



## Committee report

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| Committee | <b>CABINET</b>  |
| Date      | <b>15 JUNE 2017</b>   |
| Title     | <b>TO APPROVE A CONSULTATION ON CHANGES TO THE NON-RESIDENTIAL CARE CHARGING POLICY</b> |
| Report to | <b>CABINET MEMBER FOR ADULT SOCIAL CARE AND PUBLIC HEALTH</b>                           |

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### EXECUTIVE SUMMARY

1. The recommendation of this report is to seek a two month consultation period to determine people's views on proposed changes to the non-residential care charging policy.
2. Specifically, the council is seeking to take account of disability related benefit income received by people as follows:
  - Attendance Allowance (AA) – the consultation is to consider including AA income at the higher rate (currently only the lower rate is included in a financial assessment).
  - Disability Living Allowance (DLA) – the consultation is to consider including DLA benefit income at the higher rate (currently only the lower rate or middle rate is included in a financial assessment).
  - Personal Independence Payments (PIP) – the consultation is to consider including PIP income at the enhanced rate (currently only the standard rate is included in a financial assessment).

A description of these disability benefits is given in Appendix 2.

3. The proposed changes are considered necessary for two reasons. Firstly it will ensure equity in how all benefit income is treated and, secondly, it will assist the council to meet its ongoing savings targets for Adult Social Care (ASC) which are £3.485 million in 2017/18.
4. The outcome of the consultation will be taken into account in the equality impact assessment that will be provided to assist members to make a final decision on whether the council changes the way it considers disability benefits at the higher or enhanced rate as part of a person's income when making charges for non-residential care.

## BACKGROUND

5. The proposal to consider changing the way the council assesses the amount people are required to pay for any non-residential care services they are eligible to receive by including disability benefits at the higher or enhanced rate as part of a person's income is considered necessary in light of the financial challenges facing the council, the growing demand for adult social care services and the need to treat people with equity.
6. Income from charging is an important contribution to adult social care's budget. The council is facing a significant reduction of core central government funding in 2017/18, 18/19 and 19/20, alongside an increasing demographic demand for services, particularly in adult social care.
7. It is important for members to note that, where disability related benefits are taken into account as part of a person's income when assessing how much they are required to pay, the council takes account of any additional disability related expenditure to allow the person to keep enough benefit to meet any needs which are not being met by the council.
8. Approximately 1,090 people receive chargeable non-residential care services and 900 of these are estimated to receive disability related benefits at the higher or enhanced rate. The difference between higher / enhanced and middle, lower or standard rate of payment of these benefits is £27.45 per week and it can be seen that any change the council makes to the way it assesses these benefits as income will have a significant effect to both an individual person and the council.
9. A desktop review of how 52 other local authorities assess charges for people who receive higher or enhanced rate disability benefits has shown that 22 currently include these benefits at the higher or enhanced rate while 17 assess the amount a person is required to pay for their care at the lower, middle or standard rate only. Thirteen local authorities did not respond to the council's request for information.
10. If members decide to consult all affected people by this proposal, the outcome of the consultation will be further reported to members to enable a decision to be taken to amend the council's charging policy to include disability benefits at the higher or enhanced rate as part of a person's income when assessing charges for non-residential care.

## STRATEGIC CONTEXT

11. The proposal to consult is considered to meet the council's priorities as set out in the Corporate Plan 2015-2017 approved by Full Council on 1 April 2015 in the following way:
  - Priority 3 - *Protecting the most vulnerable with health and social care, investing in support, prevention and continuing care.* The proposal is seen to support a key focus of making sure that the council has sufficient resources to invest in services that meet the needs of vulnerable people.
  - Priority 4 - *Ensuring that all the resources available to the island are used in the most effective way in achieving the island's priorities.* This proposal is considered to meet the requirement of optimising the potential for income generation.

## PROPOSAL FOR CONSULTATION

12. In order to ensure that the consultation is both meaningful and easy to understand we propose that the specific wording used is agreed by a user led focus group. This follows the lessons learned from previous consultations that the council undertook in 2014 and 2015 on changes to the way the council assessed people's entitlement to disability related expenditure and, subsequently, to the way it charged people for respite care and sitting services. By taking this approach, it is hoped the consultation will result in as many people as possible being able to give their views.

