

MEETING:	OVERVIEW AND SCRUTINY
DATE:	12TH OCTOBER 2012
TITLE OF REPORT:	ADULT SOCIAL CARE FEES AND CHARGES FAIRER CHARGING POLICY
REPORT BY:	INTERIM PROGRAMME DIRECTOR: ADULT SOCIAL CARE

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

To inform Scrutiny of the outcome of the consultation on charging for Adult Social Care Services and of the recommendations for changes to the Fairer Charging Policy.

Recommendation(s)

THAT Scrutiny:

- (b) Notes the outcomes of the consultation on charging**
- (c) Notes the content of the Equality Analysis**
- (d) Comments on the recommendations for changes to the Fairer Charging Policy**

Key Points Summary

- The cabinet has adopted a general policy of full cost recovery across all services. The implications of this policy for adult social care services have been consulted upon to update the Fairer Charging Policy, and the results are presented in this report. The decision has been delegated to the Director of People Services, to be informed by the views of cabinet and the lead member and overview and scrutiny
- The Fairer Charging Policy needs to reflect the principles of
 - transparency and equity
 - working with the people of Herefordshire to reduce dependency
 - and to be clear about what people can expect from the Council
- The fairer charging policy also has a role to play in growing and developing the market of services and facilities for users thereby improving choice.

- The proposed changes to charging cover a range of services. These include home care, day care, transport, supported employment meals and carers' services.
- People in receipt of a "chargeable" service are entitled to a financial assessment and only those assessed as being able to pay will pay. 51% of people in Herefordshire who are in receipt of services do not pay following financial assessment.
- A consequence of the current charging policy to charge for services based on a subsidised unit rate, is that self funders do not pay the full cost for the services they receive
- Widespread consultation has taken place and ended on 27th August 2012, although responses received up to and including 4th September 2012 have been included in the results.
- Four main strands of engagement took place: Engagement with Service Users, Engagement with Providers, and with Professionals, Engagement with the Public.
- Over 2000 questionnaires have been issued to those who use services. 564 responses were received and analysed.
- Some 16 public facing meetings have taken place and 344 people had face to face discussions. Senior managers and Elected Members attended these meetings.
- A robust Equality Analysis has been compiled and, alongside analysis of the consultation responses, has been taken into account to inform the decision making process
- Although the principles for transparency and equity are the main driver for the changes, the full year impact of all proposed charges, if implemented in full, was estimated to be £1.2m.
- The changes to charges recommended in this report would amount to at least £755k full year impact, a significant increase compared to the initial £150k estimated prior to the work undertaken by the council with advice from Pricewaterhousecoopers
- Charges, if approved, could be implemented from November 2012 onwards, and will have a part year effect for 2012/13 of circa £250k.
- The introduction of a more equitable and transparent approach to charging will also have the benefit of promoting choice and market development.

Link to Joint Corporate Plan

- The charging proposals are part of the Service Delivery and Transformation Plan for Adults which is the framework for delivering high quality, sustainable services which provide value for money.
- The Council must take account of responses to the consultation and the impact of the proposals in making any decision to change the Fairer Charging Policy.

Communications

- A Task and Finish Group, including members from across the Council and Hoople, has been established to ensure effective and co-ordinated progress on the charging consultation. Press briefings have taken place, a series of consultation forums have taken place and questionnaires have been issued to all users of service and to members of the public. There has been a mandatory 12 week consultation period. Press have attended some of the consultation meetings and the press coverage has been balanced. Further communication

with service users and stakeholders will take place following the decision making process.

Alternative Options

1. Charging for non-residential services is discretionary. The Council is not obliged to charge. There is no statutorily defined procedure for assessing non-residential charges. The power to charge derives from Section 17 Health and Social Services and Social Security Adjudications Act 1983 – (HASSASSAA) which empowers the local authority to recover such charge (if any) for a service as they consider reasonable.
2. Charging under Section 17 HASSASSAA is subject to means testing. Where a person is able to satisfy the local authority that his means are insufficient for it to be reasonably practicable for him to pay the full amount for the service, the local authority shall not require him to pay more than it appears to them that it is reasonably practicable for him to pay. This report sets out the proposed basis for setting a reasonable charge and assessing what is reasonably practicable for a service user to pay.
3. In electing to exercise its discretion to charge for non-residential services, when developing its Charging Policy the local authority is obliged to follow the Department of Health Guidance – Fairer Charging Policies for Home Care and other non-residential Social Services – the current Guidance was issued in 2003.
4. Many Councils choose to apply charges to their services. In applying equity and transparency through charging it also provides the opportunity to promote choice and develop the market.

