

## Notice of Non-key Executive Decision

<b>Subject Heading:</b>	Review of Non-Residential Care Charging Policy - Back Dated Charging
<b>Cabinet Member:</b>	Cllr Jason Frost
<b>SLT Lead:</b>	Barbara Nicholls, Director Adult Services
<b>Report Author and contact details:</b>	Caroline May, Head of Business Management Caroline.May@Havering.gov.uk 01708 433671
<b>Policy context:</b>	Non-Residential Care Charging Policy
<b>Financial summary:</b>	Backdating charges expected to generate at least an additional £43k of income meeting savings target. Any additional income generated will be dependent on the number of homecare users who are assessed at full cost.
<b>Relevant OSC:</b>	Individuals
<b>Is this decision exempt from being called-in?</b>	No

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**The subject matter of this report deals with the following Council Objectives**

Communities making Havering	<input checked="" type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

## **Part A – Report seeking decision**

### **DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION**

To amend Council charging policy with regard to non-residential care services, to backdate charges to the date of care assessment, which is a change to current practice. To cap the backdating of charges to a maximum period of four weeks.

### **AUTHORITY UNDER WHICH DECISION IS MADE**

Part 3 Responsibility for functions Section 3.3; (a) To take any steps necessary for proper management and administration of allocated portfolios

Part 3 Section 2.5 Functions delegated to individual Cabinet members;

(j) To consider and recommend plans in respect of the portfolio allocated.

(q) To agree minor matters and urgent or routine policy matters

### **STATEMENT OF THE REASONS FOR THE DECISION**

The current Non-Residential Care Charging Policy runs until 31st March 2020. This decision will apply from April 2020.

The backdating of non-residential charges will be reflected within the revised policy, has been included in the Council MTFs Transformation savings programme, and has been to Cabinet in Feb 2019 as part of the overall Budget strategy report.

There are savings attached to the backdating of non-residential charges of £43k. This sits within Adult Social Care budgets.

The rationale for back dating charges is to maximise income for the Council and to make this fairer for all, as everyone will be charged from the same start point i.e. when their care commences. Current policy is that service users will be charged from the first Monday following the date the Council advises them in writing of their assessed financial contribution (the amount they are liable to pay).

In the case of non-disclosure, full cost charges will apply. There is also a deadline for return of financial assessment forms and information, after which point non-disclosure rules will apply resulting in a full charge for services, until the financial assessment can be completed.

The proposal is to update policy so that all non-residential charges shall apply from the date when services are first received. This will inevitably result in an amount of backdating of charges, as there is usually a time lag between services being provided and the financial assessment being fully completed. In order to minimise this delay, financial assessments are started at the earliest opportunity. A self-assessment tool is

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going to be made available from May 2020 so that people can calculate what their estimated contribution could be, so that they are aware of this in advance. There is also a financial checklist completed by social workers, which outlines that charging for care has been explained to the individual or their representative.

The council recognises that in some cases delays are outside of the control of relevant parties. Therefore, in order to prevent excess amounts of debt accruing, charges will be backdated for a maximum period of four weeks. This is also taking into consideration the consultation response.

The Council's Non-Residential Care Charging Policy provides a framework so that:

- Adult Social Care maintains a reasonable level of income to fund services;
- service users in receipt of non-residential care services contribute to the cost of their services subject to a financial assessment; and
- service users receive a benefits check as part of their financial assessment to ensure that they have access to their full benefits and entitlements.

### **OTHER OPTIONS CONSIDERED AND REJECTED**

Making no change to the existing non-residential care policy is not an option due to the policy expiring on 31 March 2020. There is therefore a need to revise the policy in advance of this date.

In order to achieve the MTFs and Transformation savings programme, this initiative needs to be put in place and a consultation has been carried out in advance of this.

### **PRE-DECISION CONSULTATION**

This pre-decision consultation closed on 2 February 2020 (this ran for three weeks). 86 responses were received.

The responses to questions posed are below.