## CONSULTATION

13. It is proposed that we will use information held on the social care database to write to all relevant people (approx. 1,000) offering them the opportunity to complete a consultation questionnaire or access it online via the council's website [iwight.com](http://iwight.com). A council telephone support number will also be given should anyone need any support to complete the questionnaire and due consideration will be given to those people who need to receive the information in a different form through visual impairment or learning disability.
14. Following the lessons learned from previous consultations that the council undertook in 2014 and 2015 on the changes to the way the council assessed people's charges for their non-residential care services, it is proposed that the council again develop a consultation partnership with People Matter IW, the island's independent user led organisation. This will allow the council to offer an impartial support service to users and carers, and offer a full engagement with stakeholder groups. Supporting the council to undertake a meaningful consultation is part of the existing arrangement that the council has with People Matter IW and, specifically, they will be asked to:
  - facilitate stakeholder group meetings;
  - receive calls and visit service users who requested support completing the survey; and
  - receive back completed responses.
15. In addition to consulting directly with users of the council's non-residential care services and key stakeholders, it is considered important to also seek the views of potential users of our care services, parish councils and Isle of Wight residents more generally. The council has to be clear that its charges do not cover the full cost of services and it is important that a wide range of views are sought. This will be done by highlighting the consultation on the council's website, using local media and direct communication where appropriate.
16. Given experience from previous consultations that have taken place (20 per cent response rate in 2014 and 32 per cent in 2015) the recommendation for the proposed period for consultation is two months. The response rates to these previous consultations reflect well on the involvement of People Matter IW as they managed all communication to respondents and ensured that letters and questionnaires were easy to understand.
17. The direct costs applicable to this consultation are approximately £2,000, which covers printing stationery etc. Included in this cost is a payment of £600 to People

Matter IW to cover its direct costs of venue hire, travel costs to meet service users, printing stakeholder leaflets etc. There is no cost to the council for People Matter IW staff time to receive calls, input survey details for analysis via Survey Monkey (an online tool) and confirm the accuracy of the responses. All costs have been contained within existing budgets.

18. The analysis of completed questionnaires will be undertaken by ASC as soon as the consultation period is complete and the outcome will be reported to a future meeting of Cabinet.

#### SCRUTINY COMMITTEE OR PANEL VIEW

19. This proposal was included in a report on Adult Social Care budget issues considered by the Health and Social Care Scrutiny Sub Committee on 20 March 2017. The report was noted.

#### FINANCIAL / BUDGET IMPLICATIONS

20. Following consultation, if members subsequently agree to change the way the council considers disability benefits at the higher or enhanced rate as part of a person's income when making charges for non-residential care, it is anticipated that reviewing financial assessments and informing people of the outcome could commence on 1 December 2017 and new charges could be introduced from 1 January 2018.

21. It is current practice to undertake annual reviews of an individual's charge for their non-residential care service in the month of a person's birthday. This enables the review process of some 1,000 people to be evened out throughout the year to support the resources available to undertake the financial assessment process. If this practice is maintained the following additional income will be received:

|         |                                 |
|---------|---------------------------------|
| 2017/18 | £48,000 (3 months effect)       |
| 2018/19 | £872,000 (9 months effect)      |
| 2019/20 | £1.2 million (full year effect) |

22. Similarly, following consultation, if members agree to change the way the council considers disability benefits at the higher rate as part of a person's income when making charges for non-residential care, a full financial re-assessment for everyone could be approved from 1 December 2017 and new charges could be introduced from 1 January 2018 for all people who receive these benefits at the higher rate. If this was approved the additional income that the council would receive is as follows:

|         |                            |
|---------|----------------------------|
| 2017/18 | £300,000 (3 months effect) |
| 2018/19 | £1.2m (full year effect)   |
| 2019/20 | £1.2m (full year effect)   |

#### LEGAL IMPLICATIONS

23. The Care Act 2014 supported by regulations and statutory guidance provides a framework for charging for adult social care services. The council has some discretion on how to apply the framework to enable people who can afford to contribute towards their care and support to do so, while ensuring that those people

who are unable to make a contribution continue to receive the necessary care and support to help maintain their independence and wellbeing.

24. The Care Act 2014 states that there are a number of benefits that may be fully taken into account when considering what a person can afford to pay towards their care from income. Currently, where a person receives any of the following benefits at the higher or enhanced rate the council does not fully include it as income:
- Attendance Allowance, including Constant Attendance Allowance and Exceptionally Severe Disablement Allowance.
  - Disability Living Allowance (care component).
  - Personal Independence Payment (daily living component).

Currently, the council only takes account of these benefit payments at the lower, middle or standard rate of payment.

