

Leicester
City Council

WARDS AFFECTED
All Wards

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

Cabinet

10th February 2003

IMPLEMENTING FAIRER CHARGING (HOME CARE)

Report of the Service Director, Resources, Social Care and Health

1. Purpose of Report

- 1.1 The purpose of this report is to inform Members of the impact of a proposed increase in the maximum charge for the Home Care service.

2. Summary

- 2.1 At its meeting on the 23rd September 2002, Cabinet approved recommendations with regard to the initial implementation of national guidance in respect of charging for non-residential services. This statutory guidance is referred to as Fairer Charging and covers all non-residential services, however its main implications for changing existing charging processes focused on service users in receipt of Home Care.
- 2.2 The guidance is being implemented in two phases, the first of these involving service users who receive more than 10 hours per week Home Care and who receive a disability benefit. Changes for this first group of service users were implemented from October 2002. Phase two implementation rolls out the programme to all service users who are not otherwise exempt from charging and takes effect from April 2003.
- 2.3 Under the Council's previous policy, a maximum charge of £32 per week applied to service users who had capital in excess of £16,000, regardless of the level of service actually received. Under Fairer Charging a slightly revised maximum charge, set at £35 per week, has been included in the Council's revised policy. This maximum can be reached either by virtue of the service user's assessed chargeable income, or if the service user has capital in excess of the residential charging limit, currently £19,000. However, the current maximum charge equates to just 8 hours Home Care service at the current hourly charge of £4.20 (which is less than half the actual cost to the Council); any additional service is effectively provided free of charge.
- 2.4 At its meeting on 23rd September, Cabinet asked the Corporate Director of Social Care and Health to consider further the implications of raising the maximum charge for new service users, to reduce the subsidy to those on higher incomes who are in a position to

pay more towards the cost of services arranged for them. This report presents Members with a number of different options in terms of revising the current maximum charge for Home Care.

- 2.5 Members should note that this report deals only with the implications of increasing the maximum charge for Home Care. Any proposals concerning changing the hourly rate for Home Care will be included in the Departmental Revenue Strategy that will be presented through the annual budget process.

3. Recommendations

3.1 Cabinet is recommended to:

- (a) approve option 3 of the proposals described in the Supporting Information. This will increase the maximum charge to 75% of the minimum charge for residential care. This equates to a new weekly maximum charge for Home Care of £175.
- (b) note that only service users receiving more than 40 hours care per week and having disposable (i.e. non-property) capital in excess of £19,500 would ever reach this maximum threshold.
- (c) confirm that this maximum charge is made to all new service users assessed to pay it with effect from April 2003, and for existing service users after a notice period of 6 months, (from 1 October 2003).

4. Headline Financial and legal Implications

- 4.1 No extra resources have been allocated by central government to implement Fairer Charging and the experience of the Council to date, in implementing phase 1 of Fairer Charging, is that a number of service users who previously paid for their Home Care service are now no longer required to make a contribution. Other service users however have been assessed to pay more and the effects of the phase 1 implementation are likely to be echoed when the revised policy is applied to all remaining service users.
- 4.2 The current annual income generated by charging for Home Care is approximately £964,000. Analysis of the phase 1 service user assessment suggest that the income from Home Care charges could reduce by up to £160,000 per annum as a result of Fairer Charging, if there is no change to the current maximum charge and hourly rate.
- 4.3 Raising the maximum charge for all new and existing service users to £175 per week from 1st April 2003 is expected to raise an estimated £98,000 per annum in income from charges to offset the aforementioned decrease.
- 4.4 Income from Home Care charges forms part of the resources available to fund social services. If charges are kept significantly below the actual cost and individuals' ability to pay, then either the Council has to make additional resources available, or service levels to vulnerable people will be restricted.

4.5 Whilst the courts have to date afforded considerable latitude on the question of 'reasonableness' of an Authority's Domiciliary Charging policy (R. v. Powys CC p Hambidge Jun. 99) a phasing in period in the order of 3 years may well be subject to challenge on the basis of its discriminatory effect. In this regard it is advisable that any such period should not exceed the proposed figure of 6 months. (Legal comments submitted by Pat McCausland on 252 6712)

5. Other Implications

OTHER IMPLICATIONS	YES /NO	Paragraph References Within Supporting information
Equal Opportunities	Yes	Charges for services to vulnerable groups can affect access to services.
Policy	Yes	This entire report has policy implications
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Elderly / People on low incomes	Yes	The majority of home care users are elderly and/or on low incomes. This report will affect service users who have higher incomes and who receive high levels of service.

