

# Agenda



**AGENDA for a meeting of the ADULT CARE & HEALTH CABINET PANEL in COMMITTEE ROOM B, at COUNTY HALL, HERTFORD on WEDNESDAY 10 JANUARY 2018 at 10.00AM**

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**MEMBERS OF THE PANEL (12) (Quorum 3)**

**F Guest; E M Gordon; S Gordon; K M Hastrick; D J Hewitt; F R G Hill (*Vice Chairman*); T Howard; J S Kaye; N A Quinton; R H Smith (*substituting for E H Buckmaster*); R G Tindall; C B Wyatt-Lowe (*Chairman*)**

Meetings of the Cabinet Panel are open to the public (this includes the press) and attendance is welcomed. However, there may be occasions when the public are excluded from the meeting for particular items of business. Any such items are taken at the end of the public part of the meeting and are listed under "Part II ('closed') agenda".

Committee Room B is fitted with an audio system to assist those with hearing impairment. Anyone who wishes to use this should contact main (front) reception.

**Members are reminded that all equalities implications and equalities impact assessments undertaken in relation to any matter on this agenda must be rigorously considered prior to any decision being reached on that matter.**

**Members are reminded that:**

- (1) if they consider that they have a Disclosable Pecuniary Interest in any matter to be considered at the meeting they must declare that interest and must not participate in or vote on that matter unless a dispensation has been granted by the Standards Committee;**
- (2) if they consider that they have a Declarable Interest (as defined in paragraph 5.3 of the Code of Conduct for Members) in any matter to be considered at the meeting they must declare the existence and nature of that interest but they can speak and vote on the matter**

## **PART I (PUBLIC) AGENDA**

### **1. MINUTES**

To confirm the minutes of the meeting held on 14 November 2017

### **2. PUBLIC PETITIONS**

The opportunity for any member of the public, being resident in Hertfordshire, to present a petition relating to a matter with which the Council is concerned, which is relevant to the remit of this Cabinet Panel and which contains signatories who are either resident in or who work in Hertfordshire.

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Members of the public who are considering raising an issue of concern via a petition are advised to contact their [local member of the Council](#). The Council's criterion and arrangements for the receipt of petitions are set out in [Annex 22 - Petitions Scheme](#) of the Constitution.

If you have any queries about the petitions procedure for this meeting please contact Elaine Manzi, by telephone on (01992) 588062 or by e-mail to [elaine.manzi@hertfordshire.gov.uk](mailto:elaine.manzi@hertfordshire.gov.uk).

At the time of the publication of this agenda no notices of petitions have been received.

### **3. CHANGES TO CHARGING ARRANGEMENTS FOR COMMUNITY BASED ADULT SOCIAL CARE**

*Report of the Director of Adult Care Services*

### **4. OTHER PART I BUSINESS**

Such Part I (public) business which, if the Chairman agrees, is of sufficient urgency to warrant consideration.

## **PART II ('CLOSED') AGENDA**

### **EXCLUSION OF PRESS AND PUBLIC**

There are no items of Part II business on this agenda. If Part II business is notified the Chairman will move:-

“That under Section 100(A) (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item/s of business on the grounds that it/they involve/s the likely disclosure of exempt information as defined in paragraph.... of Part 1 of Schedule 12A to the said Act and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.”

**If you require further information about this agenda please contact Elaine Manzi, Democratic Services, on telephone no. (01992) 588062 or email [elaine.manzi@hertfordshire.gov.uk](mailto:elaine.manzi@hertfordshire.gov.uk).**

Agenda documents are also available on the internet at:  
<https://cmis.hertfordshire.gov.uk/hertfordshire/Calendarofcouncilmeetings.aspx>

**KATHRYN PETTITT  
CHIEF LEGAL OFFICER**

# Minutes



To: All Members of the Adult Care & Health Cabinet Panel, Chief Executive, Chief Officers, All officers named for 'actions'

From: Legal, Democratic & Statutory Services  
Ask for: Elaine Manzi  
Ext: 28062

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## ADULT CARE & HEALTH CABINET PANEL TUESDAY 14 NOVEMBER 2017

### ATTENDANCE

#### MEMBERS OF THE PANEL

E H Buckmaster; L A Chesterman (*substituting for E M Gordon*); S Gordon; K M Hastrick; T Howard; D J Hewitt; F R G Hill (*Vice Chairman*); J S Kaye; P V Mason (*substituting for F Guest*); N A Quinton; R G Tindall; C B Wyatt-Lowe (*Chairman*)

#### OTHER MEMBERS IN ATTENDANCE

None

Upon consideration of the agenda for the Adult Care & Health Cabinet Panel meeting on 14 November 2017 as circulated, copy annexed, conclusions were reached and are recorded below:

*Note: No conflicts of interest were declared by any member of the Cabinet Panel in relation to the matters on which conclusions were reached at this meeting.*

### PART I ('OPEN') BUSINESS

#### 1. MINUTES

- 1.1 The Minutes of the Cabinet Panel meeting held on 18 October 2017 were confirmed as a correct record and signed by the Chairman.

#### 2. PUBLIC PETITIONS

- 2.1 There were no public petitions.

#### ACTION

**3. ADULT SOCIAL CARE PERFORMANCE MONITOR – QUARTER 2 - 2017/18**

Officer Contact: Alex Ogle- Adult Social Care Performance Manager (01438 844291)

- 3.1 Members were presented with the Adult Social Care Performance Monitor for Quarter 2 for 2017/18. It was noted that a majority of the indicators were set by central government through their Adult Social Care Outcomes Framework (ASCOF).  
<https://www.gov.uk/government/statistics/measures-from-the-adult-social-care-outcomes-framework-england-2016-17>
- 3.2 The Panel were advised that in regards to the direct payments target, the Adult Care Services board would be seeking to reduce the 2017/18 target to 27% from 30%, further to a revised review of performance in this area.
- 3.3 During general discussion regarding direct payments in was recognised that the care market has changed in the 20 years since direct payments were introduced, and consequently, the perception of what was classified as a ‘good target’ also needed to be reviewed. Members heard that a specific initiative to review long term family carers receiving direct payments has been undertaken to ensure that people are receiving the most appropriate form of support. Members received assurance that a report on this would be presented to the March 2018 Adult Care & Health Cabinet Panel.
- 3.4 Members were pleased to note the reduction in delayed transfers of care from hospital, although expressed concern that this remained a challenge in the west of the county. To give an idea of the challenge that was being faced with regards this, Members were detailed that 22 notices of discharge had been received from Watford General Hospital the day prior to the panel and in order to avoid these becoming a delayed transfer of care statistic; they needed to have their care transferred within 48 hours.
- 3.5 In response to a Member question, it was noted that independent assessments to aid decisions about discharge are broadly the same in the east and the west of the county, but the east’s methodology was to plan these more effectively in advance of a scheduled discharge date, as sometimes they can take 3-4 days to arrange with the assessor. Members acknowledged that inevitably a delay in assessment impacts on delayed transfers of care.
- 3.6 Members were also advised that the office accommodation for adult social care workers at the Watford General Hospital was not ideal which also had an impact on the service provision.

Iain  
Macbeath/Fr  
ances  
Heathcote

**CHAIRMAN’S  
INITIALS**

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- 3.7 It was explained to Members why and how Deprivation of Liberty Safeguards (DoLS) applications were implemented. DoLS provide protection for vulnerable people who are accommodated in hospitals or care homes in circumstances that amount to a deprivation of their liberty and who lack the capacity to consent to the care or treatment they need. It was noted that there had been an increase in DoLS since 2014 when a court judgment in Cheshire had reviewed the appropriateness of a DoLS in an individual case. This had resulted in an increase in DoLS applications Hertfordshire from circa 250 applications per annum to circa 5,500 applications per annum.
- 3.8 Further to a Member question, it was noted that all clients and their carers who have contacted Adult Care Services for help or advice remain on the database, irrespective of whether or not they receive self-directed support, and it was felt that as such there was adequate tools for ongoing monitoring of their needs.
- 3.9 The Panel were advised that the amount of time allocated post discharge care support from the hospital was now reduced from nine to four weeks, however referrals were made to social care, and other support services such as physiotherapists. It was noted that colleagues from the Adult Care Services Team were working with colleagues from the King's Fund to ascertain what was the most used and most useful post hospital care (sometimes called Intermediate Care) that patients receive in order to create a dataset and make better use of targeted funding.
- 3.10 In response to a Member question it was noted that discharge delays from Addenbrookes Hospital were contained within the 'other trusts' in the pie chart presented at the end of the report. It was agreed that the specific delays relating to Addenbrookes would be circulated.
- 3.11 Members were reassured that the Hertfordshire Safeguarding Adults Services Board (HSAB) closely monitor any safeguarding concerns raised and a more detailed breakdown of the level and types of abuse were detailed in the Annual Safeguarding Adults Board report.
- 3.12 In addressing a Member concern it was established that there should never be a gap between re-enablement services ceasing and homecare services commencing, and any individual cases that were brought to Members attention to be referred to the Adult Care Services Board Members as appropriate.

Alex Ogle

All Members

- 3.13 Members then discussed the Herts Care Quality Standard monitoring the ratings set for the standards of the contract providers. It was confirmed that currently Hertfordshire County Council Adult Care Services are placed third in the region for the success of contract monitoring services.
- 3.14 The Panel were pleased to note the high score of 81.25% from Providers Assessment Market Management Solution (PAMMS) in regards to the Residential Learning Disabilities Accommodation.
- 3.15 It was established that the information provided within the Care Quality Standard was reported regionally, and although it was acknowledged that there was some overlap with the Care Quality Commission (CQC) monitoring, it was noted that the CQC monitor only every 2-3 years, and the Care Quality Standard Report is undertaken quarterly, thus enabling a much more stringent and robust monitoring and enabling any required interventions to take place at an early stage. It was further noted that the standards were built in to procurement processes for any contracted care providers.
- 3.16 Members were advised that it was widely recognised that retaining staff was key in maintaining quality standards, and it had been established that to achieve this, the flexibility of zero hours contracts was preferred by service providers and staff.
- 3.17 The Quality Monitoring Summary was also noted by Members, and further to a member query, assurance was received that the suitability of staffing was included as part of the monitoring process.

**Conclusion**

- 3.18 Members noted and commented upon the Performance of the Adult Care Services Directorate for Quarter 2 – 2017/18.

**4. IMPLEMENTATION OF SUPPORTED ACCOMMODATION STRATEGY**

Officer Contact: Frances Heathcote- Assistant Director- Commissioning (01992 556343)

- 4.1 Members received a report providing an update on the Implementation of the Supported Accommodation Strategy, previously discussed at Adult Care & Health Cabinet Panel on 3 July 2017.

- 4.2 The Panel heard that Local Accommodation Boards had been created with seven District and Borough Councils and were working well and early discussions had been held regarding the setting up a Memorandum of Understanding with District Councils and Service Providers.
- 4.3 In response to a Member question, it was confirmed that consideration was ongoing with regards to planning for supported accommodation through Section 106 agreements and Supported Independent Living Services.
- 4.4 A Member suggestion for the Council to consider the possibility of building its own supported accommodation in order to control and oversee the specifications to match the need in Hertfordshire was acknowledged.
- 4.5 Members heard that in terms of recruiting nurses to work within the supported accommodation, early discussions had been held with the Hertfordshire Care Providers Association to consider the best way forward with how to successfully recruit and retain staff.
- 4.6 During discussion it was agreed that consideration should be given to the provision of appropriate accommodation for families where one or more family members had a disability.
- 4.7 Members who were also District Councillors were reminded of the need to use their roles within the Districts to discuss with and influence their District housing team's decisions with the provision of appropriate supported accommodation within their areas.
- 4.8 In response to a Member question, it was clarified that the Invest to Transform Bid, as detailed in point 5.2 of the report was currently in the planning stages. Members heard that it was the intention that more nursing rather than more care homes should be built in Hertfordshire and that the funding for these would be sourced from a collaborative budget with districts and health providers, however it was acknowledged that both individual districts and health providers would have competing priorities and conflicting ideas regarding this.

Frances  
Heathcote

**Conclusion:**

- 4.9 The Panel noted and commented upon the initial stages of implementation of the Supported Accommodation Strategy.

**5. ADULT CARE SERVICES SMART WORKING:  
ESTABLISHMENT OF A LOCAL AUTHORITY TRADING  
COMPANY TO PROVIDE ADULT SOCIAL CARE SERVICES**

Officer Contact: Steven Lee-Foster - Assistant Director – Provider Services (01992 555748)

- 5.1 Members were provided with a report on the Adult Care Services department's intention to establish a Local Authority Trading Company. The purpose of this would be to create stability in the care provider market where officers were faced the dual challenges of increasing demand for services alongside increasing risk of care providers withdrawing from service. It was noted that the report would be subject to final approval by Cabinet.
- 5.2 Further to Member concerns as to how the Trading Company would work in practice, assurance was received that further work and consultation with other existing local authority traded companies would be undertaken prior to the Company being formed to ensure that the operational mechanics of the company would be as robust and efficient as possible.
- 5.3 Further assurance was received that officers would be able to provide the resilience required to respond promptly on a practical level, and a recent incident of where a care home had gone into administration and a large number of Adult Care Services staff had worked hard to ensure that all residents care was transferred promptly, efficiently, and appropriately was provided as an example to evidence this.
- 5.4 Members also noted that the Trading Company was not intended to undermine the work of existing carer providers, but to adapt and strengthen the council's ability to fulfil its statutory duty to service users and meet the changes and commercial needs within the care market.
- 5.5 During general discussion it was established that the purpose of the trading company would be mainly two fold; firstly to act as a 'bolster' to provide support and assistance to a care provider who was experiencing short term difficulties, or secondly to step in on a temporary basis to provide support to service users whose care provider had completely failed, as per the example outlined in 5.3. It was noted that because of this, TUPE arrangements would not necessarily need to be considered.
- 5.6 Members were advised that the detail as to how the Trading Company's operating would be funded had not been provided in the report as this would need to be subject to a separate business case. Members learnt that innovative solutions to funding would be



part of the considerations. It was confirmed that as a Trading Company the company would have its own separate bank account.

