

BRIDGEND COUNTY BOROUGH COUNCIL

CABINET
27th MARCH 2007

REPORT OF THE EXECUTIVE DIRECTOR - COMMUNITY

FAIRER CHARGING

1.0 Purpose

- 1.1 The purpose of this report is to present proposals to Cabinet in respect of the Council's Fairer Charging policy. These are necessary because of Welsh Assembly Government (WAG) policy changes which have been taken into account within the Council's Budget Strategy for 2007/08.

2.0 Connection to Corporate Improvement Plan / Other Corporate Priority

- 2.1 Since 2004 the Fairer Charging policy has been an integral part of the funding of adult social care and is therefore an important aspect of the Council's priority "Caring for our future: remodelling Adult Social Care services".

3.0 Background to the Council's current Fairer Charging policy

- 3.1 Section 17 of the Health and Social Services and Social Security Adjudications Act 1983 gives Local Authorities a discretionary power to charge adults in receipt of non-residential social services. In 2002 WAG issued guidance called "Fairer Charging Policies for Home Care and other non-residential services". The objectives are to ensure that, where Authorities do charge, their charging policies are demonstrably fair as between different service users and do not undermine overall objectives of Social Care to promote the independence and social inclusion of service users. The aim is also to ensure greater consistency in charging policies across Wales.

- 3.2 Subsequent Assembly Circulars confirmed that certain elements of the guidance were being issued as statutory guidance under Section 7 of the Local Authority Social Services Act 1970 and had to be implemented by April 2004. The substance of this Council's Fairer Charging policy was agreed at a Cabinet meeting in October 2003 and then amended/finalised at a subsequent meeting in March 2004. The final policy represented the product of the following:

- (a) Three Policy Forum meetings, in August and early October 2003 and in February 2004
- (b) A consultation exercise in September 2003 with service users and representative organisations.

- (c) Information about the way in which other Authorities in Wales were implementing the guidance
- (d) Information from people then receiving home care services to help consider charging options.
- (e) Further advice from the Welsh Assembly Government since the guidance was issued.
- (f) The anticipated implementation by the Assembly of Welsh Labour's manifesto commitment to "scrap home care charges for disabled people".
- (g) The impact of the Council's budget strategy for 2004/05.

3.3 Key aspects of the existing policy are as follows:

- In principle, the policy applies to all non residential social care and supporting people services
- From April 2004 the policy has been implemented **only** in relation to:
 - those categories of service users who would have been charged for non residential social services under the previous charging policies
 - people in receipt of Supporting People services (in line with WAG guidance although most are exempt from charges)
- Implementation of the policy did **not** extend to other service users or other services because Members agreed to wait until there was clarity about the Welsh Assembly Government's proposals for free home care for disabled people
- A person's ability to pay charges is assessed on their weekly income, including benefit income, and savings if these amount to £20,000 or more.
- Charges apply if income is above a certain level which is individually calculated and is after deductions to meet disability related expenditure and some housing costs
- The charge for those who are assessed as being able to pay, is the lower of (a) the cost of the services they receive or (b) the level of their "disposable" income i.e. the amount of income which is available to pay charges based on the assessment.
- For charging purposes the cost of the service a person receives is based on 60% of the actual unit cost i.e. the Council provides a 40% subsidy in all cases.
- Many people do not have to pay at all because of their low income

- 3.4 The policy was successfully implemented in April 2004. The key reasons for this success were:
- a) The development of a visiting officer service, which means that each service user has a personal visit for the purpose of collecting financial information, explaining the policy, answering questions and identifying the scope for increasing the service user's welfare benefits.
 - b) The extent to which the benefits advice achieved increases in service users' benefit income which alleviated the impact of charges and also increased income to the Council. As a result service users' weekly benefits have risen by over £750,000 per annum.
 - c) The efforts made to take account of individual circumstances and to work closely with service users and families to resolve concerns and issues at the outset. Because of this, since April 2004 only 1 service user has pursued an appeal about their charge to a second stage which has required Assistant Director level involvement to resolve.
 - d) Effective debt recovery measures which mean that 99% of charges are collected.
- 3.5 Some key statistics of the current arrangements are set out in Appendix 1

