

Name of Committee:	Healthy Living and Social Care Scrutiny Committee
Date of Meeting:	05/02/2019
Relevant Scrutiny Committee:	Healthy Living and Social Care
Report Title:	Discretionary Charging for Social Care Services
Purpose of Report:	Potential Discretionary Charges for Social Care Services
Report Owner:	Director of Social Services
Responsible Officer:	Head of Resource Management and Safeguarding
Elected Member and Officer Consultation:	Operational Manager, Commissioning and Information Operational Manager, Locality Services Operational Manager, Learning Disabilities & Mental Health Services Senior Lawyer
Policy Framework:	This is a matter for Executive decision
Executive Summary:	<p>To seek consideration by Elected Members as to whether discretionary charges may be made under the Social Services and Well-Being (Wales) Act 2014 ('the Act'), and other contractual arrangements.</p> <p>To consider whether the Council should impose discretionary charges prior to any consultation exercise being undertaken with citizens in the Vale of Glamorgan.</p> <p>Cabinet approval will be sought in the event that discretionary charges were to be introduced following consultation, if any, along with, the comments of the Scrutiny Committee.</p>

1. Recommendation

- 1.1** That Scrutiny Committee consider the information in respect of the discretionary charges which may be introduced as set out in Appendix 1.
- 1.2** That Scrutiny Committee, in deciding to proceed with the introduction of discretionary charging, require a consultation exercise to be carried out
- 1.3** The comments of Scrutiny Committee and the outcome of the consultation exercise are referred to Cabinet for consideration and approval for the development of an updated Council policy on Charging for Residential and Non Residential Services, to include any discretionary charges.

2. Reasons for Recommendations

- 2.1** To ensure Scrutiny Committee considers and approves the implications of any proposed discretionary charges being introduced.
- 2.2** To ensure that Scrutiny Committee understand the need to embark upon a consultation exercise if the decision of Scrutiny Committee is to proceed further.
- 2.3** To enable full consideration of potential changes to charging for Residential and Non Residential Services, to include any discretionary charges.

3. Background

- 3.1** The Social Services and Well-Being (Wales) Act 2014 ('the Act') came in to force on 6th April 2016. It provides the statutory framework to deliver the Welsh Government's commitment to focus on well-being, rights and responsibilities. It brought together local authorities' duties and functions in relation to improving the well-being of adults who need care and support and adult carers who need support in to a single piece of legislation.
- 3.2** The Act provides for a single legal framework for charging adults for care and support and for charging carers for support.
- 3.3** In addition, a Code of Practice (Parts 4 & 5 Charging for Financial Assessment) ('the Guidance') was issued under S145 of the Act. When carrying out their social services functions, local authorities must act in accordance with any requirements and have regard to any guidelines contained in the Guidance.
- 3.4** To date, the Council's Charging for Care and Support Services policy has focused on those services for which the Council has previously charged. There are several areas where the Council has discretion to charge service users or carers for the services they received.

- 3.5** Work has been completed to compile a list of services that could be subject to a charge, which are laid out in Appendix 1. The Scrutiny Committee should note that not all of the charges fall within the provisions of 'the Act'.

4. Key Issues for Consideration

- 4.1** Areas covered within the report are:

Occupational Therapy services - provision of equipment and assistance to undertake day to day tasks, such as manual handling equipment.

Other Services - Other services which may be provided under 'the Act' include laundry, meals, socialisation, and shopping. Further details of services currently commissioned via a formal agreement with providers are set out in Appendix 1, under 'other services'.

Appointee Accounts - acting as a financial representative for benefit payments for people who no longer have capacity to manage their financial affairs.

Carers' Support Services - provided to adult carers to meet their need for support in their role as carers.

Deferred payments - people who own their own home have the right to apply for a Deferred Payment Agreement, which allows for the Council to pay for their care until such time as the property is sold. The amount of the care home charges paid by the Council under the agreement is secured by a legal charge registered against the property under the Deferred Payment arrangement. The outstanding amount owed to the Council in respect of care home charges would be paid at the point where the property is sold.