- 5.7 Further to a Member concern, it was agreed that further consideration should be made to extending the indemnity insurance to all directors (including any elected members) and not just officers appointed to the Trading Company's Board.

Steven Lee  
Foster

**Conclusion:**

- 5.8 The Panel UNANIMOUSLY agreed that it should recommend to Cabinet that Cabinet:

Deborah  
Jeffery

i. approved the business case for, and the establishment of, the wholly owned trading company as referred to in this report;

ii. delegated to the Director of Adult Care Services in consultation with the Director of Resources, the Executive Member for Adult Care & Health and the Executive Member for Resources, Property & the Economy and the Chief Legal Officer the authority to agree such documents and arrangements and to take such other actions as are appropriate to establish the company;

iii. authorised the Chief Legal Officer, in consultation with the Director of Adult Care Services, to appoint officers as directors of the company;

iv. delegated authority to the Director of Resources to exercise the rights of the Council as shareholder including attending and voting at meetings, and requesting the Directors to take or refrain from taking action.

- 5.9 The Panel had MAJORITY agreement that it recommended to Cabinet that Cabinet

v. agreed to provide indemnities (or equivalent insurance) under the Local Authorities (Indemnities for Members and Officers) Order 2004 to employees of the Council who are appointed as Directors of the company and delegates to the Chief Legal Officer the power to finalise and issue the indemnities.

One Member of the Panel disagreed with this recommendation and stated that indemnity insurance should be extended to all directors (including any elected members) and not just officers appointed to the Trading Company's Board.

**6. OTHER PART I BUSINESS**

There was no other Part I business.

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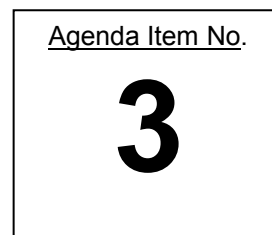
**KATHRYN PETTITT  
CHIEF LEGAL OFFICER**

**CHAIRMAN** \_\_\_\_\_

**CHAIRMAN'S  
INITIALS**

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HERTFORDSHIRE COUNTY COUNCIL  
ADULT CARE AND HEALTH CABINET PANEL  
WEDNESDAY 10 JANUARY 2018



**CHANGES TO CHARGING ARRANGEMENTS FOR  
COMMUNITY BASED ADULT SOCIAL CARE**

Report of the Director of Adult Care Services

Author:- Helen Maneuf, Assistant Director Planning & Resources (Tel:01438 845502)

Executive Member:- Colette Wyatt-Lowe – Adult Care and Health

**1. Purpose of report**

- 1.1 To advise members of the results of the public consultation on proposals to change how the council charges for non-residential (community based) adult social care services.

**2. Summary**

- 2.1 The council last reviewed its policy for charging for non-residential (community based) adult social care services in 2010.
- 2.2 Since then the national charging framework has been updated by The Care Act 2014, The Care and Support (Charging and Assessment of Resources) Regulations 2014 and The Care and Support Statutory Guidance. In addition a number of anomalies have been identified by officers in respect of how charging is applied; it is therefore timely to revisit the Council's arrangements. Further, there is sustained pressure on funding for adult social care.
- 2.3 The council wishes to continue to provide a wide range of services to as many people as possible and to collect a fair contribution towards them. A review of the council's current charging policy was conducted by officers and a number of possible amendments were identified.
- 2.4 A formal consultation exercise was then carried out over a twelve week period in October to December 2017. Every service user who has had a financial assessment and currently receives a non-residential care service from Adult Social Care was written to, in order to seek their views; a total of 9,632 letters were sent and included a personalised financial statement setting out the potential impact for them based on the information held.

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- 2.5 An online version of the questionnaire and a dedicated consultation phone line were made available. Three public consultation events were held with a total of 49 people attending, and the Director of Adult Care Services presented to the Carers' Rights Day seminar on 24 November to discuss the proposals.
  - 2.6 At the time of writing this report there were 1,908 responses to the questionnaire representing a response rate of 19.4 per cent. The consultation phone line received 606 calls.
  - 2.7 Views from the consultation are provided in Appendix A and summarised in the main report. Appendix B contains the new charging policy reflecting the recommendations in section 3 below. A full equality impact assessment has been conducted with actions recommended, and is provided at Appendix C.
  - 2.8 In addition to the summary of responses provided in the report, the entire set of narrative responses received has been made available to Members in the Members' Reading Room. Any further updates will be reported verbally at the Panel meeting.

### **3. Recommendations**

Panel is invited to recommend to Cabinet that:

- 3.1 The following changes to the council's policy charges for non-residential (community based) adult social care services be made, to take effect from 15 April 2018:
  - i) To include the Higher Rate of Attendance Allowance and Disability Living Allowance ONLY where people receive care to meet night time needs, when determining how much they can afford to pay towards their cost of care;
  - ii) For people receiving 'double-handed care', to charge based on the cost of both care workers providing the service, rather than only one as at present – to their maximum assessed contribution;
  - iii) To change the charging base for people in flexi-care accommodation:
    - For people in the 'low needs' band to three hours per week
    - For people in the 'medium needs' band to 8.5 hours per week
    - For people in the 'high needs' band to fifteen hours per week

- iv) To charge a weekly fee of £3.25 for users of telecare services provided by Serco who do not receive any other social care services;
  - a. To charge £2 per journey or £4 per day for transportation to and from day care;
- 3.2 The revised charging policy (which incorporates the changes referred to in 3.1) annexed as Appendix B to the report and adopted and the Director of Adult Care Services in consultation with the Executive Member for Adult Care and Health being authorised to make any minor amendments necessary to give effect to Cabinet's decisions and to ensure consistency throughout the document
- 3.3 Having noted the feedback provided within the consultation, to review the arrangements for Disability Related Expenditure (DRE) to ensure that there is clarity and consistency in relation to the allowances made for this expenditure;
- 3.4 The Director of Adult Care Services be requested:
  - (i) to contact the people who, based on current information held about their financial situation, are estimated to be required to pay significantly more through the changes to the policy, to explain the changes, ensure they understand the personal implications and offer them a financial reassessment;
  - (ii) to undertake on-going monitoring for people cancelling their care services because of increases in the amounts they are asked to contribute, and provide an update to Panel in due course.

#### **4. Background**

- 4.1 The current charging policy for community based services is available on the internet at the following location:  
[Paying for your care costs | Hertfordshire County Council | www.hertfordshire.gov.uk](http://www.hertfordshire.gov.uk/Paying-for-your-care-costs)
- 4.2 Since the current policy was set in 2010 the national charging regime for adult social care has been amended by the implementation of The Care Act 2014 and The Care and Support (Charging and Assessment of Resources) Regulations 2014 ("the Regulations") and The Care and Support Statutory Guidance ("the Guidance").

Section 14 of the Care Act 2014 alongside the Regulations and the Guidance provides a single legal framework for charging for care and support where a local authority arranges care and support to meet a

person's needs. Section 17 of the Care Act provides for a financial assessment of an individual's resources to determine the level of financial contribution when a local authority charges for the services that it provides. The overarching principle is that people should only be required to pay what they can afford.

- 4.3 The Guidance and Regulations provide for individuals to have a level of guaranteed minimum income which is set by the Department for Work and Pensions (DWP), and is intended to cover an individual's daily living costs.
- 4.4 Officers reviewed the council's current charging arrangements and developed proposals in five areas. Panel was advised of these and of the plans for consultation on the proposals on 8 September 2017:

<http://cmis.hertfordshire.gov.uk/hertfordshire/Calendarofcouncilmeetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/731/Committee/16/Default.aspx>

- 4.5 The next section of the report discusses each proposal and sets out the responses received. The overall response numbers and the breakdown of respondents are set out below:

Who responded?	Postal	Online
The service user	866	47
A representative of the service user or carer	742	113
Someone else (for example, if you work for a voluntary organisation)	30	23
Left blank	73	14
	<b>1711</b>	<b>197</b>

**Proposal One: Higher Rate Attendance Allowance and Higher Rate Disability Living Allowance (Care Component)**

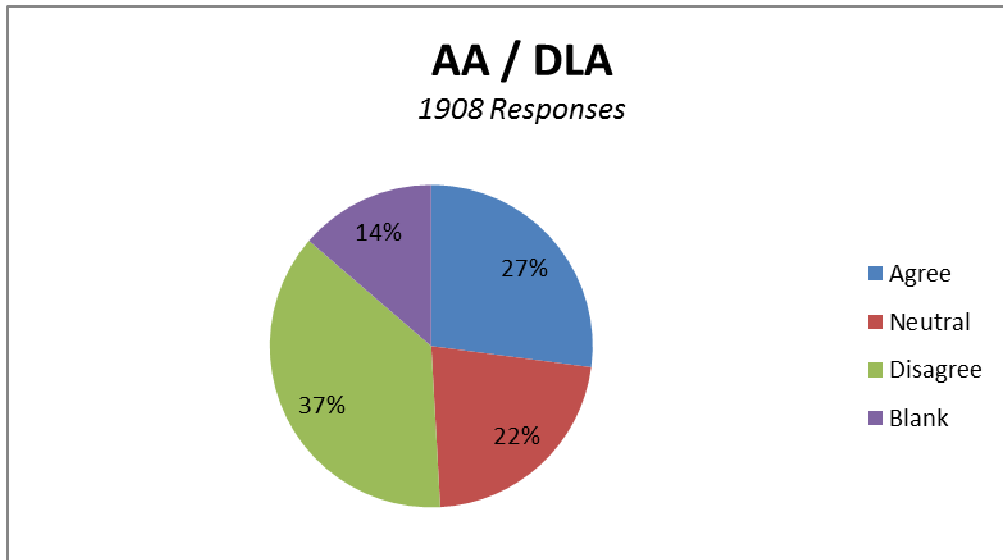
<https://www.gov.uk/attendance-allowance/overview>

<https://www.gov.uk/dla-disability-living-allowance-benefit/overview>

- 4.6 Both Attendance Allowance (AA) and Disability Living Allowance (DLA) are benefits awarded to enable an individual to pay towards the cost of their care. DLA was introduced in 1992 to help with the extra costs associated with disability although not intended to be spent on any specific purpose; and was for people aged under 65. Attendance Allowance (AA) then became the main benefit payable to people who first become disabled on or after the age of 65.
- 4.7 The consultation proposed that when working out how much an individual can afford to pay for social care the council would take into

account both the higher rate of AA and DLA (Care Component) whereas at present these are 'disregarded'. This proposal would bring Hertfordshire into line with other local authorities in the region and nationally.

- 4.8 People were asked their views about each proposal. The responses to the questionnaire for this particular proposal are shown in the pie chart below:



- 4.9 This was the proposal with which there was the most disagreement with 37% or 706 people disagreeing or strongly disagreeing with the proposal. Twenty-seven percent of people agreed or strongly agreed.
- 4.10 Favourable responses generally reflected back views that AA and DLA are awarded for care costs and that it was considered reasonable to ask those that could afford it to pay for care in this way:

"This seems to be a reasonable proposal where, as you say, the attendance allowance and disability living allowance are awarded to enable an individual to contribute towards their care costs."

- 4.11 Where respondents were not in favour, the narrative responses to the questionnaire emphasised the inadequacy of AA and DLA to cover the costs of daily living associated with disability and that people might otherwise need more intensive forms of care. Responses also pointed out the impact on carers:

"Everyone knows that the care component does not just cover personal care costs. It supports the cost of living in general and taking funds away will seriously impact the ability to care for an individual at home. In our case it would mean the cared for would need residential care and that would be a cost to the council."

"The attendance allowance is used for my husband's needs. All the attendance

allowance my husband receives is used for him, for his care and comfort, bathing, washing his clothes, bedding all his personal needs he has dementia, is double incontinence, which all I do for him as his wife. I have enough to worry about without worrying about where the money is coming from.”

“The true cost of caring for a severely disabled person far outweighs the sum received when in receipt of the DLA and Attendance Allowance. In fact all this will do is place more pressure upon the clients family who undertake the care responsibilities and consequently already carry the bulk of the financial burden.”

- 4.12 This area was the key area of discussion at the public consultation meetings. Specific comments on the proposal from the public consultation were:

“My son already pays for 24/7 care; the increase will mean he will only have £40 pm to live on. How will he pay for his activities and how will this impact on his mental well-being?”

“The contribution will go up by 170%, but the DLA won't go up by this much.”

“My son’s contribution is £82.62 per week and will rise to £110.08 which is a significant increase. He likes to go out; if he has no money left how will he be able to do so? He suffers from depressions.”

“My daughter will not be able to stay in her Council flat and will have to go into residential care if charges increase, and she only has the guaranteed minimum to live on.”