4.0 Current situation and proposals

- 4.1 In March 2005 WAG reiterated their intention to scrap home care charges for disabled people and set out plans to consult and pilot a scheme. In this context there continued to be a rationale for not implementing the BCBC fairer charging policy more widely.
- 4.2 However in spring 2006 WAG announced that they were not after all going to implement the previously mentioned manifesto commitment. Instead they announced a number of other initiatives, including a review of their fairer charging guidance with a view to reducing the impact of charges on people with low incomes.
- 4.3 WAG set up a stakeholder working group to develop their proposals and, after consultation between November 2006 and January 2007, further statutory guidance was issued on 7th March 2007. There are two changes which involve increasing the level of income which a person can keep before charges begin to apply and these have to be implemented from 9th April 2007.
- 4.4 The decision by WAG not to scrap charges for disabled people means that the original reason for Council deferring the wider implementation

of fairer charging has gone. Therefore, it is now appropriate for the policy to be implemented as originally intended. This will mean the following:

- a. Charging for adult day care services for the first time
- b. Extending charging to some domiciliary care services not previously included
- c. Including all adult services client groups

This wider implementation was approved as part of the Budget Strategy for 2007/08.

4.5 The following paragraphs identify aspects which require further consideration by Cabinet in order to implement the changes referred to above.

4.6 **The new WAG guidance**

4.6.1 The guidance requires the Council to disregard a higher level of income when assessing a person's ability to pay charges. This level is individually calculated and is linked to basic benefit levels (Income Support / Pension Credit) plus a "buffer" of 25%. From April 2007 the buffer will rise to 45%, comprising an extra 10% as a general increase and a further 10% to provide a flat rate disregard for disability related expenditure. The latter relates to additional expenditure which a person may incur because of their disability which reduces their available income for other things, including charges.

4.6.2 These increases in the "buffer" will result in lower charges for many people and a loss of income to the Council. WAG will provide compensating funding for this, initially as a specific grant in 2007/08 and then by transferring money into the Revenue Settlement, possibly on a phased basis. The estimated loss of income for BCBC in 2007/08 is about £420,000.

4.6.3 When the WAG Fairer Charging guidance was issued in 2002, there was no specific advice on how to allow for disability related expenditure as further work was planned by WAG on this. The current BCBC policy allows for a standard disability related expenditure disregard for those people in receipt of either Disability Living Allowance (DLA) or Attendance Allowance (AA). The WAG guidance allows these benefits to be included within assessable income as they are intended to meet costs associated with a person's disability. Under the BCBC policy the lower level of these benefits, £17.10 per week from April 2007, is disregarded from the "disposable" income calculation.

4.6.4 The increase in the "buffer" will mean that, as well as the £17.10, an additional amount of between £9.00 and £23.00 per week will be allowed to cover disability related expenditure. The issue for Members to consider is whether or not the WAG changes should replace/amend the

disregard currently provided by the Council. This could benefit the Council by about £70,000 per annum.

4.6.5 However, there are a number of reasons for not taking this approach:

- a) As the increase in the “buffer” is part of WAG proposals which replace their commitment to scrap charges for disabled people there will be an expectation from them and service users that the benefit is fully passed on.
- b) As WAG will be fully compensating the Council for the impact of the “buffer” changes, then there is no adverse effect on the Council’s finances.
- c) The increase in the “buffer” will help alleviate the impact of other changes in the Council’s Fairer Charging policy for 2007/08.
- d) Many disabled people incur high levels of disability related expenditure particularly if they are paying privately for care.
- e) Some Council’s already disregard DLA/AA in full

4.6.6 Hence, the proposal is not to change the Council’s current policy in relation to disability related expenditure as a consequence of the “buffer” changes.

