

HERTFORDSHIRE COUNTY COUNCIL

CABINET
MONDAY 19 MARCH 2018 AT 2.00PM

Agenda Item
No.

5

AMENDMENT TO CHARGING POLICY FOR COMMUNITY-BASED ADULT SOCIAL CARE

Report of the Director of Adult Care Services

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

1. Purpose of report

- 1.1 To seek Cabinet agreement to the proposed amendment to the Council's charging policy for community-based (non-residential) adult social care services.

2. Summary

- 2.1 The Adult Care & Health Cabinet Panel considered a report on this matter at its meeting on 10 January 2018. The Panel recommended to Cabinet that five amendments be made to the Council's policy on charges for community based (non-residential) adult social care services, to take effect from 15 April 2018:

<http://cmis.hertfordshire.gov.uk/hertfordshire/Calendarofcouncilmeetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/801/Committee/16/Default.aspx>

- 2.2 Cabinet agreed the amendments to the policy for charging for community-based (non-residential) adult social care services at its meeting on 22 January 2018:

<http://cmis.hertfordshire.gov.uk/hertfordshire/Calendarofcouncilmeetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/657/Committee/8/Default.aspx>

- 2.3 One of these amendments concerned the treatment of the Higher Rate of Attendance Allowance (AA) and Disability Living Allowance (DLA) when carrying out a financial assessment to determine how much someone can afford to pay towards their cost of care.

- 2.4 On 19 February 2018, Cabinet considered the Integrated Plan for 2018/19 which included the budgetary implications of the charging policy amendments:

<http://cmis.hertfordshire.gov.uk/hertfordshire/Calendarofcouncilmeetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/658/Committee/8/Default.aspx>

- 2.5 Cabinet made a recommendation that the adult care services budget be increased by £310k, equivalent to the amount estimated to be generated by the proposal to include higher rates of Attendance Allowance (AA) and Disability Living Allowance (DLA) in financial assessments for people with night time care and support needs that are being met by the Council.
- 2.6 In the light of its recommendation, Cabinet requested that a report be brought to its meeting in March 2018 to formally consider a proposal to further amend the charging policy for community based adult social care services, removing the requirement to include higher rates of AA and DLA when assessing the financial contribution that people with night time care and support needs can afford to pay.

3. Recommendations

- 3.1 The Adult Care & Health Cabinet Panel considered a report on this item of business at its meeting on 6 March 2018. The Panel recommended to Cabinet that Cabinet:
- i) agree to revise the charging policy agreed on 22 January 2018 and remove the requirement to include the Higher Rate of Attendance Allowance and Disability Living Allowance where people receive care to meet night time needs, when determining how much a person can afford to pay towards their cost of care; and
 - ii) agree that the Director of Adult Care Services be authorised to make the amendments necessary to the charging policy to give effect to Cabinet's decision outlined in i) above.

4. Background

- 4.1 The charging policy for community based adult social care services is available on the internet at the following location, and remains applicable until 14 April 2018:

[Paying for your care costs | Hertfordshire County Council | www.hertfordshire.gov.uk](http://www.hertfordshire.gov.uk/Paying-for-your-care-costs)

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- 4.2 During 2017, officers reviewed the Council's charging arrangements for community-based adult social care services, as a result of which Cabinet agreed changes in five areas at its meeting on 22 January 2018:

<http://cmis.hertfordshire.gov.uk/hertfordshire/Calendarofcouncilmeetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/657/Committee/8/Default.aspx>

- 4.3 Cabinet's decision followed a three-month public consultation exercise which closed on 31 December 2017.
- 4.4 One of the five agreed amendments was the requirement to include the higher rate of AA or DLA¹ when calculating how much someone can afford to pay towards the cost of their care and support, where an individual has night time care and support needs which are being met by the Council.
- 4.5 In discussing this proposal the report noted that suggested amendments to AA and DLA² had seen the most disagreement in public consultation.
- 4.6 Since the closure of the public consultation, the Council has continued to receive representations on the impact of the agreed changes to its charging arrangements, and a petition on the Council's website opened on 5 January 2018:

<https://cmis.hertfordshire.gov.uk/hertfordshire/Petitions/tabid/140/ID/197/Increase-to-charges-for-Social-Care.aspx>

- 4.7 When Cabinet considered the Council's Integrated Plan on 19 February 2018, it made a recommendation that the Adult Care Services budget be increased by £310k. This is a sum equivalent to the amount estimated to be generated by the proposal to include higher rates of AA and DLA in financial assessments for people with night time care and support needs that are being met by the Council.
- 4.8 Cabinet also asked for a report to come to it in March to revisit the proposal that had been previously agreed to further amend the charging policy for community based adult social care services,

¹ Information AA and DLA is set out here: <https://www.gov.uk/attendance-allowance/overview> and here: <https://www.gov.uk/dla-disability-living-allowance-benefit/overview>

² The proposal that was consulted upon was to include higher rate of AA and DLA when calculating financial contributions, regardless of when services are received.

removing the requirement to include higher rates of AA and DLA when assessing the financial contribution that people with night time care and support needs can afford to pay.

- 4.9 The petition referred to at paragraph 4.6 was presented to Council at their meeting of 20 February 2018, where Council agreed the Integrated Plan including the recommendation to increase the Adult Care Services budget by £310k.
- 4.10 Having reflected further on the responses made on this particular aspect of its policy for charging for community-based (non-residential) adult social care services and the decision made when the Council considered the Integrated Plan and its current financial position, officers are of the view that this particular element of its revised policy should not be implemented.

5 Financial Implications

- 5.1 The anticipated income from the proposal to introduce the requirement to include higher rates of AA and DLA when assessing the financial contribution that people with night time care and support needs can afford to pay was £310k per annum.
- 5.2 A decision not to implement this proposal will produce an equivalent short fall in the Adult Care Services budget plan.
- 5.3 Council however agreed at its meeting on 20 February 2018 that the Adult Care Services budget be increased by £310k which will meet the anticipated shortfall. This change will be funded as follows:
- In 2018/19, by a reduction in the Transition reserve.
 - For 2019/20 onwards, through the growth in council tax and business rates. As this had been factored into the Integrated Plan, the savings gap will increase in those subsequent years.

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.

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- 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 A full Equalities Impact Assessment accompanied the Cabinet report of 22 January 2018 and it is considered that this still stands; the document is attached as Appendix A.
 - 6.5 The removal of the requirement to include a higher rate of AA and DLA when calculating how much someone with night time care and support needs being met by the Council can afford to pay will not adversely discriminate, and may well take forward the Council's duty to advance equality of opportunity for those who would have been affected by this element of the policy.