- 4.13 There was a level of concern about the impact upon younger adults with disability where families may be continuing to provide care, and about the risks that this change may mean that families and service users would consider residential care as a result. A risk was also communicated that people’s social care needs would increase as a result of having less money to spend on getting out and about.
- 4.14 People also raised concerns that the higher rates of AA and DLA were intended to be provided for night time cover, and that it was therefore unfair to take these into account where the council was not providing support with night time needs:

“Attendance Allowance and Disability Living Allowance care component were not introduced 'to enable an individual to pay towards the cost of their care.' They were introduced, according to Hansard, to help with the additional costs of living if you have a disability. ... In addition, the higher rates of AA and DLA care are only payable to claimants who have night time needs.”

- 4.15 The proposals outlined that the council’s intention was to align the treatment of AA and DLA with how the council already treats Personal Independence Payments (PIP). PIPs were introduced as a new benefit



from 8 April 2013. PIP is being implemented on a phased basis, and will eventually fully replace Disability Living Allowance DLA for people aged 16 to 64; the current government timetable is that this will be completed by the end of 2018. People who were aged 65 or over on the 8th April 2013 remain on DLA if entitled to it on that date.

- 4.16 Feedback was received that PIP did not make a distinction between day and night time needs, and so was different from AA and DLA:

“Personal independence payment does not take into account night time needs. It is therefore untrue to say that the change would align how the council treats AA and DLA (Care Component) with how the Council already treats Personal Independence Payments<sup>1</sup>, which are taken into account in full.”

- 4.17 Carers in Herts also make this point in their response to the consultation:

“...in order to be eligible for the higher rate care components of DLA and AA, people have to demonstrate that they need help and supervision throughout both day and night, or that they are terminally ill. In the case of PIP there is no eligibility requirement to demonstrate the need for assistance throughout the night – the Department of Work and Pensions decides whether someone is eligible for standard or enhanced rate PIP on the basis of the level of extra help and support they need with daily living...”

- 4.18 Whilst the Care Act guidance is clear that AA and DLA can be taken into account it does not go into detail about the specific treatment required for the different levels of these benefits.
- 4.19 Carers in Herts also make the following point in their consultation response: “We also consider that it would have been appropriate to align the PIP assessments with the approach to DLA and AA assessments and disregard the difference between the standard and enhanced rates. This is because it is likely that the enhanced rate is being paid to those with more severe disabilities who may well need support with care needs at night. We believe that the failure to acknowledge this simply disregards the support that many family carers are providing, particularly at night.”
- 4.20 Listening to and reflecting on the consultation feedback on the impact on families in caring situations, and the requirement to have night time care needs to qualify for the higher rates of AA and DLA it is now proposed only to take higher rates of AA and DLA into account when people have night time care needs.
- 4.21 The council intends to continue to look at the impact of the change from DLA to PIP on a case by case basis as and when people transfer onto PIP, as is its current approach.
- 4.22 During the public consultation there was also significant discussion about the council’s approach to certain allowances or ‘Disability Related Expenses’ which are off-set against the charge paid. There was feedback that the council’s approach to DRE had changed over

time so that fewer items were now allowed to be claimed under DRE; and that it was not always clear what was allowed to be claimed.

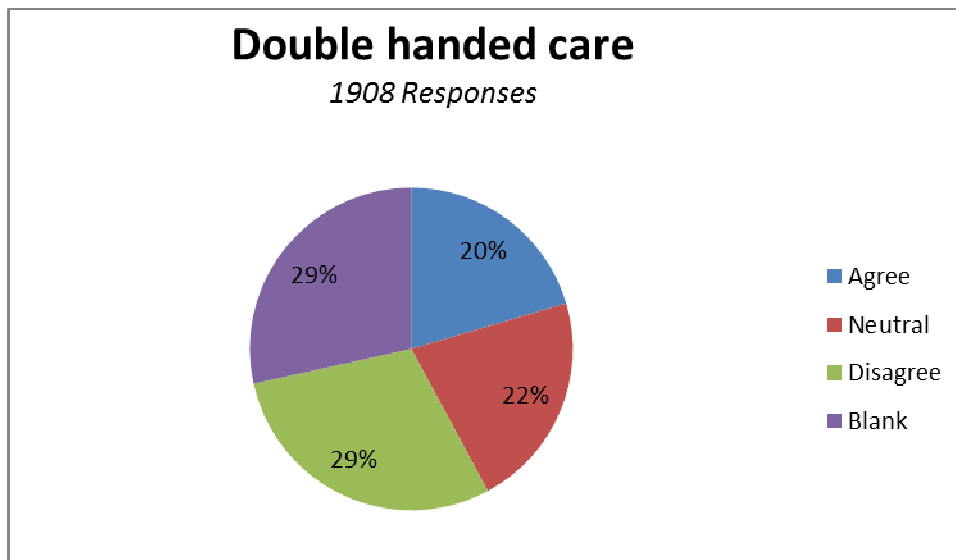
- 4.23 In response officers are proposing to review the arrangements for DRE to ensure clarity and consistency, and to report back to Panel on the results of this review.

**Proposal Two: 'Double Handed' Care (having more than one carer at a time)**

- 4.26 In some instances more than one carer is required to assist people at the same time (sometimes known as 'double handed' care). Currently, the council applies a charge as if only one carer is present. In other words, the council ignores the costs of the second carer when deciding how much should be charged.

- 4.27 The consultation proposal was that charges for double handed care are based on the cost of both carers providing the service, but only up to the maximum amount people are assessed as being able to pay.

- 4.28 The responses to the questionnaire for this proposal are shown in the pie chart below:



- 4.29 There was a reasonably balanced spread of views between agreeing or strongly agreeing (20 per cent), being neutral (22 per cent), and disagreeing or strongly disagreeing (29 per cent).

- 4.30 Where respondents disagreed with the proposals the general thrust of the narrative comments was around the issue that people should not be penalised financially simply because they had higher needs. This comment sums this up:

“Facing a disability is traumatic enough and the severity of the disability isn't determined by the unfortunate individual. So, the individual should not be penalised for having a condition that requires two carers. The individual is already feeling a loss of independence, dignity and embarrassment. Knowledge of the possibility of withdrawal of support could, potentially, lead to requiring even greater support.”

4.31 Carers in Herts also made this point in their consultation response:

“the service user has no choice but to use this level of service if they are to remain safely in their own homes. The alternatives would be admission to residential care where more staff are on hand as needed or a heavier role for the family carer if available. We therefore object to this proposal – as particularly discriminatory towards the most disabled people and likely to discourage people from remaining in their own homes.”

4.32 The practice of allowing the second carer free of charge is unique to Hertfordshire as far as is known, and the approach is particularly advantageous to full cost charge payers who ask the council to arrange their care.

4.33 Given the feedback received, the position of other similar local authorities and the opportunity for full cost payers to consider alternative solutions (or to be re-assessed on request) it is recommended that the original proposal to charge for the second carer in double-handed care situations is approved.

### **Proposal Three: ‘Flexicare’ Accommodation Bandings**

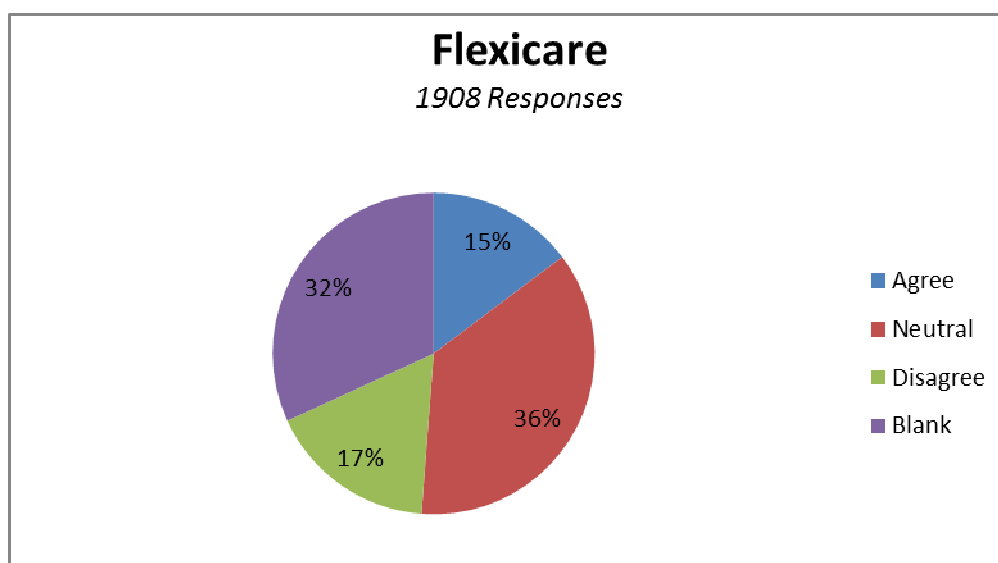
4.34 Some accommodation provision includes care provision, and one of these services is called ‘Flexicare’. Flexicare provision is based on levels (or bands), which reflect the level of care required by an individual. People’s financial contributions are also based on these bands and the contribution is levied at the ‘mid-point’ of the band so a fixed amount is paid regardless of how many hours are provided within the range.

4.35 Feedback from social workers and providers, together with a review of commissioned packages, demonstrates that the overall needs profile of people in Flexicare has increased over recent years and continues to rise. Over time, provision has graduated to the high end of each care band. This means that the current way of setting contributions at the mid-point of the care band no longer appropriately reflects the hours of care typically being delivered to an individual.

4.36 The consultation exercise therefore included a proposal to change the charging base for the Flexicare bandings to set the charges assuming that typically a higher number of hours of care is required:

Current Band	Hours	Current Charging Base (assumed mid-point)	Proposed new Charging Base	Weekly Increase as indicated by financial modelling
Low	0-3	1.5	3	2,781.97
Medium	3-10	7	8.5	2,508.62
High	10+	14	15	421.36
<b>Weekly Increase</b>				<b>5,711.95</b>
<b>Annual Increase</b>				<b>297,821.07</b>

4.37 The responses to the questionnaire for this proposal are shown in the pie chart below:

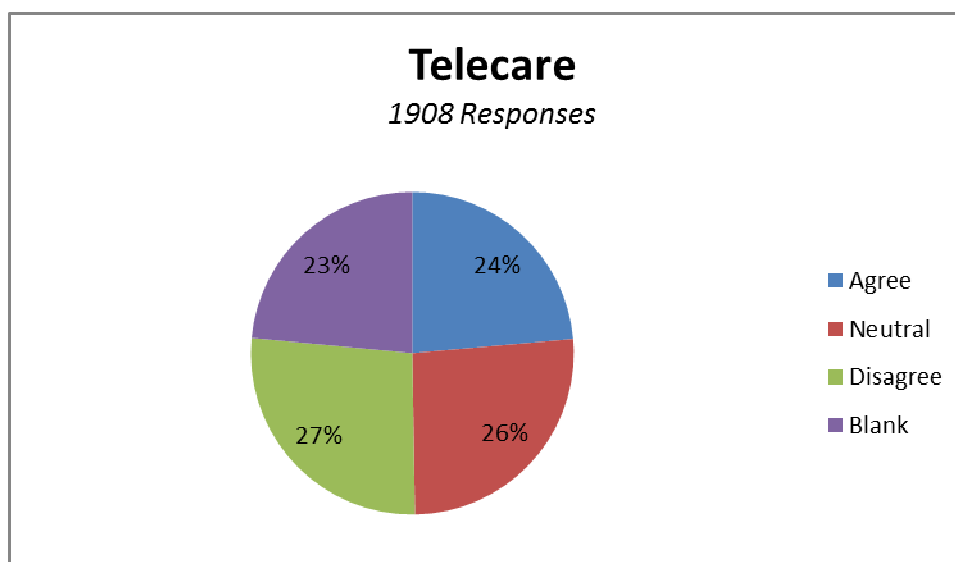


4.38 This proposal generated the highest level of 'neither agree nor disagree' (36 per cent) or blank responses (32 per cent) which is likely to be a result of there being relatively small numbers of people who live in flexicare and therefore potentially affected by the proposal. Fifteen per cent of respondents either 'strongly agreed or agreed' with the proposal, whereas seventeen per cent 'disagreed or strongly disagreed'.

4.39 Whilst recognising the feedback received, it is nonetheless recommended that the original proposal to change the charging base for Flexicare is adopted.

## Proposal Four: Telecare

- 4.40 The consultation exercise included a proposal to levy a charge for those users of telecare services provided by Serco who do not receive any other social care services.
- 4.41 The responses to the questionnaire for this proposal are shown in the pie chart below:



- 4.42 The pie chart shows a largely even split of views across respondents, with 24 per cent agreeing or strongly agreeing with the proposal and 26 per cent disagreeing or strongly disagreeing. Half of the respondents had a neutral view or left this question blank.
- 4.43 Where responses were negative they emphasised the impact on preventative approaches which allow people to retain independence and reduce reliance on more formalised care:

"This is preventative - and saves HCC money. The return on investment justifies the cost."

"Introduction of such a charge could lead to individuals withdrawing from the service leaving them vulnerable."

"This cost of almost £200 a year would put people at risk as they can't afford it. That may well mean they end up in hospital and then need more care on discharge."