4.7 Wider implementation of the BCBC Fairer Charging policy

4.7.1 As indicated in paragraph 3.3, those paying charges under the current Fairer Charging policy are service users who would have been charged for non residential social services under the previous charging regimes i.e. mainly older people. An underlying principle, however, has been that the nature of some services means that charges are not appropriate. Examples of these are the WAG promoted policy of free home care for the first six weeks after discharge from hospital and where services are of a short term rehabilitative nature, charges are not applied in order to encourage the take up of that service which then reduces the ongoing and longer term needs for support.

4.7.2 Widening the implementation of Fairer Charging into other areas has identified additional services where charges may not be appropriate. These are as follows:

a. Day Services which focus on work preparation

The WAG guidance indicates that charging policies should avoid creating disincentives to work and hence earnings are fully disregarded from chargeable income. A logical extension of this principle is that there should be no disincentive to people attending work preparation schemes as part of day services. In this context, and on the basis that the service model is about throughput of people into work opportunities, it seems reasonable for charges not to be made for such services.

b. Services which are part of a joint service with Health

Members may be aware of the imperative to work more jointly with Health in many aspects of service provision and these will become characterised by more formal joint agreements, including the pooling of budgets. The development of the joint mental health day care service is the first example. In this service it is impractical and against the overall objective, to separate out the social care services from health care services, which of course are free at the point of delivery.

c. Disability Equipment and Small Adaptations in the home

A decision about charging for these services was also deferred when Fairer Charging was introduced. This was partly because of concerns about the service consequences of charging, as again, these are services which prevent or reduce the need for more expensive ongoing service provision. In addition, as equipment is loaned, rather than given, there are more complications about how much to charge. In England there is now legislation linked to delayed discharges from hospital, which prohibits charging for equipment and home adaptations costing less than £1000. It is unclear whether WAG intends the same for Wales, although delayed discharges are a common issue. On the whole therefore there is not a strong case to bring these services into charging and to do so could well provoke a legal challenge. It is not therefore suggested that charges are made for these services.

5.0 Effect upon Policy Framework & Procedure Rules

5.1 There is no direct impact on the policy framework or the procedure rules.

6.0 Legal implications

6.1 The legislative background to the proposals are set out in this report.

7.0 Financial implications

7.1 The financial implications of the new WAG guidance have been identified in paragraph 4.6 of this report. The wider implementation of the BCBC Fairer Charging policy is anticipated to increase income from charges by £320,000 in a full year and this has been included in the Council's budget strategy for 2007/08 to 2009/10. The proposals in this report had already been factored into the calculations and hence they will not have an impact on the projected income figures.

8.0 Recommendations

- 8.1 Cabinet members are asked to:
- (a) Approve the continuation of the existing BCBC policy in relation to disability related expenditure
 - (b) Agree that the services listed in paragraph 4.7.2 should not be chargeable services
 - (c) Approve the revised BCBC Fairer Charging policy set out in Appendix 2 which incorporates recommendations (a) and (b) above.

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Background papers

Response dated 28/12/06 to WAG questionnaire on the impact of their proposed buffer changes

BRIDGEND COUNTY BOROUGH COUNCIL – FAIRER CHARGING POLICY				
Key Statistics of the <u>current</u> policy are as follows				
	% of service users	Average Charge per week	Average Service hours	Average charge per hour of service
Receiving Free Service – no charge	26%	NIL	5.5	NIL
People who pay charges equal to their disposable income because the subsidised cost of the service they receive is higher than this	34%	£35	9.2	£3.80
People who pay the subsidised cost of their service (because this is lower than their disposable income)	27%	£27	3.1	£8.80
People who do not disclose their finances and therefore pay the subsidised cost of their service	13%	£33	3.8	£8.80
The current budgeted income from Fairer Charging is £0.97m in respect of home care and £0.26m from Learning Disability Supported Living Schemes – a total of £1.23m				

