

TO: THE EXECUTIVE
18 NOVEMBER 2014

CHARGING OPTIONS ARISING FROM THE CARE ACT
Director of Adult Social Care, Health & Housing

SUPPLEMENTARY PAPER

1 PURPOSE OF REPORT

- 1.1 To inform the Executive of changes to regulations on charging for Adult Social Care services introduced by the Care Act.

2 RECOMMENDATION(S)

- 2.1 **That, on the basis of the Final Guidance on the introduction of Phase 1 of the Care Act stating that consultation on charging arrangements is not necessary if Local Authorities are not intending to change their approach to charging, no consultation on charging arrangements be undertaken at this time.**

3 REASONS FOR RECOMMENDATION(S)

- 3.1 The initial paper to the Executive recommended consulting on the approach to charging for Adult Social Care. This was due to the Care Act changing the current regime for charging for Care Home fees from mandatory to discretionary and legal advice that this meant that to continue charging care home fees it would be necessary to consult.

- 3.2 As a result, this Council responded to the Government's own consultation on the Care Act stating that it would be helpful if the final guidance stated that it was not necessary to consult simply on the basis that the mandatory scheme was now discretionary, but as a contingency prepared for a consultation exercise.

- 3.3 Subsequent to the submission of the initial paper to the Executive, the Final Guidance has been released. It contains a section on transition arrangements, stating the following:

Local authorities should consider the need to consult with their local population, but should not be expected to consult formally if their approach to charging has not changed as a result of the Act.

- 3.4 The Care Act is being implemented in two phases, with Funding Reform being Phase 2. Although draft guidance on Funding Reform has not yet been issued, it is likely that it will lead to changes in the duties and powers of local authorities in respect of charging. It is therefore likely that there will be policy questions on charging that it would be desirable to consult on, once the detail of Funding Reform becomes clearer. This implies that it is probable that the Council will wish to consult on charging arrangements again next year.
- 3.5 The Care Act – Phases 1 and 2 – will bring significant positive changes to social care for people in Bracknell Forest. These improvements are complex, and will require a communications campaign, both nationally and locally. It is preferable that any

consultation exercise on charging comes after a communications campaign on the benefits that the Care Act brings for people in Bracknell Forest.

- 3.6 The original proposal entailed the Council engaging QA research to undertake aspects of the consultation on its behalf, at a cost of £3,500. The revised proposal would therefore save this cost.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The Council could choose to consult on its charging policy for Residential and Nursing care, as recommended in the original paper before the Department of Health issued its Final Guidance.

5 SUPPORTING INFORMATION

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 6.1 In light of the latest guidance from the DH issued because LAs were divided on whether they should consult. The DH has stated that if the charging policy is not going to change at all then they advise that a consultation is not required at this stage. Although it is unlikely in light of this guidance that the Council would face a challenge if they do not consult on the 2015 proposals the guidance does not afford a total guarantee against non consultation but does offer support for non consultation for the 2015 changes, permitting an LA to defer consultation until the lead in to the major funding changes that are proposed to take effect the following year, which will require full consultation.

Borough Treasurer

- 6.2 The Borough Treasurer is satisfied that there are no significant financial implications of not going out to Consultation. The original proposal would have imposed a cost of £3,500, and the revised proposal would save this money.

7 CONSULTATION

Principal Groups Consulted

- 7.1 n/a.

Method of Consultation

- 7.2 n/a.

Representations Received

- 7.3 n/a

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