- 4.44 Where responses were neutral or favourable they focussed on the reasonableness of the weekly cost:

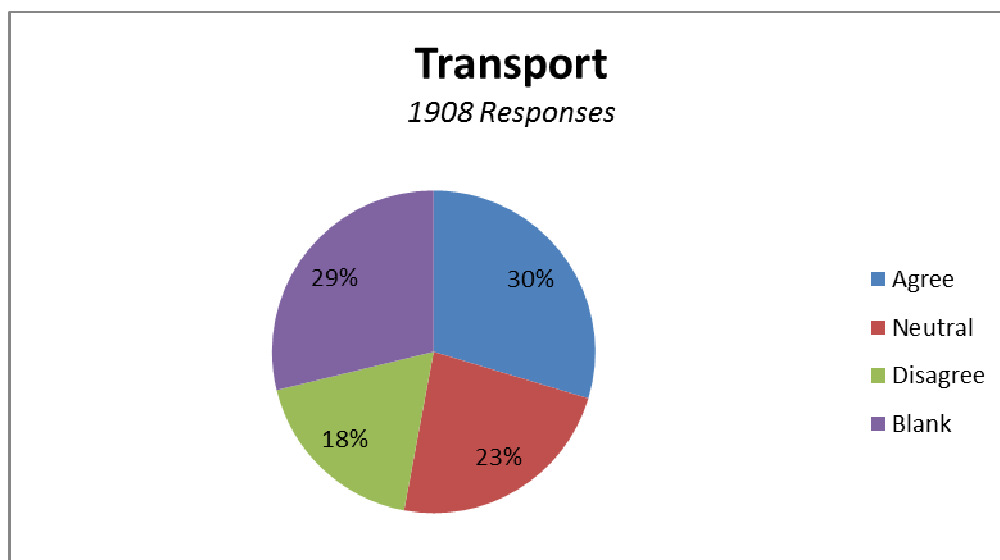
"In comparison of the monthly £17 charge my mother has to pay for her lifeline cover the revised weekly charge of £3.25 for Telecare support seems to be very reasonable."

"There is a need to remove disparity between existing services and create a more equitable charging policy. The removal of free services will ensure that service users take services when they really need them."

- 4.45 Introducing a weekly charge for telecare will bring Serco service users in line with users currently receiving equivalent services from North Herts Careline who already pay a weekly amount of £3.25. As part of this change it will be necessary to ensure equity between the two providers in relation to the cost of phone calls when the alarm service is triggered, so that both are at local rate.
- 4.46 It is therefore recommended that the original proposal to introduce a weekly charge of £3.25 per week for Serco Telecare services is approved.

### Proposal Five: Transport

- 4.47 Door to door transportation is available for journeys to and from day centres. The current charge for transportation does not reflect the true cost of providing the service and is subsidised by the Council. The average cost of a journey in one of the council's fleet vehicles was £6.89 in 2014/15. The council currently charges £1 per journey. Day tickets for local buses cost in a range of £4 to 6.30 per day.
- 4.48 The consultation exercise therefore asked for views on proposals to increase charges to £2 per journey / £4 per day, and the pie chart below summarises the responses to the questionnaire:



- 4.49 This was the proposal which had the highest number of people who strongly agreed or agreed with the proposal at 30 per cent. Eighteen per cent of respondents disagreed or strongly disagreed with the proposal with 52 per cent leaving this question blank or giving a neutral response.

- 4.50 Unfavourable responses emphasised the financial impact and risk of isolation from services or from communities and the impact this would have on health and wellbeing:

“This could lead to individuals resisting visiting day centres resulting in isolation from lack of social activities as well as having a departmental effect on only their health but also their well-being. They could also miss out on valuable information on health and self-care.”

“An additional charge could mean that the client would have to find between £10 and £20 per week. Is this a realistic expectation that clients will be able to afford such increases?”

- 4.51 Favourable responses indicated that some respondents found the proposed charge reasonable:

“The revised cost of £2 per journey is still very cheap when compared to the cost of a taxi.”

- 4.52 The proposal will reflect a more realistic contribution towards the cost of providing the service. On balance and acknowledging the views put forward, it is recommended that the charges for transport are increased as set out.

## **Implementation Arrangements**

- 4.53 In addition to the proposed review of Disability Related Expenditure, and subject to the Cabinet’s decisions, it is proposed that as part of the implementation of the new arrangements commitments are made to:

- a) contact the people who are assessed to pay significantly more (more than £20 per week) through these proposals to explain the changes, ensure they understand the personal implications, and offer them a full financial re-assessment;
- b) To undertake on-going monitoring for people cancelling their care services because of increases in the amounts they are asked to contribute.

## **5 Financial Implications**

- 5.1 A summary of the anticipated income from each individual proposal is set out in the table. Please note that it is not accurate to simply total each proposal in order to assess the overall increase in income likely. This is because some individuals will be affected by more than one proposal and will only pay up to their maximum charge.

<b>Proposal</b>	<b>Indicative Annual Increase in Income</b>
	£'000
AA / DLA Night Time needs	310
Double-Handed Care	1,000
Flexi Care Accommodation	297
Telecare	309
Transport	47

5.2 A review of the non-residential (community based) adult social care services has been undertaken to identify opportunities to streamline the financial assessment process and the charging arrangements for adult social services.

5.3 The levels of income will be monitored as the year progresses.

## **6 Equalities Implications**

6.1 When considering proposals placed before Members it is important that they are fully aware of, and have themselves rigorously considered the equality implications of the decision that they are making.

6.2 Rigorous consideration will ensure that proper appreciation of any potential impact of that decision on the County Council's statutory obligations under the Public Sector Equality Duty. As a minimum this requires decision makers to read and carefully consider the content of any Equalities Impact Assessment produced by officers.

6.3 The Equality Act 2010 requires the County Council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics under the Equality Act 2010 are age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief, sex and sexual orientation.

6.4 An Equality Impact Assessment has been undertaken and this is annexed at Appendix C. Whilst it is felt that the proposed changes will have an individual and cumulative effect on those upon which they impact, it should be noted that the financial assessment process which forms part of the Care Act Guidance ensures that an individual will only be asked to pay a contribution if they can afford to do so. The Policy will continue to allow the guaranteed minimum income as set by the Department for Work and Pensions which provides sufficient funds to cover an individual's daily living costs.



## Appendix A

### Changes to Charging Policy for Community Based Adult Social Care: Summary of Consultation Responses

#### Questionnaires

**Table 1: Breakdown of respondents to questionnaires**

Who responded?	Postal	Online	Total
The service user	866	47	913
A representative of the service user or carer	742	113	855
Someone else (for example, if you work for a voluntary organisation)	30	23	53
Left blank	73	14	87
	<b>1711</b>	<b>197</b>	<b>1908</b>

**Table 2: Breakdown of responses to questionnaires**

Proposal	Agree	Neutral	Disagree	Blank	Total
AA / DLA	517	420	710	261	1908
Double handed care	390	414	561	543	1908
Flexicare	281	696	323	608	1908
Telecare	450	499	511	448	1908
Transport	566	444	348	550	1908
<b>Total</b>	<b>2204</b>	<b>2473</b>	<b>2453</b>	<b>2410</b>	

#### Analysis of Narrative Responses

There were 329 narrative responses which were unsure or neutral in nature.

Favourable responses are analysed in this table:

**Table 3: Nature of Favourable Responses to questionnaires**

Nature of Response	Number of comments
Proposals will lead to improved equity for what is charged	65
It is reasonable that a more realistic price should be paid if it can be afforded	209

Unfavourable responses received at the time of writing are analysed in this table:

**Table 4: Nature of Unfavourable Responses to questionnaires**

Nature of Response	Number of comments
Level of financial impact will be severe	246
Unfairness / inequity of proposals	163
Penalising those with higher needs	125
Questioning applicability of using of Attendance Allowance and Disability Living Allowance to pay for care & whether this is lawful under the Care Act	119
Risk of people deciding that they can no longer care for someone, with the person then needing residential care at a higher cost/ or that independence will be undermined resulting in higher costs; preventative benefits will be lost	98
Unfairly targeting disabled, poor and vulnerable and people who have worked hard / paid taxes / saved	84
It is more expensive to live with a disability	68
People may decline services based on cost	63
Alternative ways should be found to balance the books	56
The proposed increases are too high	43
The survey is not a fair process / bureaucratic	25
Current charges already unfair	20
Increases will not be matched by quality improvements	18
Impact / distress on people and their carers	10
The council now allows less Disability Related Expenditure; the council should do more to clarify entitlements	5
Should exclude people in 'End of Life' situations	1

### **Public Consultation Events**

Three public consultation events were held with a total of 49 people attending; the Executive Member for Care and Health and Director of Adult Care Services attended.

The Director of Adult Care Services was also invited to attend the Carers' Rights Day seminar on 24 November to discuss the proposals.

Table 5 summarises the discussion themes.

**Table 5: Discussion themes from public consultation events and Carers' Rights Day session:**

Questions about the charging process itself: how it operates, how the decisions about what to assess for are made, how social care charging relates to the wider benefits and taxation system
Individual queries relating to personal situations; attendees were asked to leave details for follow up conversations
Concern about the impact on disabled people, the fairness of targetting this group; the impact on their opportunity to live independent lives, the risk to their continued well-being. Particularly for people with learning disability cared for by their families. Concerns that families may no longer manage to provide care.
The risks of a false economy should this mean that more people now require residential care
The high costs of living with disability
The lack of clarity about Disability Related Expenditure in terms of what was allowed to be claimed for; inconsistency about what would and wouldn't be allowed, complexity of the form, lack of flexibility, trust and bureaucratic burden of having to provide receipts to support minor items of expenditure, the appeal process.
Whether a set amount per week could be allowed to enable quality of life to be maintained
The nature of the care system and how its costs work; costs that care agencies pay to their workers and how care salaries are low
That people may decide not to have more services
Whether it was appropriate to take AA and DLA into account and whether these benefits were provided for specific purposes which the council might or might offer support with
Concerns about care standards and poorly trained staff – further details were sought for follow up; discussion about the efficiency of care agencies and whether home care should be returned to in house provision. Discussion about how to encourage more people to think about care as a career.
Questions about day services and the future of this provisions
The financial impact on families & risk of future increases
The overall financial pressures on the HCC budget and the opportunities to lobby government and MPs about the financial pressures on adult social care and the general way in which society treats the most vulnerable
Concerns about the lack of transparency in relation to this consultation process; that the website had been difficult to navigate; the lack of day time meetings
How Direct Payments are used and monitored

APPENDIX B  
**ADULT CARE SERVICES**



**ACS 736**

**Charging for community based services policy**

**Date: April 2018**

**Issue 7 (DRAFT)**

**TO BE Authorised by: Iain MacBeath, Director, Adult Care Services**

**Signature:**

**Author: Simon Rowley, Income and Payments Team**

**Review due : April 20XX**

**Comments and enquiries about this document to [acs.documentmanager@hertfordshire.gov.uk](mailto:acs.documentmanager@hertfordshire.gov.uk)**

**This document is a mock-up version of what HCC's charging policy would look like should all of the five charging consultation proposals be adopted in the same format as consulted on. The formation of this document does not represent the views of the Council, as the final decision on the outcome of the charging consultation has not been made.**

## Summary

On 1 April 2011, a revised charging policy for community based services was introduced for Adult Care Services (Health and Community Services at the time). Further changes were introduced to bring Hertfordshire County Council policy in line with the Care Act 2014.

Following a charging consultation between October and December 2017, this document was revised, and came into effect on 15 April 2018.

This document sets out the policy, guidance for staff, and procedures for the financial assessment and charging process for service users receiving community based care services in Hertfordshire. This policy and procedure applies to HPFT and ACS and Serco. It replaces any previous revisions.

## Introduction

The legal basis for Local Authorities to be able charge for social care is laid out in the Care Act 2015 with further details in Care and Support (Charging and Assessment of Resources) Regulations 2014 and further clarification in the Care and Support Statutory Guidance (October 2014).

This charging policy takes account of corporate guidelines on charging and follows the framework set out in legislation and national guidance. As part of its preparation an Equality Impact Assessment has been undertaken.

The charging arrangements for care home placements are not covered in this policy. For information on these, see ACS 673 Arranging and Reviewing Care Home Provision.

## 2. Principles of charging

### 2.1 Chargeable services

This charging policy applies to community based services provided by the Adult Care Services (ACS) department and to those commissioned by ACS but provided or delivered by other organisations. ACS will charge for all community based services, including (but not listed exclusively as):

- Support at Home / Homecare including that provided in supported living settings (but not intermediate care or homecare provided during an enablement period);
- Day opportunities (day centres or day care);
- Transport services;
- Short breaks (also known as respite care);
- Flexicare;

- Supported Living;
- Telecare;
- Direct Payments.

Services that remain excluded from charging are (also see section 2.2 for client groups exempt from charging):

- Intermediate care;
- Enablement home care (for up to 6 weeks);
- Carer's services;
- Provision of equipment;
- Grant aided voluntary sector services;
- Housing related support (formerly known as Supporting People Services).

Information on how rates are applied and on bandings for different levels of care can be found at Section 4.6. Individual fees for each service are revised annually, and published separately in our Charging for Community Services booklet and on the website at:

**<https://www.hertfordshire.gov.uk/services/adult-social-services/care-and-carers/arranging-and-paying-for-care/paying-for-your-care-costs.aspx>**

There is a presumption that any new services not referred to in the policy currently, or those that may develop in the future will be chargeable unless HCC has chosen to exercise its discretion not to charge or not charge the full amount for that service or where that service is exempt under statute.