The act is also clear that the mobility component of Disability Living Allowance and Personal Independence Payments must be fully disregarded.

25. Para 8.46 of the Care Act 2014 (Care and Support Statutory Guidance) requires a local authority to consult people with care and support needs when exercising discretion as to how to apply its charging policy.

## EQUALITY AND DIVERSITY

26. The council, as a public body, is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
27. Under the Equality Act 2010 we are required to have due regard to our equality duties when making decisions, reviewing services, undertaking projects, developing and reviewing policies.
28. An equality impact assessment initial screening process has identified that the proposal to change the way the council considers disability benefits at the higher or enhanced rate as part of a person's income when making charges for non-residential care will have a potential negative affect on people with a disability and, therefore, it is considered important to undertake a full equality impact assessment. The equality impact assessment will allow us to take into account the needs of all protected characteristic groups and help develop processes that may mitigate any negative impacts.
29. The proposal will ensure everyone who receives a disability related benefit is treated equally by making sure that the care component of all disability related benefit income is taken into consideration as part of their charge. Currently, people who receive these benefits at the higher or enhanced rate do not have their full care related income taken into account whilst those people who are paid benefits at the

lower, middle or standard rate are required to have all their benefit income included in their charging assessment.

30. It is proposed that equality monitoring data is collected as part of the consultation. This will assist the council to evaluate the full impact of these changes on the protected characteristic groups and will inform the equality impact assessment that is needed to assist the council to make a final decision as to whether to approve the changes or not.

## OPTIONS

31. As referred to in paragraph 25 above, it is currently a requirement for the council to consult whenever any changes to its charging policy would result in significant increases in charge for some users. If members agree to consider changes to the way the council considers disability benefits at the higher or enhanced rate as part of a person's income when making charges for non-residential care, it is necessary for members to confirm how the consultation should be carried out in order to inform their final decision. The following options are offered:
32. Option 1 – Not to seek any changes to the way the council considers disability benefits at the higher or enhanced rate as part of a person's income when making charges for non-residential care and, therefore, no consultation is required.
33. Option 2 – To approve a two month consultation on changes with affected service users, stakeholders and interested groups, to include the general public, to the way the council considers disability benefits at the higher or enhanced rate as part of a person's income when making charges for non-residential care.
34. Option 3 – To approve a longer period of consultation with affected service users, stakeholders and interested groups, to include the general public. If this option is adopted it is suggested that the period of consultation should be no longer than 12 weeks.
35. Option 4 – To bring a further report back to Cabinet detailing the results of the consultation exercise and then seek a final decision as to how to regard (and disregard) all disability related benefits income when charging for adult social care.

## RISK MANAGEMENT

36. Option 1 would represent a risk to the council in not meeting the savings required of Adult Social Care by the Medium Term Financial Strategy approved by Full Council on 22 February 2017. It would also mean that the way the council treats disability related income is not equitable.
37. Option 2 and Option 3 reduce the risk to the council in not meeting the savings required of Adult Social Care by the Medium Term Financial Strategy. By extending the consultation period beyond two months, Option 3 increases the risk of not meeting the savings required of Adult Social Care by the Medium Term Financial Strategy in 2017/18 and 2018/19.

## EVALUATION

38. It is considered that Option 2 offers an adequate opportunity for full consultation and for members to make an informed decision as to whether to agree to change the way the council considers disability benefits at the higher or enhanced rate as part of a person's income when making charges for non-residential care.
39. It is considered that Option 4 offers members the opportunity to consider the outcome of the consultation before making a final decision about the way the council treats disability related benefits as part of a person's financial assessment.

## RECOMMENDATION

40. Option 2 – To approve a two month consultation on changes to the way the council considers disability benefits at the higher or enhanced rate as part of a person's income when making charges for non-residential care with affected service users, stakeholders and interested groups, to include the general public.
41. Option 4 – To approve a further report to Cabinet detailing the results of the consultation exercise and then seek a final decision as to how to regard (and disregard) all disability related benefits income when charging for adult social care.

## APPENDICES ATTACHED

42. [Appendix 1](#) - Equality impact assessment – initial screening.
43. [Appendix 2](#) - Description of Disability Related Benefits

## BACKGROUND PAPERS

IW Council Charging Policy for Non-Residential Adult Social Care Services

<https://www.iwight.com/documentlibrary/view/charging-policy-for-non-residential-asc-services>

Dept. Health Care and Support Statutory Guidance issued under the Care Act 2014

<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>

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