*Do you think the proposed change is reasonable?*

35 people (41%) said yes

51 people (59%) said no

*Do you think the Council should set a maximum period for the backdating of charges?*

71 people (83%) said yes

15 people (17%) said no

*If you answered yes to setting a maximum period, which of the following periods for backdating charges do you think would be most reasonable?*

Up to 4 weeks - 46 people (53%)

4 to 8 weeks – 11 people (13%)

8 to 12 weeks – 2 people (2%)

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Charges to apply from the start date of care regardless of backdating period – 10 people (12%)  
17 people did not answer (20%)

It is acknowledged that proportionally more people do not feel this is a good idea than those who favour the decision. However, the financial impact is considered to outweigh this in terms of ensuring best value for money for the council in terms of management of public funds. This also introduces an equitable approach to individuals. Presently people can be subject to different timelines in terms of when billing commences, as some effectively receive longer periods of council funded care than others while the financial assessment process is taking place, due to the variable nature of the process. Therefore, it is viewed as being preferable to introduce a standardised approach.

It is acknowledged that a cap to the period of time to backdate fees is appropriate, to prevent people having disproportionately large bills due to fees accruing through circumstance that might be outside the individuals control. Therefore, backdated fees are to be capped at a period of four weeks, meaning that a maximum of four weeks prior to the point of financial assessment will be charged.

52% of those who responded were female.

Responses were received from people aged 25 plus up to 85 plus, with the highest proportion (26%) being aged 55-64.

80% of responders were Havering residents, with 20% being carers.

### **NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER**

Name: Caroline May

Designation: Head of Business Management



Signature:

Date: 17/2/2020

## Part B - Assessment of implications and risks

### **LEGAL IMPLICATIONS AND RISKS**

Section 14 Care Act 2014 gives local authorities discretionary powers to charge for care and support services provided to service users and carers. Where a local authority applies the discretion to charge it must follow the Care and Support (Charging and Assessment Resources) Regulations 2014 and have regard to the Care and Support Statutory Guidance (October 2014) in determining its charging policy. There is nothing in law to prevent the Authority charging for services from the date they are first delivered.

As set out in the report, charging from the point of receipt of services is fair provided that service users are aware of this even if they have not yet been financially assessed. The Report indicates that services users will be advised of the potential charges at the point of initial assessment.

The decision maker should conscientiously consider the responses to the consultation before making a final decision.

### **FINANCIAL IMPLICATIONS AND RISKS**

The cost of administrating the change will be met from within existing resources. As we will be generating additional income through backdating charges, the net impact is expected to be a saving. The savings target, included within the Councils budget strategy, is £43k for backdating charges.

There is the risk that some people may incur backdated charges that they are then unable to pay, or that they do not understand policy approach to charging for services. The risks will be mitigated by providing tools to assist people understand the charge they may incur (the financial assessment calculator), carrying out financial assessments as close to the time care commences as possible, and through effective communication with individuals or their representative. The cap of four weeks will also limit the amount of arrears incurred by individuals.

There is also the risk that homecare invoices may be compromised through increased disputes regarding the back dated charges. The additional costs associated with dealing with any disputes may offset the achievement of the anticipated savings target.

To calculate the estimated amount of additional income that will be generated when the new policy comes into effect, the new approach has been applied to data from 2017/18 and 2018/19 and for both years, the estimated additional income exceeds £43k. Therefore, the planned savings target should be achieved.

However, the amount of additional income that will actually be generated is dependent on the number of new homecare users who are financially assessed as contributing to their care.

### **HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

There will be resultant changes to the way staff work in ASC and OneSource with regard to invoice processing. It is expected that these duties will be absorbed within existing resources, although the impact will be carefully monitored.

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Existing systems and process will be adapted to incorporate this change. Other stakeholders will be briefed accordingly.

### **EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

The proposal is expected to impact on all people in receipt of non-residential services who will be assessed as having to contribute towards their care and support. It is difficult to say exactly who this will impact on as it is not yet known who will be eligible to receive these services in the future.

A full EIA has been carried out. Generally, the people impacted will be aged 65 and above, in line with our customer demographic, and this decision will impact on those assessed to have a social care need. There are around 400 customers each year.

### **BACKGROUND PAPERS**

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**Part C – Record of decision**

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

**Decision**

Proposal agreed

**Details of decision maker**

Signed



Name: Barbara Nicholls, Director Adult Social Care

Date: 18 Feb 2020

**Lodging this notice**

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on \_\_\_\_\_

Signed \_\_\_\_\_