## **2.2 Circumstances where a charge will not be made**

### **2.2.1 Exemption from charges**

The charging policy for ACS community based services does not apply to service users aged under 18. Certain other service users are exempt from charges. These are:

- Service users who receive after-care services provided under section 117 of the Mental Health Act 1983 (legal requirement);
- Service users who suffer from Creutzfeldt-Jacob Disease (legal requirement);
- Service users who are in the end stages of terminal illness, defined as being in a progressive state of decline, for example, with a life expectancy of less than three months (local discretion not to charge for care provided - excludes CHC funding which is already exempt from charging).

### 3. Services provided for by compensation package

Where a service user has received a compensation payment which included a sum to cover care needs, this should be covered in the needs assessment. Where a current unmet need has been identified in an assessment and a compensation payment has been made in respect of that need then the expectation is that those sums should be used to meet that need. In these cases Hertfordshire County Council (HCC) should act as an assisting agency, providing advice and guidance on the availability of services. Payment for the services arranged should be the responsibility of the Trustees of the compensation fund. It is for the Trustees/family to bring to the attention of HCC any reasons why this cannot occur and these will be given due consideration and in appropriate circumstances the County Council will fund those services.

Where these sums can be considered they are assessed in accordance with the Care and Support (Charging and Assessment of Resources) Regulations 2014 and the Care and Support Statutory Guidance (October 2014) as follows:-

- Where capital consists of any payment made as a result of personal injury, and a Court has specifically identified that this payment is to cover the cost of providing care it will be taken into account.
- Where the Court has **NOT** specifically identified that this payment is to cover the cost of providing care, then the value of that capital is disregarded for a period of up to 52 weeks from the date of receipt of the first payment. Subsequent payments after the 52 weeks are taken fully into account unless they themselves cannot be considered.
- Where capital consists of any payment made as a result of personal injury and is placed in the Court of Protection then both the capital value of the payment and the income which arises from it **cannot** be considered in a charging assessment.
- Where capital consists of any payment made as a result of a personal injury and it is placed in a Trust Fund then the capital value of the payment cannot be considered but the income which arises from it is included in the assessment of income.

### 4. Determination of charge

#### 4.1 Capital limits

Capital is assessed in accordance with the Care and Support (Charging and Assessment of resources) Regulations 2014, Care and Support Statutory Guidance (October 2014).

Capital limits are set in line with the above regulations and published by Department of Health in documents called Local Authority Circulars. Broadly, capital is treated as follows:

- Service users with capital above the *upper* capital limit are expected to pay the standard cost of the service. The standard cost in this instance means the full cost.
- Service users with capital above the *lower* limit, but below the *upper* capital limit will be assumed to have some income from capital - this is called Tariff Income and is calculated according to charging guidance and regulations (see 4.2.3 below).



- Service users with capital *below* the lower capital limit will be assessed based on their income only (the capital will be disregarded).

If the service user owns property that they do not live in, it is usually included as capital. It is not included as capital if the place the service user is currently residing is deemed to be temporary and the service user intends to return to the owned property in the near future.

## **4.2 Financial assessment calculation and benefit check**

### **4.2.1 Financial assessment calculation**

The financial assessment establishes whether the service user must pay a charge, and if so, the amount of the weekly charge. When a financial assessment is calculated, it must be calculated as follows:

1. Available income (income that can be counted in a financial assessment) is added up;
2. Tariff income (see 4.1 above and 4.2.2 below) is added to the available income;
3. The Minimum Income Guarantee (see 4.2.3 below) is deducted;
4. Certain housing expenses, such as Council Tax, are deducted;
5. Disability Related Expenses (see 4.2.4 below) are deducted;
6. Whatever remains is called the Maximum Assessed Contribution. Every charging week (which runs from a Sunday to the following Saturday), HCC will compare the Maximum Assessed Contribution with the actual cost of services (see 4.6) provided in that week, and pass on the lower amount.

If a service user is not exempt from charges, and does not have capital over the upper limit, a financial assessment should be carried out. Information for the assessment is collected by way of a postal financial assessment and input onto ContrOCC. Where an individual is in prison and will be receiving care in prison they will be asked to complete a shortened form. Service Users or their financial agents who are unable to complete the postal financial assessment, and provide evidence, can request a financial assessment visit.

Service users who approach Adult Care Services to inform us that their capital has dropped below, or are about to drop below, the upper capital limit and wish to request Adult Care Services funding will be asked to complete an ACS8sf form (self-funder) by post and provide evidence.

Service users who choose not to provide information for a financial assessment are liable to pay the standard cost (i.e. full cost) of the service.

Service users are notified in writing of the assessed charge, how it has been calculated, and what to do if they disagree with the charge.

#### **4.2.2 Available Income and welfare benefits check**

Annex C of the Care and Support Statutory guidance tells local authorities how to treat various types of income and state benefits, which to disregard, and which to partially disregard.

A welfare benefits check is provided by the Community Finance Team (CFT) as part of the financial assessment process. Service users are advised if the financial assessment reveals any unclaimed benefits to which they may be entitled and may be referred to the Money Advice Unit or Department of Work and Pensions for assistance with claiming benefits.

Community Finance will review all referrals for benefit claims on a periodic basis and update financial assessments where applicable.

Disregards on Income and Capital are treated in line with the Care and Support (Charging and Assessment of resources) Regulations 2014, as described in Care and Support Statutory Guidance.

For the purpose of clarity, the high rates of Attendance Allowance and Disability Living Allowance (Care Component) are taken into account as available income in cases where the Council is providing night time care. For the avoidance of doubt, night time care is considered to be care delivered between the hours of 11pm and 7am.

#### **4.2.3 Tariff Income**

Tariff Income applies where a service user has capital of more than the lower capital limit but less than the upper capital limit. The amount of tariff income gets added to the service users overall allowable income for financial assessment, having the effect of increasing their charge, or making it more likely that the service user will pay a charge.

It is calculated by taking the actual amount of capital the service user has, then deducting the value of the lower capital limit and dividing the result by 250. The final result is then rounded up to the nearest £1. As an example, assuming the service user has £16,455 and the lower capital limit is £14,250, their tariff income would be £9 as per the working below:

- $£16,455 - £14,250 = £2,205$
- $£2,205 \div 250 = £8.82$
- $£8.82$  rounded up to nearest £1 = **£9**

#### **4.2.4 Minimum Income Guarantee**

The Minimum Income Guarantee (MIG) is an amount of money the government says is a safeguard against charging service users too much for care. The MIG levels are reviewed annually by the Department of Health, and published in Local Authority Circulars. The amount of MIG applicable is dependent on a number of factors:

- Whether or not the service user is single or part of a couple;
- Whether or not the service user lives alone;
- The age of the service user;
- The level of the service users' disability benefits;
- Whether or not the service user is in receipt of (or could be in receipt of) Carers Premium;
- Whether or not the service user has responsibility for a dependent child living in the same household.

Practitioners should refer to CFT training guidance on how to determine the applicable level of Minimum Income Guarantee to apply.

#### **4.2.5 Housing expenses**

Housing costs are deducted from the service user's available income for charges. Housing costs do not include gas, electric, water charges (unless higher than average due to disability), or buildings and contents insurance. Housing costs include rent (net of Housing Benefit or Universal Credit Housing allowance), council tax (net of council tax reduction), mortgage interest payments (net of any help from state benefits) and leasehold costs such as service charges and ground rent.

#### **4.2.6 Disability Related Expenditure**

A disability related expense (DRE) is an expense that the service user incurs as a result of having a disability. Practitioners should refer to CFT training guidance on how to treat claims for DRE.

The County Council allow an individual a deduction in their income that is assessed to take into account disability related expenses (DRE) up to £20 a week, but this must be supported by receipts. If a service user feels that their DRE is higher than £20 a week they will need to appeal by sending in a letter with receipts asking for further expenses to be taken into account. Their appeal will be reviewed by a senior operational manager who will determine whether their additional expenses can be allowed. See section 10 for more information on Appeals.

#### **4.2.7 Deprivation**

If a service user has intentionally deprived himself or herself of capital or income in order to reduce or avoid a charge then the service user may be treated as still possessing the asset. The Care and Support (Charging and Assessment of Resources) Regulations 2014 and Annex E of the Care and Support Statutory Guidance is followed when making decisions on whether the person has deprived himself or herself of capital or income and whether or not to pursue the recipient/s of those funds.

### **4.3 Couples**

The definition of a couple for the purposes of this policy is a married couple or two people who live together as married. It includes couples, civil partners and co-habiting couples. It does not include separated or divorced couples unless they live together as if married. Where only one member of a couple receives services, charges are based on the service user's income and capital, not the income or capital of her/his partner or any other members of the household. However, the couple can elect for a joint assessment, (i.e. to be assessed on joint income, capital and expenditure), in which case the charge will be the lower of the single or joint assessment.

If a single financial assessment is carried out, only the capital owned by the service user will be taken into account. Any capital held in joint accounts will be assumed to be held in equal shares, as per Care Act guidance. The capital limits will apply to the service user's share of the capital. It will be assumed that the service user is entitled to a share of any benefits or income paid for the joint benefit of the couple. Half of the total housing expenses will be attributed to the service user. Disability related expenditure directly attributable to the service user will be allowed up to £20 per week (see 4.2). The capital limits applied will be as laid out in guidance (Local Authority Circulars) published by the Department of Health.

If a joint financial assessment is carried out, the couple's joint resources will be taken into account. The capital limit will apply to the total capital held by the couple. The income of both members of the couple will be included, as will any income paid for the joint benefit of the couple. Full housing costs will be deducted from the couple's income. The threshold applied will be as laid out in guidance.

### **4.4 Minimum / maximum charges and standard costs**

There is no maximum weekly charges for Adult Care Services. However, the charge cannot be more than the standard cost of the services received. These standard costs and charges are revised annually in line with inflation.

The minimum weekly charge for Adult Care Services is £2 per week.

Clients pay one charge for services provided by Adult Care Services, even if they receive more than one service.

Charges do not include lunches or drinks served at day opportunities, which must be paid for separately.

#### 4.5 Backdating charges

The County Council aims to notify service users of assessed charges promptly, before the first invoice for charges is issued. Charges will normally apply from the date of commencement of services, but will not be backdated earlier than 4 weeks prior to notification unless the delay is due to the service user not providing information needed to complete the assessment, or delaying a visit to assess charges.

#### 4.6 Determining the Cost of Service

The cost of providing services is calculated as follows:

##### 4.6.1 Support at Home / Homecare

Charges for support at home and for homecare are based on actual service received, charged in 15 minute blocks. The number of minutes' service received at each visit determines which block to charge against. The table below illustrates this:

Each visit (duration)			Charged as
From	To		
0	20	minutes	15 minutes
21	35	minutes	30 minutes
36	50	minutes	45 minutes
51	60	minutes	60 minutes

The hourly rate is published on the HCC website annually, and is included in charging booklets.

##### 4.6.2 Day Opportunities

Charges for day opportunities are based on sessions. Each session is half a day. If a service user has a full day at a day centre or day care setting, then this is counted as two sessions.

Session rates are published on the HCC website annually, and are included in charging booklets.

##### 4.6.3 Transport

Transport is charged on a per trip basis, at the same rate, irrespective of the method of transport. Transport to and from day care is charged as two trips.

The per trip rate is published on the HCC website annually, and is included in charging booklets.

#### 4.6.4 Flexicare

Flexicare is charged based on the banding the service user has been assessed as needing. There are three bands, detailed in the table below:

<b>Band</b>	<b>Hours of care (per week)</b>	<b>Charged as</b>
Low	0 to 3 hours	3 hours
Medium	3.1 to 10 hours	8.5 hours
High	over 10 hours	15 hours

Rates charged for each banding are published on the HCC website annually, and are included in charging booklets.

#### 4.6.5 Supported Living

Supported Living is charged based on the banding the service user has been assessed as needing. There are three bands, detailed in the table below:

<b>Band</b>	<b>Hours of care (per week)</b>	<b>Charged as</b>
Low	0 to 3 hours	1.5 hours
Medium	3.1 to 10 hours	6 hours
High	over 10 hours	14 hours

Rates charged for each banding are published on the HCC website annually, and are included in charging booklets.

#### 4.6.6 Telecare

Telecare is charged at a flat rate per week.

The rates are published on the HCC website annually, and are included in charging booklets.

#### 4.6.7 Two carers

Where two carers are required to attend at any one time then both carers will be charged for.

## 5. Deferred Payments

The County Council has the discretion to enter into Deferred Payment agreement with people whose care and support is provided in Supported Living Accommodation. The County Council can only do this if the person intends to retain their former home and intends to pay the associated care and rental costs from the deferred payment. Deferred Payment agreements cannot be entered into for the purposes of financing mortgage payments on Supported Living accommodation.

The final decision on eligibility for a Deferred Payment Agreement in the above circumstances is at the discretion of the County Council. This decision will be made by a Senior Finance Manager together with a Senior Operational Manager and the individual will be informed of this decision in writing.

Deferred Payments will not be considered for other forms of non-residential care. For the purposes of clarification Supported Living Accommodation will include Flexicare Housing and Shared Lives. This is defined in The Care and Support and Aftercare (Choice of Accommodation) Regulations 2014.