5. Background Papers – Local Government Act 1972

- 5.1 LAC(2001)32, "Fairer Charging for Home Care and other non-residential Social Services" and associated Practice Guidance (Department of Health, 2001 and 2002).
- 5.2 "Charging With Care", Audit Commission, May 2000.
- 5.3 Report to Cabinet, 23rd September 2002.

6. Consultations

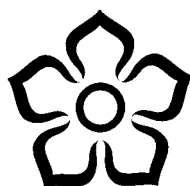
- 6.1 A consultation exercise undertaken before the implementation of phase 1 of the statutory guidance included the proposal to review the maximum charge in April 2003. There was general support for this proposal.
- 6.2 The principle of hourly charges was also generally supported although a number of organisations were concerned that the hourly rate should not be linked to the minimum wage for fear of annual increases.

7. Report Author/Officer

David Oldershaw, Social Care and Health, Service Director, Resources Tel. 252 8305

DECISION STATUS

Key Decision	No
Reason	N/A
Appeared in Forward Plan	No
Executive or Council Decision	Executive (Cabinet)



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SUPPORTING INFORMATION

1 Introduction

- 1.1 This report considers options to increase the maximum amount the Council may charge for Home care services.

2 Scope of the report

- 2.1 While Cabinet requested a report concerning the effect of an increase to the maximum charge for new users, further consideration has been given to the effect of an increase for both new and existing users.
- 2.2 This report does not consider the eligibility criteria for services that the council may set in carrying out its duty under s.47(1) of the National Health Service and Community Care Act 1990 (duty to assess the need for community care services of any eligible person who appears to them to be in need of those services and then to determine if that person is in need of services provided by them (the Council)).

3 Background

- 3.1 The Council is empowered by section 17 of the Health and Social Services and Social Security Adjudications Act 1970 to charge for non-residential social services subject to the requirement that the charge is reasonable.
- 3.2 Since 1st October 2002, the Council has operated two distinct charging policies, and will continue to do so until 1st April 2003.
- 3.3 The first unchanged policy charges service users according to which of three broad bands of financial circumstances the service user is in, and applies a maximum

charge of £32 per week. This policy applies to people who receive 10 hours or less Home Care per week.

- 3.4 The second revised policy follows the government's guidance on "Fairer Charging" and charges services users according to their disposable income established after a complex means-test. Cabinet approved a local maximum charge under this assessment of £35 per week. Fairer Charging is due to extend to all service users in April 2003 and the two different maximum charges will then be brought into line.
- 3.5 The charge under this latter policy is determined by the lowest of the following three amounts:
 - The service user's assessed chargeable income,
 - The actual service delivery in a week,
 - The overriding maximum charge.
- 3.6 The chargeable income figure is calculated with regard to the service user's basic Income Support level and ensures that the service user is always left with that amount, plus a further 30%, plus sufficient monies to meet any disability related expenditure.
- 3.7 Income from Home Care charges forms part of the resources available to fund Social Services. If charges are kept significantly below the actual cost and individuals' ability to pay, then either the Council has to make additional resources available, or service levels to vulnerable people will be restricted.

4 Summary of Phase 1 Implementation

- 4.1 Income from charges from those service users who have been assessed under phase 1 of the implementation programme has fallen by approximately £30,000 per annum. This is due primarily to a reduction in charges from £21 per week to £nil for those service users who do not receive a means-tested benefit but who have disposable (non-property) capital below the current capital limit of £16,000. The reduction in those charges is due to the fact that service users in this category are income poor but have moderate savings (between £12,000 and £16,000).