Reasons for Recommendations

The recommendations reflect the principles of the Cabinet decision on charging in June 2011, the principles of equity and transparency and have been informed by the Equality Analysis and the feedback from the consultation.

Introduction and Background

In June 2011, Cabinet agreed a number of key principles to provide a consistent authority-wide approach to charging, including;

that charges should reflect the full cost of provision, where appropriate,

the need to be clear about any level of subsidy;

and the adoption of automatic inflationary uplift to fees and charges.

It was also recognised that a more fundamental change to the type and scale of fees and charges is required to support the changing approach to care provision that will see personalised budgets being managed by those in receipt of care. Therefore, Cabinet approved delegated authority to the Director of People's Services to finalise the schedule of fees and charges for Adult Social Care within the principles agreed. Any proposed changes to the fees and charging approach being subject to consultation.

5. Adult Social Care Fees and Charges have been reviewed to reflect the principles for income and charging which were approved by Cabinet in June 2011. Approval was given to consult on options to change the way people are charged for Adult Social Care Services and a mandatory 12 week consultation has taken place.
6. Councils have a discretionary power to charge adult service users who receive non residential services. This power must be exercised in accordance with statutory guidance.
7. The proposed changes to charging cover a range of services. These include home care, day

care, transport, supported employment, meals and carers' services.

8. Service users who are assessed for social care services receive a financial assessment in order to determine how much they can afford to contribute towards the cost of the services they receive. Such assessments are undertaken for both residential and non residential services.
9. Fairer Charging Policy covers non residential services (for example home care). Charges for residential care are administered under the national Charging for Residential Accommodation Guidelines (CRAG)
10. This report is solely concerned with charges for non-residential services and any recommendations will comply with the legal framework within which charging operates. Service users will not be required to pay more for their services than they are assessed as being able to afford.

11. Consultation Process

12. Consultation has covered four main strands, namely, engagement with service users, providers, professional groups and the wider public, together with an equality analysis evaluation.
13. Consultation began on 25th May 2012 and ended on 27th August 2012 although responses received up to and including 4th September 2012 were included in the results.
14. By meeting service users and carers who are in receipt of services the consultation sought to :
 - Engage the public in understanding the financial challenge facing Councils.
 - Inform staff, the public and other stakeholders of the proposed options
 - Allow reasonable, flexible time for those being consulted to put their views forward.
 - Gain feedback and assess the likely effect and impact of the proposed changes so that these could inform the decision making process
 - Identify any equality issues not already considered.
15. The following activities have taken place:
 - Engagement with Service Users

The main mechanism for the consultation was a reply-paid questionnaire delivered to the homes of all service users. Additional copies were made available for those who required forms for relatives, helpers, carers etc. Consultation forms were also made available through the carers network. An Easy Read letter was issued to people with a Learning Disability.

Over 2000 questionnaires have been issued and there has been a good response of 564 across the range of service user groups and categories.

922 of those receiving a questionnaire currently do not pay charges and would not be adversely affected by the proposal for increased charges.

Posters were issued to GP surgeries and to Post Offices to promote the consultation and to advise people how to respond. Reminder letters were also sent.

- Engagement with Organisations and Professionals

Attendance at a number of forums/events has taken place with face to face consultation taking place with approximately 350 people. Those who attended the Provider event wished the report to note that they did not believe the low attendance at the meeting was representative of the provider market and questioned the circulation list. The invitation for providers to engage with us went to 192 organisations.

Providers were also in attendance at meetings other than the dedicated provider meeting.

- Engagement with the Wider Public

A web page for written comments was provided on the HPS website, and updated with frequently asked questions.

An article was placed in the summer edition of Hereford Matters that is issued to all households in the county.

A telephone hotline was available for verbal comments and also to direct those with concerns on the implications of the options to the Welfare and Financial Assessment Team. Over 200 calls were received and responded to.

A public meeting also took place, the availability of which was publicised via press and posters.

16. The Options

17. The table below indicates the proposed increases suggested in the consultation. These are the response to the cabinet decision that charges should reflect the full cost of provision.