The Deferred Payment will incur a variable interest rate at the maximum set by the Department of Health. This rate will be revised on the 1<sup>st</sup> of January and the 1<sup>st</sup> of July each year. The interest will be calculated on a daily basis and compounded calendar monthly

## **6. Waivers (reductions or cancellation of charges)**

Service users can apply for a waiver (reduction or cancellation) of an assessed charge if they are unable to pay the full charge, which will need to be supported by the social worker. The final decision as to whether to apply the reduction or waiver will be made by the relevant Area Manager or Deputy Area Manager and countersigned by the Income Manager.

There are some scenarios where compulsory waivers apply, and some scenarios where discretion can be applied. These are discussed in 6.1 and 6.2 below.

### **6.1 Compulsory waivers (based on statute and HCC policy)**

Social workers must apply for a waiver or reduction in client charge in the following circumstances:

1. If the service user is subject to Section 117 of the Mental Health Act;
2. If the service user suffers from Creutzfeldt-Jacob Disease;
3. If the service user is terminally ill;
4. If the service user becomes CHC funded.

These waivers are not time-limited, and will therefore have no end date. If the reason for the waiver no longer applies, the social worker must inform the Income Team and request for a new financial assessment by completing a new HCS8b form.

### **6.2 Discretionary waivers (based on client circumstances)**

Social workers can apply for a waiver or reduction in client charge in the following circumstances:

1. If the service user is already suffering financial hardship and to apply the charge would be detrimental to the service user;
2. If there is an ongoing complaint about the service and to apply the charge exacerbates the situation;
3. If the service user currently refuses to pay and there is a risk to the service user if the service is not provided;
4. If there is an unforeseen circumstance where it appears to the social worker that stopping charges for a limited period of time would be beneficial for the service user.

These waivers are time-limited. Waivers for periods of more than 6 months will be rejected unless there is a compelling reason to implement a waiver for a longer period.

## **7. Invoicing and payments**

### **7.1 Commissioned services (with no Direct Payments)**

Invoices are raised four weekly, usually four weeks in arrears. Social Care staff are responsible for entering changes to commissioned services onto ACSIS. Once authorised, ACSIS sends this service information to the Financial Assessment system (Controcc), which determines SAP billing. For example, a bill sent out in May will be for services provided in mid-April.

Payment collection is carried out on the department's behalf by SERCO. Payments can be made by standing order, cheque, online, direct debit or over the telephone.

### **7.2 Commissioned services (with Direct Payments)**

If the service user's maximum assessed contribution is higher than the weekly Direct Payment amount, then the following will happen:

1. The direct payment will not get paid (this is because direct payments are set up to pay out net of the maximum assessed contribution; and
2. The difference between the maximum assessed contribution and the direct payment will be invoiced as per 7.1 above.

### **7.3 Direct Payments only**

Direct payment service users are paid net of their maximum assessed contribution. Direct Payments are paid four-weekly, in advance. The service user is expected to pay their maximum assessed contribution direct into their direct payment bank account, or direct onto their pre-payment card, whichever is applicable.

Where the amount of maximum assessed contribution is higher than the direct payment, HCC will not make direct payment payments and the service user will effectively have to fund the full amount of their direct payments.



## 8. Non-payment of charges

Local authorities are empowered to recover outstanding charges summarily as a civil debt (Section 69 Care Act 2014).

The County Council will exercise its right to take steps to recover the costs for the services it has provided and for which it can charge. However, the County Council will seek to engage with the person responsible for meeting the charge before taking any enforcement action.

## 9. Reviews and complaints

Charges are reviewed annually in line with benefits uprating. Service users can request a re-assessment of the charge if their financial circumstances change at any point during the year, if there has been significant change. A new financial assessment may also take place at the point of the care review. A review is separate to an Appeal (see section 10), as a review relates to the correction or update of a financial assessment, whereas an appeal is used where the service user wishes the council to exercise its discretion or where the service user has DRE above £20 per week.

A service user who is dissatisfied with the service they have received from the Income Team or the Community Finance Team, they have the right to make a complaint. Adult Care Services' complaint procedure will apply for all complaints. Details on how to complain can be found at: <https://www.hertfordshire.gov.uk/about-the-council/complain-or-comment/make-a-complaint.aspx>

## 10. Appeals

If a service user or their representative is unhappy with the maximum assessed charge they have the right of appeal on the grounds of financial hardship and on the grounds that HCC has capped their DRE at £20 per week.

Appeals must usually be made in writing (including by email), and must be supported with evidence. In order for a decision to be made, the decision maker, which will be a Senior Operational Manager, must be able to determine the actual costs incurred, the frequency that those costs are incurred and have access to the service users' care plan.

Following the appeal, we will write and inform service users of our decision on each claim and the reason for each decision.

If the service user remains dissatisfied with the charge, or any other aspect of the service, s/he can make a complaint under the County Councils Complaints Procedure which can be

found at: <https://www.hertfordshire.gov.uk/services/adult-social-services/adult-social-services-factsheets>

## **11. Information for service users**

A public leaflet 'Charging for community based care services', which is the guide to charging for Adult Care Services is available from:

Income Team  
Adult Care Services  
SFAR 225  
Farnham House  
Six Hills Way  
Stevenage  
SG1 2FQ

An electronic version is also available on our website at:

<https://www.hertfordshire.gov.uk/services/adult-social-services/care-and-carers/arranging-and-paying-for-care/paying-for-your-care-costs.aspx>

**STEP 1: Responsibility and involvement**

<b>Title of proposal/ project/strategy/ procurement/policy</b>	Updating HCC's Adult Social Care Charging Policy	<b>Head of Service or Business Manager</b>	Lynn Quick Deputy Head of Income & Payments
<b>Names of those involved in completing the EqIA:</b>	Lynn Quick – Deputy Head of Income and Payments	<b>Lead officer contact details:</b>	Simon Rowley Income Manager/Lynn Quick Deputy Head of Income and Payments
<b>Date completed:</b>	20/03/17 & updated 13/12/17	<b>Review date:</b>	

**STEP 2: Objectives of proposal and scope of assessment – what do you want to achieve?**

<p><b>Proposal objectives:</b>                  – what you want to achieve                  – intended outcomes                  – purpose and need</p>	<p>Hertfordshire County Council (HCC) provides care support to citizens of Hertfordshire who reside in their own homes. HCC, in line with Statutory Guidance (“the Care Act Guidance”) issued under the Care Act 2014, financially assesses service recipients to assess their eligibility for financial support and charges a contribution towards the services arranged.</p> <p>HCC’s Charging Policy sets out how we charge for adult care services. It requires amendments to bring it up to date with the Care Act guidance, so that we can charge for services not currently charged for and apply similar treatments adopted by other local authorities.</p> <p>These amendments will ensure that income from contribution is maximised and assists to reduce the pressure on HCC’s budgets and enables continuation of care support for the citizens of Hertfordshire. There will be additional income from the changes being proposed.</p> <p><b>Services:</b>                  Data available in October 2016 shows that around 15,500 people across all care groups are provided with services which support them to remain living in their own homes.</p> <p>The budget for care services has been and continues to be cut year on year and is subject to additional pressures from an ageing population. Maximising income from client contribution will enable HCC to continue to provide high levels of support to people so they can stay independent for longer and meet the Care Act duties to prevent, reduce and delay the onset of care needs.</p> <p>The changes to the HCC Charging Policy will result in an increase in costs for some people. Any increases are only applied if an individual’s income is above the income buffer allowed by HCC which is the guaranteed income value, as directed by the Department of Works and Pension. The value left is the chargeable income, against which charges can be applied. The charge will be less than or equal to the maximum chargeable income.</p> <p>There are several elements included in the policy changes and all have been examined to see what impact they will have on service users.</p> <p><b>High Rates of Attendance Allowance and Disability Living Allowance</b>                  Including both the higher rates of Attendance Allowance and Disability Living Allowance is permissible in the Care Act, it’s Guidance and Regulations. These benefits are paid specifically to provide funds to enable an individual to pay towards their care. The difference between</p>
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the higher rate and standard rate is £27.20 per week. There are around 2250 service users who are in receipt of the higher rates and some may be required to use the full amount to pay towards their care when they receive a night service. The benefit received will cover in the additional cost. This will result in the higher rate element of the benefit no longer being available to the service user to spend on other items. The financial assessment process will make sure people are not asked to pay more than they can afford.

**Double Handed Care**

The policy change to align the client contribution to the actual cost of the service creates more equity to how other services are charged for. 147 service users are in receipt of this type of service, 130 pay the full cost of care and their charges will double. If the 130 independently purchased their care, as most self-funders do, they would be paying the full charge anyway. The policy as it stands allows self-funders to benefit by paying less for their care than it actually costs. This is at odds with the aim of the policy to apply charges fairly and equally to all service users. The remaining 17 will pay additional contribution but it will not be double the amount and only up to the maximum value of their chargeable income. The financial assessment process will make sure people are not asked to pay more than they can afford.

**Flexi-Care**

630 service users fall into this group. The policy change would see 31 service users paying an increased contribution and this would only be up to the maximum available from their chargeable income. The financial assessment process will make sure people are not asked to pay more than they can afford.

**Transport to Day Care Centres**

The policy change will enable the transportation service to continue, which is not sustainable with the current funding model. The change would see a reasonable charge levied. Service users who have sufficient excess values in their chargeable income will pay an increased contribution and continue to receive the benefit of a door to door service. In this group there are only 117 people who would be required to pay the full cost of the service, the remaining 406 would pay an additional amount. The charge applied would only be up to the maximum available from the chargeable income. The financial assessment process will make sure people are not asked to pay more than they can afford.

**Telecare**

4066 people are provided with telecare services. 1451 receive care services and will not be charged an additional amount for the telecare service. It is being proposed that the remaining 2615 will pay a nominal charge. This creates a fair approach to a contribution being paid towards support services. The fee will be set at a level that will not prove to be a burden on individuals. The financial assessment process will make sure people are not asked to pay more than they can afford.

The Policy changes will have a financial impact on service users although in the majority of cases this will be met by benefits being paid to them specifically to pay for care. The guaranteed minimum income as set by the Department for Work and Pensions provides sufficient funds to cover an individual's daily living costs. The financial assessment process looks at the total cost of all services. The contribution is equal to or less than the chargeable income.

The charge rates for non-residential care are left for individual

	<p>authorities to decide. We have approached the national organisation NAFAO (National Association of Financial Assessment Officers) in relation to treatment of the higher rate Attendance Allowance and Disability Living Allowance and about telecare charges.</p> <p>Authorities taking the higher rate Attendance Allowance and Disability Living Allowance benefit in full when calculating the financial contribution:</p> <p>70.6% Take the benefit in full.          5.8% Take the benefit in full for some services          11.8% Are planning to take the benefit in full          11.8% Are considering taking the benefit in full</p> <p>Authorities who are charging for telecare services:</p> <p>75% Charge          25% Do not charge</p> <p>Of the 25% who currently do not charge 8% are considering whether to do so</p> <p>Charges range from £1.55 to £5.61 with the most frequently used weekly fees being £3.00 or £4.60.</p> <p>Authorities who treat the cost of telecare as a Disability Related Expense:</p> <p>22.2% Do not treat as a disability related expense.          33.3% Do allow as a disability related expense.          11.1% Do allow if the individual is in receipt of a care service.          11.1% Allow if an external provider is used.          22.2% Did not respond</p>
<p><b>Stakeholders:</b>          Who will be affected:          the public, partners, staff, service users, local Member etc</p>	<p>Citizens of Hertfordshire (and their families/carers) who require support with their care needs whilst living in the community and who are assessed to pay a contribution towards that care.</p> <p>Housing Association, Supported Living Units, the Care Home Provider Association and voluntary organisations may experience an increase in enquiries for assistance and advice during the consultation period.</p>

**STEP 3: Available data and monitoring information**

<p><b>Relevant equality information: What the data tell us about equalities</b>          For example: Community profiles / service user demographics, data and monitoring information (local and national), similar or previous EqIAs, complaints, audits or inspections, local knowledge and consultations.</p>
<p><b>Age:</b>          Data compiled in April 2015 showed that nearly 15% of Hertfordshire residents (168,000) are aged over 65. National predictions are that there will be a 19 million increase in people aged over 65 by 2050. This ageing population will place increasing pressure on care and support services. In 2012/13 it was estimated that around 7% of the over 65 age group were receiving support; applying this percentage to the 2015 population gives a potential figure of 11,760 receiving care support.</p>
<p><b>Disability:</b>          Over 68,000 people in Hertfordshire have a disability and around 23,000 have a severe physical disability with approximately 26,000 having a learning disability.</p>

**STEP 4: Impact Assessment – Service Users, communities and partners (where relevant)**  
 Guidance on groups of service users to consider within each protected group can be found [here](#)