In the context of flat rate charging under 'the Act', it cautions against the imposition of charges which may deter people from agreeing to the provision of services. In addition 'the Act' seeks to encourage the use of preventative services, and any charging policy would need to take this consideration into account.

- 4.2** Some of the proposed charges would require consultation before a final decision on implementation is made.

5. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

- 5.1** The proposals consider the long-term funding of non-statutory social care services within the Vale of Glamorgan and the potential impact that this could have on citizens.

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- 5.2 Consultation with and involvement of citizens would take place on the proposed changes to the Council's charging policy.
- 5.3 Charging for services may enable further income generation thus increasing resilience for future service delivery within the challenging financial climate.
- 5.4 Integration and collaboration via services provided by partnership arrangements, such as the Joint Equipment Store, are covered by the proposed charges.

6. Resources and Legal Considerations

Financial

- 6.1 Budget pressures in Social Services are regularly reported to Scrutiny Committee and Cabinet. Funding from Welsh Government to the Vale of Glamorgan has reduced and therefore the Council needs to consider maximising its income. The proposed charges will enable Social Services to maximise the amount of income it can generate.
- 6.2 In all the proposals, consideration has been given as to whether it would be cost effective to raise, invoice for and potentially recover debts in situation of non-payment.
- 6.3 Additional administration fees in respect of Deferred Payments and Section 71 charges have been calculated by determining the average amount of staff time, legal processes such as registration of charges, and costs for desk-top and on-site valuations.
- 6.4 Within the proposal, reasonable approximations have been made that a minimum of £51.5k pa, income would be generated. This has been calculated from those areas where current service demands are known. Additional resources of £98k pa, would be required to support the work that would be generated by the implementation of the charges.

Employment

- 6.5 Additional staff resources would be required for the work generated for the Deferred Payment work and Financial Assessment process.

Legal (Including Equalities)

- 6.6 Some of the proposed changes are within the requirements of the Social Services and Well-being (Wales) Act 2014. Other services referred to in Appendix 1 will be imposed under contractual arrangements.
- 6.7 The Act and the accompanying Code of Practice 4/5 requires the Council to charge only the cost of providing the service. Furthermore, a person must not be

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required to pay more than it is 'reasonably practicable' for them to pay. The consultation exercise will need to take account of these requirements.

- 6.8** The Act also makes clear that the level of, in particular, flat rate charges for preventative services should not deter citizens from seeking care and support at an early stage.

7. Background Papers

Council's Policy on Charging for Care and Support Services under the Social Services and Well-Being (Wales) Act 2014, published in July 2018.

Discretionary Charging Options

Appendix 1.

Potential Area for Charge	Current Arrangement	Potential Future Charge	Comments	Potential Income (approximation)	Resources Required to Implement Charge	Consultation Required
Occupational Therapy equipment e.g. perching stools, manual handling equipment	Loaned by Joint Equipment Store (JES) (A partnership arrangement with Cardiff Council and the UHB to provide equipment to support people's independence within their own homes, following an assessment by an Occupational Therapist)	Ability to purchase equipment via JES.	Council's procurement process would have sought best value for the purchase of equipment, making it likely that items would be more cost effective than if people purchased items from other sources. Only for referrals received after Charging Policy has been amended. Average cost per item provided £39.89.	Consultation exercise would explore the levels at which this would apply.	£0	YES
		Consideration is given to charging a one-off rental charge of £30 for higher value items eg those which cost over £200 to purchase.	Only for referrals received after Charging Policy has been amended.	In first 6 months of 2018/19, 264 items costing more than £200, giving potential annual income of £16k.	£24k Additional Account Administrator post	YES
Occupational Therapy services	No charge made	Weekly charge of £20 to be made to persons receiving OT services.	A charge would not be applied if the person's income was such that they were not required to pay for care under Part 4 of the Act.		Included in new Account Administrator post above.	YES
Deferred Payments	Arrangement of Agreement- no charge made	Charge of £120 initial fee to cover admin and legal costs. Fee of £150 + VAT for desk-top valuation; £350 + VAT for detailed valuation, including visit to property. On-going annual charge of £60 for administration costs. The above costs to be applied for any applications made after Charging Policy has been amended, whether or not the application is finalised. No retrospective charges to be made.	As a guide to the amount of income that could be generated, 44 cases involving property have been received so far in 2018/19	As a guide, should all property cases referred come to fruition, the minimum administration charges for £2018/19 would be £12k to date.	Included in new Social Care Finance Officer post below.	No