Service	Current charge (£)	Proposed charge (£)
Extracare	No change	Already charge full cost
Supported/shared living	No change	Already charge full cost
Adult placement	No change	Already charge full cost
Transport (per journey)	1.35	15.25
Carers' services (per hour	FREE	15-20
Supported employment (variable)	FREE	Typical costs £20 per hour or £50 per day
Meals	2.80	4.70
Home care (per hour)		
Rural	14.90	17.13
Urban	14.90	14.90
Day care (typical) per day (range of needs and disabilities)	4.45	16-169*

In addition to the above, it was proposed not to pay transport costs for people who already receive the mobility component of Disability Living Allowance.

Consultation Reponses

	Agree		Don't agree		Don't know		Total answered	Not answered	Total survey respondents
	No.	%	No.	%	No.	%			
Extracare* No change	239	68%	33	9%	78	22%	350	214	564
Supported/shared living* No change	238	69%	33	10%	76	22%	347	217	564
Adult placement* No change	237	69%	31	9%	77	22%	345	219	564
Transport (per journey) £1.35 to £15.25	50	11%	364	77%	58	12%	472	92	564
Carers' services (per hour) Free to £15 - £20	53	11%	358	75%	64	13%	475	89	564
Supported employment Free to variable	114	27%	139	33%	168	40%	421	143	564
Meals £2.80 to £4.70	169	36%	228	49%	67	14%	464	100	564
Home care (per hour) rural** £14.90 to £17.13	80	18%	300	68%	58	13%	438	126	564
Home care (per hour) urban** £14.90 to £14.90	153	34%	228	51%	63	14%	444	120	564
Day care (typical) £4.45 to £16 - £169	35	8%	340	73%	89	19%	464	100	564

In reviewing the Fairer Charging Policy we want to ensure that the policy reflects the principles of equity and transparency and that the policy also reflects the vision for adults in Herefordshire. We want to work with the people of Herefordshire so that they can be supported by their family, friends and local community as far as possible and encourage people to remain as independent and well as they can be.

In developing the recommendations in this report, we have applied the principles from the Cabinet report of June 2011. We have taken into consideration the Equality Analysis and the responses received throughout the consultation period.

Options based on consultation responses

Currently there is inequality between how charges are applied depending on whether service users decide to receive care through managed services or a direct payment. This is not in line with the principles of equity and transparency.

A consequence of the current charging policy to charge for commissioned services based on a subsidised unit rate is that self funders do not pay the full cost for the services they receive

Overall 59% of respondents agreed that people should be charged on the same basis, whether they choose to have their care managed by the council or through a personal budget.

Extracare, Supported/Shared Living, Adult Placement

Charges for these services are currently applied based on the full cost of service.

Option	Impact	Financial (additional income)
Continue to charge based on full cost.	The majority of respondents (69%) agree to this proposal	None This is no change

Meals

Department of Health guidance for Fairer Charging recognises that the cost of meals is ordinary living cost so does not have to be subject to financial assessment.

Currently, Herefordshire charges a flat rate of £2.80 per meal, whether the meal is delivered to the service user's home or provided at a day centre. However the charge is collected by the provider.

The proposal to increase meal charges to full cost was agreed by 36% of respondents, 49% disagreed, 14% didn't know.

As part of the consultation exercise it became apparent that some day centre users had opted not to receive the meals provided through the social care contract which resulted in service users agreeing to pay more for meals provided through other sources, typically £4.50 per meal.

Some day centres also wanted to offer people a range of meal options to provide more choice and reduce cost, for example, to offer sandwiches. However some service users indicated it was the only way to get a nutritional meal.

It is acknowledged that retaining some service costs outside of the financial assessment framework does lead to a more complex charging method, and impacts on the personalised approach to charging for services within a personal budget.

Option		Financial Impact
Increase meal charge to £4.70.	People withdraw from service due to increased cost. Loss of income.	46.9K*

Risk

Currently charges for meals are collected by providers, and any shortfall in cost is made up by social care funding. It should be noted that the financial impact mentioned above, would not be an increase in income, but a reduction in expenditure.

Recommendation

Increase meal charges in line with proposals but continue with review of current service provision and consider options for increased choice of provider.