Protected characteristic	Potential for differential impact (positive or negative)	What reasonable mitigations can you propose?
<p><b>Age</b></p>	<p>The majority of people who currently require care services are people aged over 65. Some receive help with funding these services from HCC, so any negative changes will have a differential impact on older people. There will be a financial impact on some individuals. Some additional charges will be funded entirely by benefits specifically awarded to pay for care. There will be an impact on some people who have to pay increased contribution but this will not be more than the chargeable income available and will not result in a financial burden or people being asked to pay more than they can afford.</p> <p>During the consultation period concerns were raised in relation to the financial impact directly on individuals and indirectly on the family/carers:</p> <p>Taking the higher rate of Attendance Allowance and Disability Allowance penalising disabled people.</p> <p>Charging for double handed care was penalising people.</p> <p>Family may have to contribute towards expenses incurred by an individual.</p>	<p>Amending the Charging Policy will bring it in line with the Care Act guidance and will reduce the cost pressure to HCC. In order to support service users and maintain that support the most reasonable mitigation is to levy charges that are fair and proportionate to the cost of the service.</p> <p>Charges have been proposed that we consider meet this criteria and they will be reviewed following the public consultation.</p> <p>Full details of the policy will be communicated to current service users and available to potential service users, along with details of support services available.</p> <p>The Policy will continue to ensure people do not pay more than they can afford. The Policy will continue to allow the guaranteed minimum income as set by the Department for Work and Pensions which provides sufficient funds to cover an individual's daily living costs. The Policy will continue to take into account disability related expenditure when calculating how much and individual can afford to pay towards their care.</p> <p>These concerns have been noted and the proposal has been amended to only take into account the higher rates of Attendance Allowance and Disability Allowance when an individual is in receipt of a night service. It is still considered that the Policy will continue to ensure people do not pay more than they can afford. The guaranteed income as set by the Department for Works and Pensions seeks to provide sufficient funds to cover an individual's daily living costs.</p>

<p><b>Disability Including Physical and Learning Disability</b></p>	<p>There are also a significant number of people with a physical or learning disability who currently require care services. Some receive help with funding these services from HCC so any negative changes will have a differential impact on people with a disability. There will be a financial impact on some individuals. Some additional charges will be funded entirely by benefits specifically awarded to pay for care. There will be an impact on some people who have to pay increased contribution but this will not be more than the chargeable income available and will not result in a financial burden or people being asked to pay more than they can afford.</p>	<p>Amending the Charging Policy will bring it in line with the Care Act 2014 guidance and will reduce the cost pressure to HCC. In order to support service users and maintain that support the most reasonable mitigation is to levy charges that are fair and proportionate to the cost of the service.</p> <p>Charges have been proposed that we consider meet this criteria and they will be reviewed following the public consultation.</p> <p>Full details of the policy will be communicated to current service users and available to potential service users, along with details of support services available.</p> <p>The Policy will continue to ensure people do not pay more than they can afford. The Policy will continue to allow the guaranteed minimum income as set by the Department for Work and Pensions which provides sufficient funds to cover an individual's daily living costs. The Policy will continue to take into account disability related expenditure when calculating how much and individual can afford to pay towards their care.</p> <p>HCC will take the necessary steps to ensure that information will be available in alternative formats such as Easy Read, Large print and translated where necessary to ensure equality of access. HCC will also work with the Learning Disability Partnership Board and other relevant partners to help communicate and explain the reasons for the proposed changes and what they are likely to mean for service users.</p> <p>We will also make sure that we communicate in a clear, personalised way what the difference in charges will be if the changes are approved. This will take into account individual needs, including people with learning disabilities who may need additional support to understand the impact.</p> <p>These concerns have been noted and</p>

	<p>During the consultation period concerns were raised in relation to the financial impact directly on individuals and indirectly on parents/carers:</p> <p>Taking the higher rate of Attendance Allowance and Disability Allowance penalising disabled people.</p> <p>Charging for double handed care was penalising people.</p> <p>Boarding and lodging, food and clothing expenses were not considered.</p> <p>An individual would have less money for activities, wouldn't be able to go out as much, this would impact on their wellbeing and could suffer mental health issues and isolation.</p> <p>An individual may have to move from current home and move into residential.</p> <p>For an individual living within parents an increase in client contribution would mean that parents would be expected to contribute more towards their son/daughters expenditure.</p> <p>An individual may choose to cease their care rather than pay a higher contribution.</p>	<p>the proposal has been amended to only take into account the higher rates of Attendance Allowance and Disability Allowance when an individual is in receipt of a night service. It is still considered that the Policy will continue to ensure people do not pay more than they can afford. The guaranteed income as set by the Department for Works and Pensions seeks to provide sufficient funds to cover an individual's daily living costs.</p>
<b>Race</b>	<p>We do not have robust local data on the ethnicity of users accessing care services. It is not anticipated that the proposal will affect people disproportionately because of issues of Race. It is however acknowledged that information and guidance will need to be available in different languages.</p>	<p>HCC will continue to monitor the position and if any issues in respect of the protected characteristic are identified by HCC then the Action Plan will be amended accordingly.</p> <p>Access to interpreting services will be made available.</p>
<b>Gender reassignment</b>	<p>It is not anticipated at this stage that the proposal will affect people disproportionately because of the issues of Gender reassignment but the position will be monitored if the proposal proceeds.</p>	<p>HCC will continue to monitor the position and if any issues in respect of this protected characteristic are identified by HCC then the Action Plan will be amended accordingly.</p>
<b>Pregnancy and maternity</b>	<p>It is not anticipated that the proposal will affect people disproportionately</p>	<p>HCC will continue to monitor the position and if any issues in respect of</p>



	because of issues around Pregnancy and Maternity but the position will be monitored if the proposal proceeds.	this protected characteristic are identified by HCC then the Action Plan will be amended accordingly.
<b>Religion or belief</b>	It is not anticipated that the proposal will affect people disproportionately because of their religion/belief. We do not have robust local data on the religion or belief of users accessing care services.	HCC will continue to monitor the position and if any issues in respect of this protected characteristic are identified by HCC then the Action Plan will be amended accordingly.
<b>Sex</b>	The percentage split between females and males currently paying towards their service is 60/40. Any changes will affect more females.	HCC will continue to monitor the position and if any issues in respect of the protected characteristic are identified by HCC then the Action Plan will be amended accordingly.
<b>Sexual orientation</b>	It is not anticipated that the proposal will affect people disproportionately because of issues around Sexual orientation but the position will be monitored if the proposal proceeds. We do not have robust local data on the sexual orientation of users accessing care services.	HCC will continue to monitor the position and if any issues in respect of the protected characteristic are identified by HCC then the Action Plan will be amended accordingly.
<b>Marriage &amp; civil partnership</b>	It is not anticipated that the proposal will affect people disproportionately because of issues around Marriage and Civil Partnership but the position will be monitored if the proposal proceeds. We do not have robust local data on the marital status of users accessing care services.	HCC will continue to monitor the position and if any issues in respect of the protected characteristic are identified by HCC then the Action Plan will be amended accordingly.
<b>Carers (by association with any of the above)</b>	<p>It was not anticipated that the proposal would affect people disproportionately because of caring issues but the position will be monitored if the proposal proceeds. We do not have robust local data on the caring responsibilities of users accessing care services or the number of people who are accessing care services who are also receiving support from informal carers. There may be an impact on carers if service users refuses care and is more reliant on the carer.</p> <p>During the consultation period concerns were raised in relation to the impact on carers.</p> <p>If an individual is charged more carers felt they may have to provide more care support as the individual will not want to pay the increased contribution.</p>	<p>HCC will continue to monitor the position and if any issues in respect of the protected characteristic are identified by HCC then the Action Plan will be amended accordingly. HCC will engage with Carers in Hertfordshire as part of the consultation process and their feedback will be reviewed and considered before final proposals are made.</p> <p>These concerns have been noted and it is still considered that the Policy will continue to ensure people do not pay more than they can afford. If the continued monitoring identifies any changes then the Action Plan will be amended.</p>
<p><b>Opportunity to advance equality of opportunity and/or foster good relations</b>          (Please refer to the <a href="#">guidance</a> for more information on the public sector duties)</p>		

Amending the Charging Policy in line with the guidance provided under the Care Act 2014 will reduce the cost pressure to HCC and will enable HCC to continue to provide high levels of support to a greater number of Hertfordshire Citizens, all of whom will have Protected Characteristics, who most need it. There is also the opportunity to link this work with our Community First approach in order to increase awareness about the costs of care services and the availability of alternatives to support provided by the County Council and the need to work together with others to find the best solutions for caring for adults in Hertfordshire.

## Impact Assessment – Staff

Protected characteristic	Potential for differential impact (positive or negative)	What reasonable mitigations can you propose?
<b>Age</b>	It is not anticipated that there will be a negative impact on staff.	The position will be monitored and any identified action progressed.
<b>Disability Including Learning Disability</b>	It is not anticipated that there will be a negative impact on staff.	The position will be monitored and any identified action progressed.
<b>Race</b>	It is not anticipated that there will be a negative impact on staff.	The position will be monitored and any identified action progressed.
<b>Gender reassignment</b>	It is not anticipated that there will be a negative impact on staff.	The position will be monitored and any identified action progressed.
<b>Pregnancy and maternity</b>	It is not anticipated that there will be a negative impact on staff.	The position will be monitored and any identified action progressed.
<b>Religion or belief</b>	It is not anticipated that there will be a negative impact on staff.	The position will be monitored and any identified action progressed.
<b>Sex</b>	It is not anticipated that there will be a negative impact on staff.	The position will be monitored and any identified action progressed.
<b>Sexual orientation</b>	It is not anticipated that there will be a negative impact on staff.	The position will be monitored and any identified action progressed.
<b>Marriage &amp; civil partnership</b>	It is not anticipated that there will be a negative impact on staff.	The position will be monitored and any identified action progressed.
<b>Carers (by association with any of the above)</b>	It is not anticipated that there will be a negative impact on staff.	The position will be monitored and any identified action progressed.
<b>Opportunity to advance equality of opportunity and/or foster good relations</b> (Please refer to the <a href="#">guidance</a> for more information on the public sector duties)		
The position will continue to be monitored.		

## STEP 5: Gaps identified

<b>Gaps identified</b> Do you need to collect more data/information or carry out consultation? (A 'How to engage' consultation guide is on <a href="#">Compass</a> ). How will you make sure your consultation is accessible to those affected?	A number of people currently decline services or refuse to pay for them as they do not wish to make a contribution towards them although they are in the minority. We will monitor the number of additional service users who decline or refuse to pay for a service based on an increase in their contribution to see if the additional charges have a negative impact.
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## STEP 6: Other impacts

Consider if your proposal has the potential (positive and negative) to impact on areas such as health and wellbeing, crime and disorder and community relations. There is more information in the guidance.

## STEP 7: Conclusion of your analysis

Select one conclusion of your analysis	Give details
<input type="checkbox"/> <b>No equality impacts identified</b> – No change required to proposal.	
<input type="checkbox"/> <b>Minimal equality impacts identified</b> – Adverse impacts have been identified, but have been objectively justified (provided you do not unlawfully discriminate). – Ensure decision makers consider the cumulative effect of how a number of decisions impact on equality.	
X <b>Potential equality impacts identified</b> – Take ‘mitigating action’ to remove barriers or better advance equality. – Complete the action plan in the next section.	<p>It is anticipated that the proposed changes in the charging policy will have both an individual (each proposal) and cumulative effect on those with protected characteristics</p> <p>The financial assessment ensures that an individual will only be asked to pay a contribution if they can afford to do so. The Policy will continue to allow the guaranteed minimum income as set by the Department for Work and Pensions which seeks to provide sufficient funds to cover an individual’s daily living costs. We will only ask people to use the excess income to pay a contribution towards their care.</p> <p>The proposals are also subject to Public Consultation, the outcome of which will be considered and used to further inform the proposals.</p>
<input type="checkbox"/> <b>Major equality impacts identified</b> – Stop and remove the policy – The adverse effects are not justified, cannot be mitigated or show unlawful discrimination. – Ensure decision makers understand the equality impact.	

**STEP 8: Action plan**

Issue or opportunity identified relating to: – Mitigation measures – Further research – Consultation proposal – Monitor and review	Action proposed	Officer Responsible and target date
Consultation	A 12 week consultation will be conducted which will include letters to all service users explaining how the proposed changes will affect them. Information will be available on the HCC website and contact made with partner and other interest organisations.	Simon Rowley/Lynn Quick date to be confirmed

<b>Issue or opportunity identified relating to:</b> – Mitigation measures – Further research – Consultation proposal – Monitor and review	<b>Action proposed</b>	<b>Officer Responsible and target date</b>
Monitor and Review	We will continue to monitor:  - the debt position - the number of appeals about charging - the number of people who decline services as they do not want to make a contribution  We will carry out an evaluation to assess whether there is an increase attributable to the changes in policy.	Simon Rowley/Lynn Quick date to be confirmed
<b>Mitigation Measures</b>	People will continue to pay only what they can afford.  Benchmarking with other authorities relating to the higher rate of Attendance Allowance and the higher rate of Disability Living Allowance.  Send individual communication direct to everyone who is in receipt of a non-residential service with guidance on how the changes once agreed will impact on them.  Send information to stakeholders about when the changes will be introduced and who any queries should be directed to.	Completed

**This EqIA has been reviewed and signed off by:**

**Head of Service or Business Manager:**                      **Helen Maneuf**                      **Date:**            **December 2017**

HCC's Diversity Board requires the Equality team to compile a central list of EqIAs so a random sample can be quality assured. Each Equality Action Group is encouraged to keep a forward plan of key service decisions that may require an EqIA, but please can you ensure the Equality team is made aware of any EqIAs completed so we can add them to our list. (Email: [equalities@hertfordshire.gov.uk](mailto:equalities@hertfordshire.gov.uk)).  
 Thank you.