**BRIDGEND COUNTY BOROUGH COUNCIL – FAIRER CHARGING POLICY
(Effective from April 2007)**

Services covered by the policy

All Domiciliary and Day Care Services but charges will not be made for the following:

- (A) Services which are mainly designed to provide work opportunities and work preparation with the expected outcome that service users can access real work opportunities
- (B) The Reablement Service and services provided by specialist teams which are rehabilitative in nature
- (C) Services which are part of a joint service with Health where it is impractical to separate the social and health care components.
- (D) The first six weeks of Domiciliary Services which are provided following discharge from Hospital
- (E) Services for Carers which meet the following criteria:
 - 1. The need for the service must have been the outcome of Carers Assessment under the Carers and Disabled Act 2000.
 - 2. The carer must receive the service directly, rather than the cared for person.
- (F) Disability equipment and minor home adaptations
- (G) Services provided under section 117 of the Mental Health Act 1983

All Supported Living services

All Supporting People Services

Services not covered by the policy

**Meals on Wheels and Meals provided as part of Day Care
Transport to/from Day Care services**

Flat rate charges will continue to apply for these services in addition to any charges payable under the Fairer Charging policy.

Client groups covered by the policy

All Adults including older people, people with a physical or sensory impairment, people with a learning disability, people with a mental health problem, people with a substance misuse problem

**BRIDGEND COUNTY BOROUGH COUNCIL – FAIRER CHARGING POLICY
(Effective from April 2007)**

How much people pay

How much a service user pays depends on:

- their **disposable income** and
- the **cost of the services they receive**

A service user pays whichever of the above is the **lowest** figure.

There is no maximum charge

Disposable Income

Generally includes all types of income, except earnings, subject to the following:

Disability related benefits

- Disability related benefits are included in assessable income (for example, the care component of Disability Living Allowance (DLA) and Attendance Allowance (AA) and additional Income Support/ Guarantee Pension Credit due as a consequence of receiving these Allowances).
- Allowances are given against DLA/AA to allow for disability related costs

Savings

- Savings are included within the income assessment but a more generous approach is used compared to that currently laid down by the Assembly for Residential Care:
 - Savings under £20,000 are disregarded
 - For savings of £20,000 and over, weekly income of £1 is assumed for every £250 of savings (or part thereof)
 - There is no savings threshold beyond which a service user would be expected to pay for the full subsidised cost of the service

Protected income

- This is the amount of income which is disregarded for every service user. In accordance with the Assembly's guidance this is equivalent to basic income support/pension credit plus a 45% "buffer"

Expenditure Allowed against income

- Housing costs – Mortgage, Council Tax, Rent etc
- Exceptional Disability Related Expenditure (EDRE) – where EDRE exceeds the amounts of DLA/AA disregarded and the provision for DRE in the "buffer", consideration is given on a case by case basis to allow more income to be disregarded to meet disability related costs

Couples

- Disposable income calculation will vary depending on whether one or both partners are service users and on whether one or both disclose their finances

APPENDIX 2**BRIDGEND COUNTY BOROUGH COUNCIL – FAIRER CHARGING POLICY
(Effective from April 2007)****Cost of services for charging purposes**

- Services costed at 60% of actual unit cost
- People who need care from two staff at the same time (double handling) are only charged for one home care worker's time.
- Services are charged on an hourly / daily / weekly basis whichever is the most appropriate for the service.

Quantifying service provided

- For home care charges are based on assessed time to undertake tasks, not the actual time – i.e. if home care worker visits and undertakes planned tasks, then assessed time is charged for not the actual time of the home care worker's visit
- Travel time is incorporated into assessed time
- Where no service is provided at all, then there will be no charge
- Day Care in a centre is charged on a daily basis irrespective of the period of time the service user is present