Loss of income will not impact if the service is no longer subsidised

Home Care

Option	Impact	Financial (additional income)
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Charge based on actual cost (urban £14.90, Rural £17.13)	68% of respondents did not agree with this approach. There was strong opinion that people in rural areas should not be penalised due to where they lived.	£150K
Charge based on Average cost £16 per hour		£150K

Risk

The potential additional income has been based on applying an average charge against current service users who have been financially assessed.

Recommendation

Charge based on average cost. This approach ensures that people living in rural areas are not discriminated against.

Supported Employment

Option		Financial Impact
Charge based on full cost, and where service provided as part of day care provision apply charges based on recommended option for day care.	Analysis of current people receiving this service shows that the majority of service users have already been financially assessed for other services and are being charged at the maximum cap.	(included in day care income projections)

Risk

Some vulnerable service users may discontinue service if charge implemented. Charging full cost for his service would go against national drivers to support people into work but in undertaking a financial assessment any earnings are disregarded.

Recommendation

Charge based on full cost.

Transport

Currently flat rate charges are applied to social care funded transport services that are directly commissioned and no financial assessment is undertaken.

The type of transport provision to day centre activities is wide ranging and includes mini bus, taxi and community wheels.

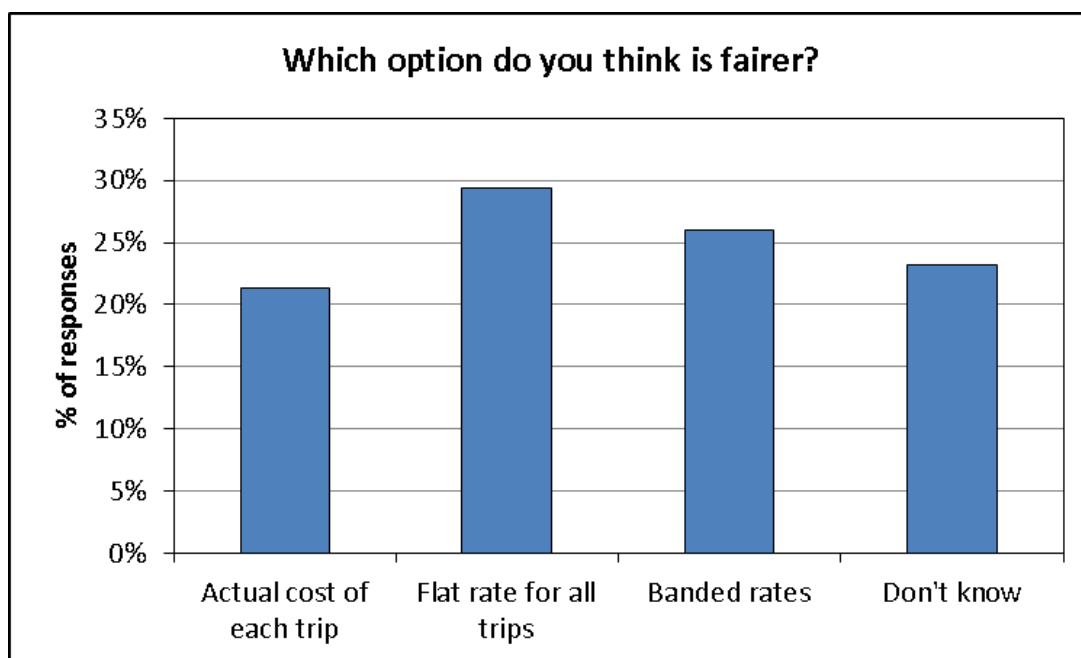
To ensure that service users are treated equitably when charging for transport services to meet an assessed need, it is proposed that the actual cost should apply whether services provided are directly commissioned or purchased through a direct payment. This would mean that everyone currently receiving transport services and paying a flat rate charge of £1.30 per trip would require a financial assessment.

In addition to the above, a proposal not to pay transport costs for people who already receive the mobility component of Disability Living Allowance has been put forward.

The table below shows the current number of people receiving social care funded transport. The majority of these service users' have already been financially assessed for other services provided by social care, such as day or home care, or Adult Placement services.

Total number of service users receiving social care funded transport (excludes direct payments)	Number of service users not financially assessed	Number currently identified as having capital above the funding limit
182	31	11

When we consulted on the proposals to charge full cost for transport services and asked which option was fairer?, 29% of respondents felt that an average charge was fairest, 26% chose banded rates, and 21% felt actual cost was fairest. 23% didn't know.



