local charging policy that will determine the approach. A person's home is not considered to be a capital asset if they are living in it – in other words, its value gets taken into account if the person moves into a care home, and is not currently taken into account if they receive their care at home.

### ***Paying for Residential and Nursing Care***

- 5.5 Local Authorities are precluded from paying for the care and support of people in residential and nursing care who have more than £23,250 in assets, including the value of their home. This means people must pay for this themselves, until the value of their assets falls below the £23,250 threshold. When their assets fall below this threshold, the amount they pay is determined by the financial assessment.
- 5.6 People in a care home will contribute most of their income towards the cost of their care and support. However, a local authority must leave them with a specified amount of money so that they can buy personal items such as clothes and other items that are not part of their care. This amount of money is known as the **personal expenses allowance**. Its amount is defined by statute.
- 5.7 The amount of money that someone must pay is determined by a financial assessment, which takes into account a person's capital and their income.

### **Capital**

- 5.8 In assessing how much people have to contribute, both their assets ("capital") and their income is taken into account. Where people have assets above £23,250 they must fund their support themselves. Where they have assets worth less than

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£14,250, their assets are discounted altogether. Where the value of someone's assets is between £14,250 and £23,250 the local authority must apply what is called tariff income. This assumes that for every £250 of capital (or part of £250), above the £14,250, a person is able to contribute £1 per week towards their care costs.

For example, someone has capital of £18,100. This is £3,850 above the £14,250. Dividing £3,850 by £250 gives £15.40. The rules state that this must be rounded up – so this gives tariff income of £16 per week.

The financial assessment for this person will look at what they can afford to pay from their income, and then add £16 per week to this figure to take account of what they can afford to pay from their capital assets.

There are detailed rules of what constitutes a capital asset, and whether it can be taken into account. The most significant of these is that the person's home must be taken into account if they move into a care home, and must not be taken into account if they receive their care at home.

Although it is mandatory to take into account a person's home, it may end up being disregarded in certain circumstances, specifically if the property has been continuously occupied in part or whole as their main or only home by a relative – the definition of a relative is also specified in legislation.

For the first 12 weeks of someone staying in a care home, the value of their home is excluded from the financial assessment of what they must pay.

### **Income**

- 5.9 The financial assessment also looks at a person's income. Most income a person receives is taken into account, although not all. There are significant differences between how income is treated between care home and non care home settings.
- 5.10 A person in a care home must be left with a minimum amount of income, which is specified by statute and known as the Personal Expenses Allowance. Anything above this may be taken into account.
- 5.11 It is possible for someone not to have any capital assets, but to have sufficient income to pay the full cost of their support.

### **Deferred Payments**

- 5.12 Someone moving into a care home may well be asset rich, but income poor. For example, they may own their own home, which is worth £300k, but only be living on state benefits, e.g. the state pension. Such a person would be required to pay their care home fees themselves, but would not have the income to be able to do so.
- 5.13 In order to avoid a person being forced to sell their home in order to be able to pay for their care home fees, they can ask the Council to pay their fees on their behalf, and for the Council to take out a charge on the person's home. This is called a Deferred Payment. The Care Act made such arrangements mandatory for local authorities to offer. However, there was previous enabling legislation that encouraged local authorities to offer deferred payments, and whilst many councils did not follow the spirit of this legislation, Bracknell Forest always had. The Care Act did introduce interest charges on the amount of debt that was building up, and these interest charges are very low.

### **Paying for non residential care and support**

- 5.14 The legislation in respect of charging for non residential services gives wide discretion to local authorities in respect of what to charge for, how much to charge, and what to take into account in the financial assessment. For example, a local authority can decide that home care is chargeable, but other services are not; that where home care is chargeable the actual price charged is passed on, or a lower figure; that state benefits will be taken into account in the affordability assessment, or not; that the minimum that someone should be left to live on per week is one figure or another; and how to take account of disability related expenditure. With significant discretion, there are wide variations between charging practices between one local authority and another.

### **Capital**

- 5.15 The treatment of capital is the same as for care homes, except that the value of the person's home is excluded from the financial assessment. Other assets are generally included, although there are specific exceptions.

### **Income**

- 5.16 Most income can be taken into account, including all state benefits including pension, attendance allowance, income support and so on. The legislation states that benefits must be fully taken into account, however Bracknell Forest does not currently fully take into account the higher rate of benefit from Attendance Allowance, Disability Living Allowance and Personal Independence Payments.
- 5.17 Income that can not be taken into account includes earnings, whether from employment or self employment. There is a detailed schedule of other income that must be disregarded in the financial assessment, which includes, amongst others, War Widows and Widowers special payments, Child Support Maintenance Payments and Child Benefit, and Armed Forces Independence Payments. Other than noted in paragraph 5/14, Bracknell Forest takes into account all of the income that it is permitted to take into account.
- 5.18 As with care homes, there is a requirement to leave a person with a minimum amount of income. The figure is considerably higher for people cared for at home, because their income must cover all their daily living costs, for example food, heating and so forth. The figure is called the Minimum Income Guarantee, and is currently set at the equivalent of the value of Income Support or the Guaranteed Credit element of Pension Credit plus 25%. This is currently £189 per week. A local authority can choose to set a higher figure, for example ensuring that after people pay their social care fees they are left with £200 per week, or £250 per week, but never less than £189 per week. Bracknell Forest uses the minimum figure of £189 per week.
- 5.19 In assessing how much someone can afford to pay, a person's outgoings, such as rent, council tax and so forth will be taken into account.

### **Disability Related Expenditure**

- 5.20 In addition to the outgoings mentioned above, the financial assessment also takes account of the fact that someone can face higher outgoings due to their disability. Examples of this might be special dietary requirements, where this means that food is more expensive; frequently replaced bedding and laundry costs due to continence

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issues, community alarm system if met out of the person's own income, and additional heating costs.

- 5.21 The above list is not exhaustive. Different authorities have different approaches, some allowing a standard figure. In Bracknell Forest, actual additional expenditure is taken into account, with some set limits, and a reasonable approach is taken.

### **Cost of Care**

- 5.22 The above approach will inform the Council as to how much someone can afford to contribute towards their care, leaving them with enough money to live on. The actual charge may be different, as this sets the maximum figure. For example, it might tell us that an individual can afford to contribute £50 per week, but their actual charge may be different.
- 5.23 Some authorities will choose to have a set of rates for care, for example treating home care as costing £15 per hour, and day care as costing £30 per day. The approach taken in Bracknell Forest is to cost up the entire cost of someone's support, for example, £200 per week, and compare this to what they can pay. In the above example, this is £50 per week.
- 5.24 An area of confusion for people is that they may receive less care in a particular week, such that their care costs for that week were only £100. As they have received less care, they think they should be paying less. However, as the cost of their care is more than their contribution, their contribution that week will still be £50.
- 5.25 If someone's assessed contribution is more than the cost of their care, they will only be charged the cost of their care. Again, using the above example, if their care costs £40 per week, and their assessed contribution is £50 per week, they will only pay £40 per week.
- 5.26 More detailed information on Bracknell Forest's charging policy can be found on the Council's web pages, at the addresses listed below in background papers.

## **6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

### Borough Solicitor

- 6.1 There are no legal issues arising from this report.

### Borough Treasurer

- 6.2 There are no financial implications within this report.

### Background Papers

<http://www.bracknell-forest.gov.uk/paying-for-care-in-bracknell-forest.pdf>  
<http://www.bracknell-forest.gov.uk/charging-policy-2015.pdf>

### Contact for further information

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