(only for cases where the service user has a property which is to be taken into account as capital under the Act)	Interest - no charge made until 56 days after date of death. Simple interest only at 4% per annum.	Council to apply the compound interest rate as set out in the Act to all new arrangements from the date the Charging Policy is amended i.e. 0.15% above the market gilts rate as specified every 6 months in the report by the Office of Budget Responsibility, currently 1.5%. Would apply immediately the Agreement or Charge is in place.	<p>No immediate impact for the Council as interest would be added to the running total of the debt and would only be achieved when the debt is paid.</p> <p>Would not apply to current cases.</p> <p>Would require investment in additional member of staff within the section (currently 1WTE) to ensure that work was undertaken within required timescales.</p> <p>The total indebtedness to the Council for 97 property cases at the end of March 2018 was £1,876,922, averaging £19,349 per case.</p>	If applied to the 44 property cases to date in 2018/19, this would equal £14k interest per annum.	£37k Additional Social Care Finance Office post.	No
Other Services	No charge made	Lunch Clubs - no charge	As the Council is not permitted to charge more than the cost of service provision, it is not cost effective to charge for lunch clubs. Based on current usage, a fee of no more than £1 per person per day would be applicable, and would cost more to administer than any income generated.	£0		No
		Befriending services - no charge.	Services are run by external organisations via funding from Social Services. It would not be feasible for a calculation of a person's ability to pay for a service at the point that contact is made.	£0		No
		Communicator Guide Services - £10 per hour charge.	Service may be included under the person's assessed charge for Non-Residential Services, which would have to be determined on a case by case basis.	Approximately 90 hours per quarter are being accessed at present, giving an annual income of £3.5k	Included in new Account Administrator post above.	Yes
	No charge made	Flat rate charges for preventative services are not subject to a maximum charge per week but should not be charged at more than the cost of service provision.	The operation of the charging provisions under SSWBW Act 2014 in certain circumstances operates to reduce or negate any income received under this proposal.	Information on the number of people this would apply to is not separately recorded, therefore it is not possible to calculate the potential income.		Yes

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<p>Corporate Appointee accounts (for service users who do not have capacity to manage their own finances and no appropriate family or friends are able to take on the role)</p>	<p>No charge made</p>	<p>Non-residential services £10 per week Residential services £7.00 per week Charge to be made to all existing Appointee accounts from date Charging Policy is amended.</p>	<p>Appointeeship exemption for 3 months to allow time to accrue money. No charge in Residential if capital less than £1000. Would increase the number of financial assessments required by Financial Assessment and Benefit Advisors.</p>	<p>£6k based on current appointee cases.</p>	<p>£37k Additional Financial Assessment and Benefit Advisor post.</p>	<p>Yes</p>
<p>Carers Support Services</p>	<p>No charge made</p>	<p>A flat rate fee would be charged depending on the service being accessed by the carer. The charge would not exceed the cost of the service being accessed.</p>	<p>This is a sensitive issue given the contribution carers make to support the cared for person.</p>	<p>Each agreed level of service is different and therefore difficult to calculate total annual income.</p>		<p>Yes</p>