

Report of the Director of Housing & Adult Social Services

## **Non Residential Charging Policy**

### **Summary**

1. During the 2009/10 budget setting process members agreed in principle to amend the current Non Residential Charging Policy, subject to carrying out a full Equalities Impact Assessment and consultation with customers. This report asks the Executive Member to amend the policy, following consideration of the consultation outcomes and the Equalities Impact Assessment.

### **Background**

2. The Department of Health guidance states that when a council charges for non residential services, it must offer a benefits check to those customers to ensure their income is maximised. It also states that if the individual financial assessment includes income from disability related allowances or benefits, then any disability related expenditure incurred by that individual must also be taken into account. In many cases this expenditure relates to social services being provided by the council. However, there are cases where other expenditure is incurred as a result of their disability, eg if someone has special dietary needs because of their disability meaning they have to spend more on food than an average person.
3. As part of the 2009/10 budget process members agreed in principle to change the policy to take into account 80% of these allowances, instead of the current policy of 65%, thereby increasing the amount individuals would contribute to the cost of their care. This decision was subject to carrying out a full Equalities Impact Assessment and consultation with customers affected by the policy change. Due to a lack of capacity within the department this work has not yet been completed, meaning the original member decision has not been implemented.
4. Approximately 1300 customers are in receipt of non residential care services, of whom 757 will be affected by the proposed changes. Of these 757 customers 282 do not currently have to contribute anything to the cost of their social care services. The proposals contained in this report do not change the current situation whereby all customers receive a welfare benefits check and full financial assessment, meaning that no-one will be asked to contribute more than they can afford.

## Consultation

5. The proposals have been presented to meetings of the York Racial Equality Network, York Older People's Assembly and the Independent Living Network. A public event held on the 13<sup>th</sup> January was open to customers, carers and other interested organisations although unfortunately this event was not well attended. A questionnaire was sent to all customers affected by the proposals with a covering letter and this questionnaire was also available on the councils website. A small number of visits have been made by the Customer Finance Team to individual customers to explain the proposals and ensure views were gained from as wide a range of customers as possible.
6. Out of 757 questionnaires issued, 204 have been returned at the time of writing, a response rate of 27%. Only 23% of respondents did not agree that it is fair to charge for social care services, provided a financial assessment has been completed and individual customers are only asked to contribute an amount they can afford. 43% of respondents thought the council should take all Disability Related Allowances (DRA) into account when calculating the individual charge to customers compared to 41% who disagreed. Only 27% of respondents felt that providing fewer services would be preferable to an increase in fees and charges.
7. The comments received from individual customers varied depending on their particular circumstances. A number of respondents felt that the council should be looking at areas other than Social Services for generating savings. A more detailed analysis of the consultation responses received is attached at Annex One.

## Options

8. The council's financial position has changed substantially since the original in principle decision was taken by members in January 2009 and Adult Social Services is currently forecasting a net overspend for 2009/10. As a result, it was considered appropriate to consider 2 options as part of the consultation. As well as the original proposal of reducing the standard disregard we have also consulted on a proposal to remove the standard disregard altogether and carry out individual Disability Related Expenditure (DRE) assessments for all customers.
9. **Option 1** – to reduce the standard disregard from 35% to 20% of disability related allowances – ie to take into account 80% of these allowances.
10. **Option 2** – to remove the entire standard disregard and carry out individual DRE assessments for all customers