ADULT CARE AND HEALTH CABINET PANEL

WEDNESDAY 10 JANUARY 2018

CHANGES TO CHARGING ARRANGEMENTS FOR  
COMMUNITY BASED ADULT SOCIAL CARE

UPDATE ON FINAL RESPONSES

Agenda Item No.

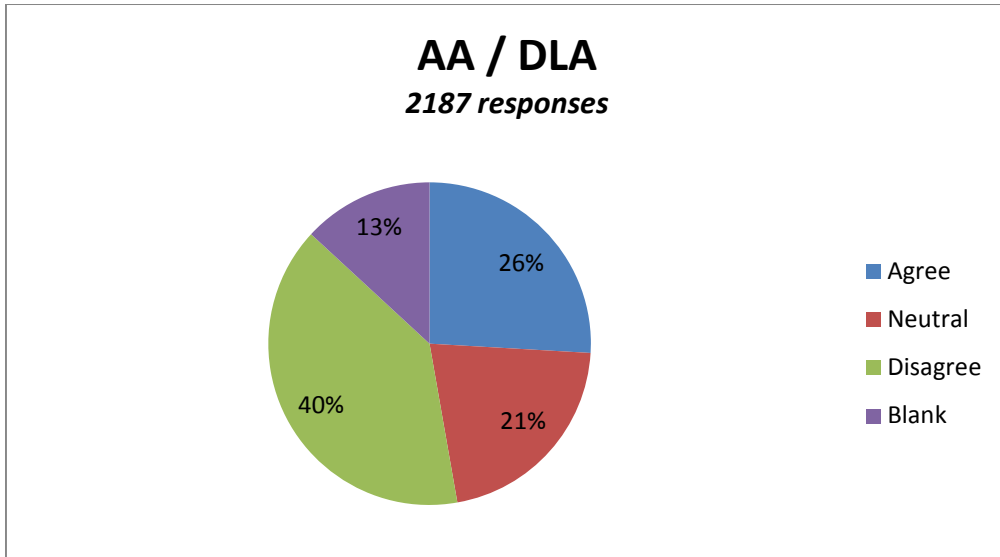
**3**

*Report of the Director of Adult Care Services*

Author:- Helen Maneuf, Assistant Director Planning & Resources  
([Tel:01438 845502](tel:01438845502))

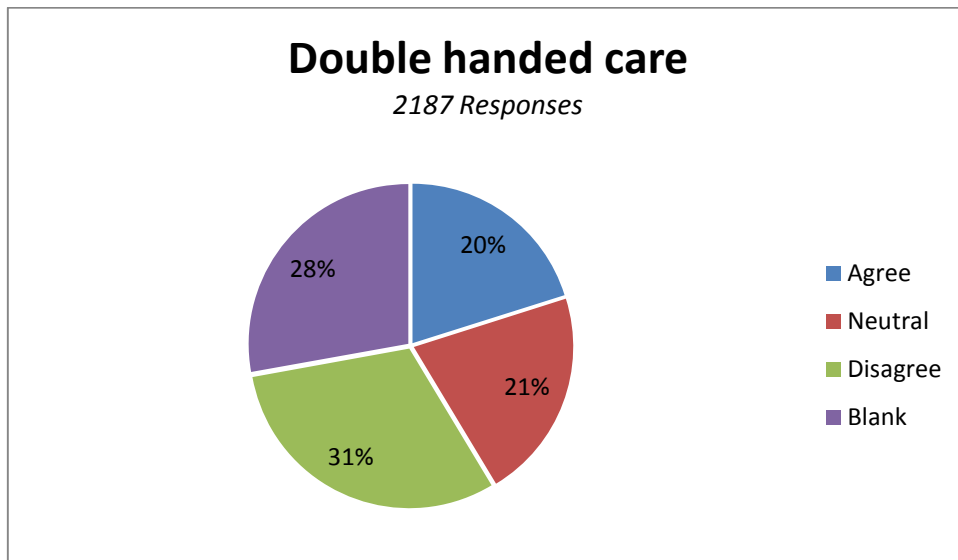
Executive Member:- Colette Wyatt-Lowe – Adult Care and Health

- 1 This is a supplementary note to update for the final responses received during the consultation on proposals to change the charging arrangements for community-based adult social care services
- 2 By the end of the consultation period (31 December 2017) there were 2,187 responses to the questionnaire representing a response rate of 22.7 per cent. The consultation phone line received 617 calls as of 14 December. This is an update of paragraph 2.6 of the report.
- 2 The final results for each of the five proposals were:
  - 2.1 Proposal One: to take the higher rate of Attendance Allowance and Disability Allowance into account when calculating contributions - updates for paragraphs 4.8 and 4.9



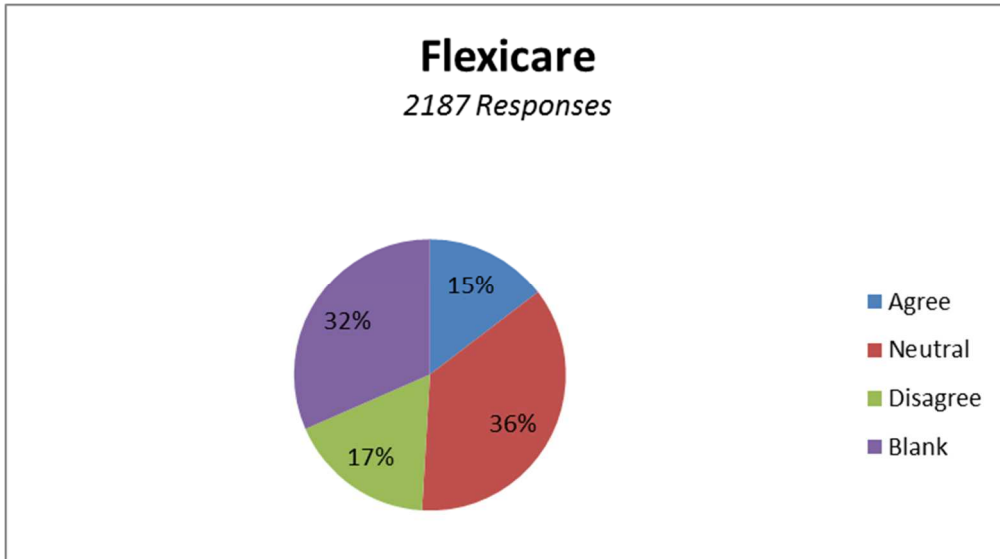
2.2 This was the proposal with which there was the most disagreement with 40% or 867 people disagreeing or strongly disagreeing with the proposal. Twenty-six percent of people agreed or strongly agreed.

2.3 Proposal Two: 'Double Handed' Care (having more than one carer at a time); updates for paragraphs 4.28 and 4.29



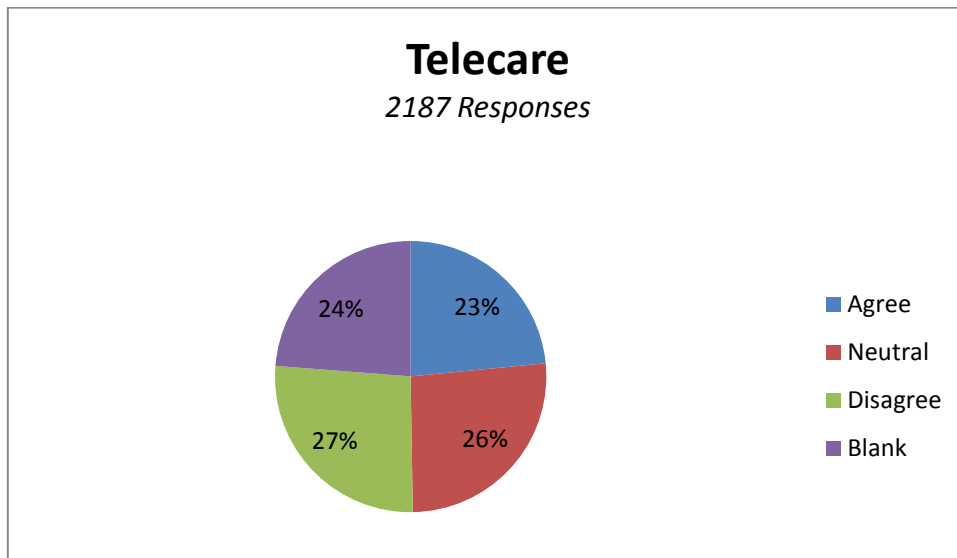
2.4 There was a spread of views between agreeing or strongly agreeing (20 per cent), being neutral (21 per cent), and disagreeing or strongly disagreeing (31 per cent).

2.5 Proposal Three: 'Flexicare' Accommodation Bandings (updates for paragraphs 4.37 and 4.38



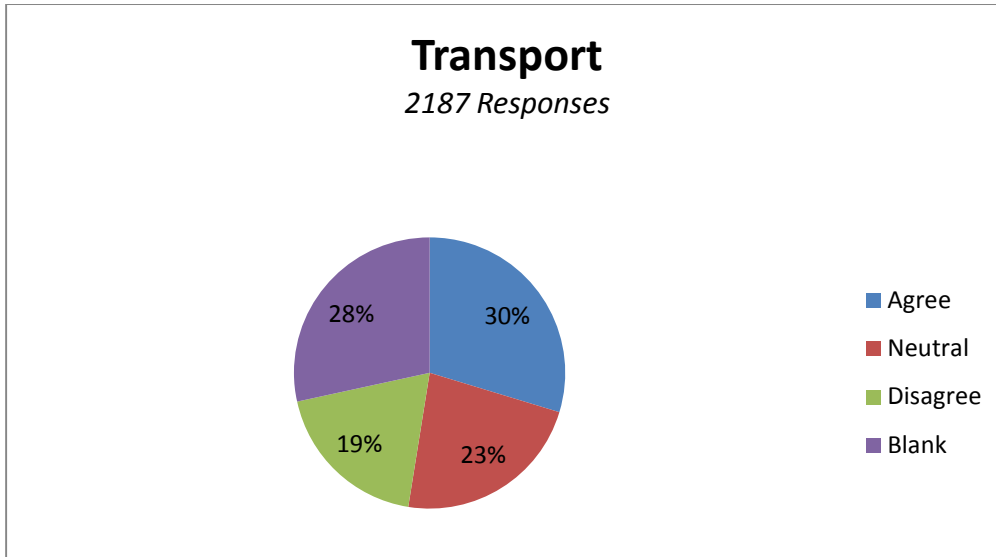
2.6 This proposal generated the highest level of ‘neither agree nor disagree’ (36 per cent) or blank responses (32 per cent) which is likely to be a result of there being relatively small numbers of people who live in flexi-care and therefore potentially affected by the proposal. Fifteen per cent of respondents either ‘strongly agreed or agreed’ with the proposal, whereas seventeen per cent ‘disagreed or strongly disagreed’.

2.7 Proposal Four: Telecare (updates for paragraphs 4.42 and 4.42)



2.8 The pie chart shows a relatively even split of views across respondents, with 23 per cent agreeing or strongly agreeing with the proposal and 27 per cent disagreeing or strongly disagreeing. Half of the respondents had a neutral view or left this question blank.

2.9 Proposal Five: Transport (updates for paragraphs 4.48 and 4.49)



2.10 This was the proposal which had the highest number of people who strongly agreed or agreed with the proposal at 30 per cent. Nineteen per cent of respondents disagreed or strongly disagreed with the proposal with 51 per cent leaving this question blank or giving a neutral response.

2.11 Updates to Appendix A

**Updated Table 1: Breakdown of respondents to questionnaires**

Who responded?	Numbers
A service user	1007
A representative of a service user or carer	1020
Someone else (for example, if you work for a voluntary organisation)	62
Left blank	98

**2187**

**Updated Table 2: Breakdown of responses to questionnaires**

Proposal	Agree	Neutral	Disagree	Blank	Total
AA / DLA	567	466	867	287	2187
Double handed care	440	465	673	609	2187
Flexicare	320	794	383	690	2187
Telecare	513	575	580	519	2187
Transport	649	500	417	621	2187

**Updated Analysis of Narrative Responses**

There were 422 narrative responses which were unsure or neutral in nature.

Favourable responses are analysed in this table:



**Table 3: Nature of Favourable Responses to questionnaires**

Nature of Response	Number of comments
Proposals will lead to improved equity for what is charged	95
It is reasonable that a more realistic price should be paid if it can be afforded	243

Unfavourable responses are analysed in this table:

**Updated Table 4: Nature of Unfavourable Responses to questionnaires**

Nature of Response	Number of comments
Level of financial impact will be severe	299
Unfairness / inequity of proposals	205
Penalising those with higher needs	161
Questioning applicability of using of Attendance Allowance and Disability Living Allowance to pay for care & whether this is lawful under the Care Act	147
Risk of people deciding that they can no longer care for someone, with the person then needing residential care at a higher cost/ or that independence will be undermined resulting in higher costs; preventative benefits will be lost	138
Unfairly targeting disabled, poor and vulnerable and people who have worked hard / paid taxes / saved	110
It is more expensive to live with a disability	89
Alternative ways should be found to balance the books	84
People may decline services based on cost	78
The proposed increases are too high	63
The survey is not a fair process / bureaucratic	32
Current charges already unfair	27
Increases will not be matched by quality improvements	24
Impact / distress on people and their carers	22
The council now allows less Disability Related Expenditure; the council should do more to clarify entitlements	8
Should exclude people in 'End of Life' situations	1