Option	Impact	Financial (additional income)
a) Charge based on the actual cost per trip (amount charged subject to financial assessment).	Service users will be charged the same whether transport is directly commissioned or funded through a direct payment. However, 'Actual cost' favours those living close to services and facilities and could affect those living in rural areas	None
b) Charge based on average 'Flat rate of £15.25 per return trip (subject to financial assessment	'Flat rate' cost favours those living further away from services and facilities but could significantly affect those who only travel short distances.	None
c) Charge based on banded rates based on distance to nearest day centre	Favours those living closest to services and could affect those living in rural areas. More complex to administer, need to identify applicable rates.	None

Risk

*Current income raised through applying a flat rate charge for commissioned transport services is £30k per annum, however as the majority of assessed clients are currently receiving packages with costs in excess of their assessed income, moving this charge within an assessment framework will result in current income levels not being realised and 135 current transport users will be paying lower charges as a result. Potential income from 11 self funders is £26K per annum, and it is estimated that further £13K may be achieved from the 31 people that have not been financially assessed.

All of the above options will require contract adjustments with those day care providers that currently collect transport charges. They will be required to provide returns on transport users instead so that charges can be raised within specified timescales.

Recommendation

Option a) Charge based on actual cost. This approach is considered to be the most equitable as service users will be charged on the same basis whether transport is directly commissioned or funded through a direct payment. However transport charges for in-house mini bus services to day centres will need to be set before this proposal can be implemented.

A review of the use of transport services is already underway. It is recommended that as part of this review, the eligibility criteria is also considered.

Transport for people getting DLA Mobility Payments.

We consulted on a proposal to not pay transport costs for people who already receive the mobility component of Disability Living Allowance. However, comments received through the consultation process question whether this approach is legal. It has also been pointed out that DLA mobility will be replaced by other disability benefit payments as part of the welfare reforms being implemented by the DWP.

Option	Impact	Financial (additional income)
a) Not pay transport costs for people receiving DLA mobility	Transport costs may exceed DLA payment. Service users receive DLA to support mobility, not just transport provided by social care. Service users getting transport costs as part of direct payment will need to be reviewed. DLA is being phased out as part of welfare reforms so cannot be considered as along term proposal	No additional income but some savings on transport expenditure
b) Look at how DLA mobility payments are being used when considering eligibility for funding transport	Service users getting transport costs as part of direct payment will need to be reviewed	No additional income but some savings on transport expenditure

Recommendation

It is recommended that option a) not paying transport costs for people receiving DLA mobility is **not** taken forward given the potential for legal challenge and the need to review the principle

again when welfare reforms come into place.

However, it should be noted that the use of transport services is currently being reviewed and it is recognised that eligibility criteria needs to consider a persons means for providing their own transport arrangements. Option b) requires a review of eligibility criteria which will ensure equity whether transport is directly commissioned or funded through a direct payment.

Carers Services

Department of Health Fairer Charging guidance states that where services are provided to carers, services delivered under the Carers and Disabled Children Act, 2000 can be charged for in the same way as for service users.

Herefordshire Council currently does not charge carers for services provided as a result of a carers assessment. This decision was taken following a previous consultation on charging in 2006/7.

Many councils do not charge for carer services, recognising the value those carers provide to the community. The nature of carer services is one of small time limited packages

Section 15 of the Care and Support Bill 2012, which is currently being consulted upon, prescribes that if a local authority does decide to charge, then it must carry out a financial assessment to determine whether the carer can afford to pay.