## Analysis and Financial Implications

11. The council's current non residential charging policy disregards 35% of Disability Related Allowances (DRA) in lieu of an individual assessment of Disability Related Expenditure (DRE). In financial terms this is equivalent to anything between £7 and £40 per week depending on the individual circumstances, with an average for current customers of £36 per week. A benchmarking exercise has been completed and the results of this confirm that the York policy remains one of the most generous policies with regard to disability related expenditure, as the average amount allowed in other authorities who take 100% of disability related benefits is £16 per week.
12. The allowances considered by this proposed policy change are Disability Living Allowance (for working age adults), Attendance Allowance (for people over 65) and Severe Disability Premium.
13. All customers in receipt of social care services receive a benefits check and full financial assessment of their individual circumstances. This means that no one is ever asked to pay more than they can afford to contribute. In exceptional circumstances the council operates a waiver policy whereby the Assistant Director can waive the charge if they feel that to enforce it would cause hardship to the individual concerned.
14. Additional investment of approximately £100k will be required if the current disregard is removed completely and replaced by individual assessments. This is because we currently only do a very small number of individual assessments and it is expected that any change in the current policy will result in a substantial increase in the numbers requiring one off individual assessments. New processes will need to be developed to record these assessments and some additional temporary care management staff needed to carry them out. At this stage it is anticipated that some additional temporary resource will be needed to review all existing customers, but that in future the DRE assessment will form part of the annual review. The need for any additional staff will be monitored very closely to ensure this policy change does not adversely impact on the department's performance targets to ensure all assessments are carried out within 28 days.
15. Additional investment will still be required under option 1, although it is expected that fewer individual assessments will be required.
16. If this disregard is reduced to
  - **20%** (Option 1) it could generate additional income of £250k. Costs of carrying out individual assessments would also increase (estimated at £100k) leaving a net income gain of £150k. 477 customers (out of a total of approximately 1,300) would see an increase in their weekly charge of between 33p and £14.99 per week and the level of standard disregard would reduce to between £3 and £22 per week.
  - **0%** (Option 2) it could generate additional income of £570k. Costs of carrying out individual assessments would remain at £100k. 471

customers would see an increase in their weekly charge of between 20p and £34.98 per week. The income would be further reduced by customers receiving an allowance for disability related expenditure following an individual assessment. Assuming that 50% of customers had an assessment of £15 per week this would leave a net income gain of £300k.

17. The table below summaries the financial impact of the 2 options

	Net income gain to council £'000	No of customers where charge increases	Average weekly increase £ per week	Maximum weekly increase £ per week
Option 1	150	477	8.17	14.99
Option 2	300	471	18.27	34.98

## Equalities Implications

18. The Executive Member is advised that the proposals in this report relate only to the provision of services to elderly, disabled and vulnerable adults and therefore full consideration must be given to how the proposed changes would affect disabled people in the city as a whole. The Fairer Charging Guidance ensures that customers are charged only an amount they can afford to pay and in many cases this will result in no charge. The assessment of an individual's ability to pay is completely separate from the assessment of need for services so disabled people should not receive fewer services as a result of any change in the charging policy. However, it is possible that some customers will choose to purchase their care from private providers or decline to receive services at all rather than pay increased charges to the council.

19. An equalities impact assessment has been undertaken by officers. Key actions include

- ensure continue to provide welfare benefits advice with a view to income maximisation
- assessments of disability related expenditure should be consistent, simple and carried out by as few people as possible
- training of staff across the department is needed to promote consistent, fair and correct application of the non residential charging policy

## Other Implications

20. HR implications – Additional staff will need to be recruited to carry out the individual DRE assessments. These staff will be recruited on a temporary basis until the assessments are fully integrated with the care assessment process.

21. There are no specific legal implications to the proposals contained within this report, however the risks outlined in paragraph 23 include the risk of a legal challenge to any change in current policy. The risk of any legal challenge can be mitigated by ensuring full consideration is given by the Executive Member to the Equalities Impact Assessment and the outcome of the consultation when making his decision.
22. There are no crime & disorder, Information Technology, Property or other implications.

## **Risk Management**

23. There is a risk that the policy change could be subject to a legal challenge. This risk has been mitigated by carrying out a full consultation with all customers affected by the proposed policy change. An equalities impact assessment has also been prepared alongside the consultation to ensure all equalities issues are considered. As a number of customers will be asked to pay more for the same level of care there may be an increase in complaints and a decrease in customer satisfaction. Due to the need to carry out individual assessments of disability related expenditure the change could have a detrimental impact on performance. There will also need to be training for care managers in carrying out DRE assessments which could lead to a drop in performance.

## **Recommendation**

24. The Executive Member is asked to consider the outcome of the consultation and the Equalities Impact Assessment and agree Option 2, amending the current non residential charging policy with effect from April 2010.

Reason: To generate additional income whilst still ensuring consistent application of the Fairer Charging Guidance.

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**Wards Affected:** *List wards or tick box to indicate all*

**All**

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### Background Papers

**Fairer Charging Policies for Home Care and other non residential Social Services – Dept of Health, September 2003**  
**Review of Non Residential Charging Policy, HASS EMAP, 15<sup>th</sup> January 2007**

### *Annexes*

**Annex 1 - Summary of consultation responses**

**Annex 2 - Equalities Impact Assessment**