5 Increasing Income From Charges

- 5.1 The thrust of Fairer Charging is that service users should be charged against ability to pay and service delivery. Some councils have set maximum charges at the full economic cost of the package, others at a percentage of their residential care purchase costs, while others, such as Leicester and Leicestershire, have set much lower maximum charges.
- 5.2 There is an argument that if charging is fair if it takes into account ability to pay, keeping the maximum charge for Home Care at an artificially low level is, by default, not fair.
- 5.3 There is also anecdotal evidence that in keeping charges low, there is a disincentive for potential service users to make use of alternative private provision for mainly

non-personal care, typically services that mean a great deal to people who need only a little assistance in order to prevent social isolation.

- 5.4 Fairer Charging national guidance does not give a great deal of assistance in setting a maximum charge. It does however refer to “in some councils this is set at a proportion of the typical local residential care charges to ensure that no perverse incentive is created for users to leave their own homes”.
- 5.5 The current minimum charge for residential care is £231 per week and the table below exemplifies the estimated potential income generated from a maximum charge for Home Care set at approximately 25% (£60), 50% (£120) and 75% (£175) of this amount. In contrast to Home Care charges, residential care charges are prescribed nationally, with no local discretion.
- 5.6 Evidence from the phase 1 assessments suggests the typical chargeable income for a person on the old Band 2 is £15.34 per week. This is reached with approximately 4 hours Home Care per week at the current hourly chargeable rate of £4.20. The maximum charge is £35, which is reached at 8 hours per week Home Care (the hourly cost to the Council is more than double the £4.20 chargeable rate).
- 5.7 Setting the maximum charge at £175 per week will only affect service users who receive more than 40 hours Home Care per week, assuming that the hourly charge rate remains unchanged. The maximum charge is unlikely to be reached when charged against a service user’s income. It is most likely that only service users with capital in excess of the capital limit (£19,500) will ever be charged the maximum charge (and only then if they receive 40+ hours service per week).
- 5.8 Analysis of the current Home Care population indicates that only one person of these 2,300 people would be eligible to pay the new maximum charge.

Comparison with other authorities

- 5.9 In preparing this report a number of authorities were surveyed. Many are reviewing their position and have not yet decided on this matter.
- 5.10 The current position is based on Leicestershire’s. In Rutland the full cost of the care package is incurred if the service user has more than £19,000 capital. In Coventry, the maximum charge is 75% of the overall care package, (although they have a higher hourly rate of £7.81 as opposed to £4.20 in Leicester). Oldham has a maximum charge of £150 and Newcastle £90.

Illustration of the Effect of Options Considered

5.11 The table below illustrates the effect of the range of options against the current maximum charge of £32 for Band 4 users.

	Current Fair Charging Maximum	Option 1 (25% minimum res care)	Option 2 (50% minimum res care)	Option 3 (75% minimum res care)
	Max Charge: £35	Max Charge: £60	Max Charge: £120	Max Charge: £175
Number of Band 4 service users	173	173	173	173
Annual Income from charges	£258,956	£331,857	£375,096	£381,552
Increase on current charging income	-	£48,561	£91,800	£98,256
Average weekly charge	£28.79	£36.89	£41.70	£42.41
Number of increased charges	-	92	92	92

5.12 In all the figures provided above, it is assumed that all current band 4 service users have capital in excess of £19,500 (the new capital limit). There is no data available at this stage to confirm this assumption. The current criterion for being assessed under band 4 is that the service user has capital in excess of £16,000. Any service users with capital between £16,000 and £19,500 would not be asked to pay the maximum charge and this will reduce the assumed level of income.

6 Transitional Protection

6.1 Transitional protection for existing service users is likely to introduce other issues of fairness. It is difficult to defend if, all other circumstances being equal, one service user is required to pay a maximum of £35 per week and another up to say 75% of the lowest cost residential care band.

6.2 Rather than allow this inequity, it is proposed that the maximum charge be applied from 1st April 2003 for new service users, with an element of transitional protection for existing service users by asking for increases to be phased in over 6 months.

6.3 .

6.4 Without detailed information on individual service users' financial circumstances it is difficult to accurately predict the impact that introducing the recommended approach to transitional protection might have. However in order to assist Member consideration the following estimates have been prepared by officers based on current information of service users visited in phase 1 of Fairer Charging.

	2003/2004 Full Year Additional Income	2004/2005 Full Year Additional Income
Increase in Maximum charge For all service users	98,000	98,000
Allow 6 months transitional protection for existing service users	49,000	98,000