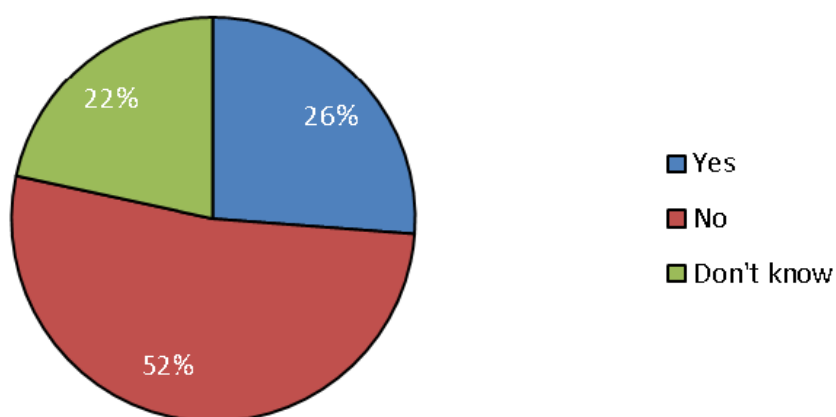
If the type of support provided to the carer is so that they can look after their own health and wellbeing, for example taking a break from caring responsibilities, such as getting help with housework, or becoming a member of a gym, the financial assessment will be carried out based on the carer's financial circumstances. However if supporting a carer involves providing care to the person cared for, and the local authority chooses to charge for that type of care, then the authority must carry out a financial assessment on the person who is cared for. This is because the care would be provided to that adult directly, and not to the carer.

We consulted on a proposal that carers should be charged for the full cost of the service provided, although the amount they would pay would be subject to financial assessment.

When asked if they agreed with this proposal 52% did not agree, however it should be noted that when full cost charging rates were provided in the table in the questionnaire 75% did not agree.

Some carers suggested that a cost of £5 to £6 per hour may be a more appropriate charge: another suggestion was to use a voucher scheme.

Paying for carers' services: Do you agree with this proposal?



Option	Impact	Financial Impact (additional income)
a) Continue to provide all carer's services free of charge where the service provided to carer, not cared for : Consider implementing a Cap for the number of carer support hours provided.	Positive impact for carers regardless of their financial status. Recognition of valuable role carers provide	No additional income but some reduction in expenditure
b) Apply charge based on full cost but subject to financial assessment.	The cost to carers may mean they withdraw from using service and may ignore own health. Costs in covering for those who no longer care for individuals	£147
c) Apply charge based on full cost to carer's having capital above the upper limit of £23,250 and continue to provide services free of charge to carers with capital below the limit	The cost to carers with capital may mean they walk way Carers may ignore own health	£116K
d) Apply a charge at a subsidised rate of £6 per hour, this would still have to be subject to financial assessment	Some carers would find a lower contribution acceptable. People with assets above funding limit would get subsidised service	£46K

Risk

There is a risk to the potential additional income as estimates have been based on the same percentage of people making a contribution as those that have been assessed for other services.

It is likely that more carers will be assessed as nil charge payers as their income levels will be lower than those they care for, due to benefit awards or disregarded incomes, such as earnings. Carers may also stop the caring role they provide with potential for increase in service costs to those needing care and more pressure on social care budgets.

Costs for implementing the financial assessment framework may not match income generated if a significant number of carers do not have to contribute following financial assessment.

Recommendation

The recommendation is not to apply charges for carers' services. Carers play a significant role in supporting people to remain in their communities and the council is committed to supporting people in their caring roles.

Day Care

In spite of the current low charge, day services for older people are under-utilised and therefore heavily subsidised. Historically access and referral to a number of these services has not relied on a community care assessment and approximately 25% of current service users have capital assets above funding limits and are benefiting from the subsidised service..

During the consultation process many service users commented that they do not see Day Care as 'Care'. Many go for the social interaction, meal and activities. It has been suggested that perhaps this be rebranded and another separate service be created at a realistic, affordable cost.

Comments received that if the FACS criteria for day care attendance was at a lower threshold potential attendance could increase and make it more financially viable.

Option	Impact	Financial (additional income)
A) charge for day care based on actual cost for each centre and level of support provided.	<p>Most equitable approach and promotes choice through personal budget</p> <p>More complex to administer as there will be a high number of charging rates.</p>	Not identified due to complexities in applying proposed charging rates in current systems but will be less than option b.
b) charge based on average cost of £38 per day across all day care provision	<p>Wide range in charges will result in those receiving low cost services, primarily older people subsidising those in high cost ones, mostly those with learning disabilities.</p> <p>This is likely to lead to a withdrawal</p>	£750K
c) charge based on banded rates, depending on level of support service provides	<p>Many older people attending day services did not refer to the service as a 'care service' but as a social activity which should be kept at a low cost.</p> <p>Applying banded rates based on level of support would reduce the impact on those in low cost services and be fairer to those with high level needs.</p>	Not identified due to complexities in applying proposed charging rates in current systems but will be less than option b

Risk

The projected income is based on applying an average charge across all day services based on current % of people making a contribution after financial assessment. Whilst options a) and c) would be favoured following consultation, more work is required to arrive at the potential impact on income projections from these proposals.

Some day care services will no longer be affordable or considered value for money resulting in service uptake decreasing and projected income not being realised.

Recommendation

Option a) charge based on actual cost is the most equitable approach but will be complex to implement

The re-modelling of day services provision for older people is currently underway and needs to clarify the distinction between Day Opportunities which focuses on people who meet the Council's FACS criteria following a community care assessment and Prevention Services which are universally available to all regardless of level of need.

Key Considerations

18. It is imperative to consider whether the consultation has been effective and meaningful. As evidenced through this report, qualitative and quantitative consultation responses have been considered in developing the recommendations.
19. Consideration must be given to the Equality Analysis in terms of the impact of changes to charging on protected and affected groups.

Community Impact

20. Any increase in charging for services delivered in the community may result in people who currently use services withdrawing from those services, which may make some services unviable.
21. However, work is underway with providers and service users to re-design services to deliver the personalisation agenda for adult social care to give people who use services more choice and control.

The introduction of the proposals will also promote market development and also will prompt some users to consider how best to use the money they receive to best meet their needs.

Equality and Human Rights

Employing Equality, Human Rights & Partnership Team guidelines, we have developed an Equality Analysis demonstrating due regard to the possible impact of proposed changes on defined groups and ensuring the adequacy of the consultation methodology.

Financial Implications

22. The Council is facing significant challenges in financial terms and through the national settlement and reductions in funding. The Council's five year financial strategy includes an estimated 29.7% reduction in government formula grant. Budget decisions have been based on a set of core principles that include Supporting the Vulnerable. The process also includes fundamentally challenging what the council does to ensure appropriate use of public funding and quality of service.

23. The Income projections included in this report are based on assumptions that following financial assessment, the following percentage of service user's will be charged.
- 25% of the services users be charged 100% of the unit cost
 - 25% of the services users be charged 25% of the unit cost
 - 50% of service users are charged 0% of the unit cost

* This is in line with current financial assessment outcomes

Projected Additional Income

	Year 1 Original PwC proposals	Adjusted income per recommendations
Total Gross Projected Income	£1,232,902	£797,000
Day Care	£750,000	£600,000*
Home Care	£150,000	£150,000
Respite (Carers Services)	£179,015	£0
Meals (on wheels, in day care etc)	£46,918	£46,918
Transport	£106,969	£0
Total Investment Costs	£32,000	£32,000
Financial Assessment Officer	£32,000	£32,000
Total Net Projected Income	£1,200,902	£765,000

* income from actual cost not average still to be calculated and validated but anticipate lower but more equitable.

Legal Implications

24. By virtue of Section 22 of the National Assistance Act 1948, Councils must charge for Residential and Nursing care unless the resident is able to satisfy the Council that they are unable to meet the cost. In that case, the resident would then be assessed using the "Charging for Residential Accommodation Guide" (CRAG), issued by the Department of Health, which is used to assess a resident's capital and income and what contribution they should make toward the cost of their accommodation.
25. Non-residential social care services are provided under a plethora of different statutory provisions, although the most common are services provided under Section 29 National Assistance Act 1948 – welfare services and Section 2 of the Chronically Sick and Disabled Persons Act 1970.
26. Charging for non-residential services is discretionary. The Council is not obliged to charge. There is no statutorily defined procedure for assessing non-residential charges. The power to charge derives from Section 17 Health and Social Services and Social Security Adjudications Act 1983 – (HASSASSAA) which empowers the local authority to recover such charge (if any) for a service as they consider reasonable.
27. Charging under Section 17 HASSASSAA is subject to means testing. Where a person is able

to satisfy the local authority that his means are insufficient for it to be reasonably practicable for him to pay the full amount for the service, the local authority shall not require him to pay more than it appears to them that it is reasonably practicable for him to pay. This report sets out the proposed basis for setting a reasonable charge and assessing what is reasonably practicable for a service user to pay.

28. In electing to exercise its discretion to charge for non-residential services, when developing its Charging Policy the local authority is obliged to follow the Department of Health Guidance – Fairer Charging Policies for Home Care and other non-residential Social Services – the current Guidance was issued in 2003.
29. In 2009 and 2010 the Department of Health issued further Guidance – Fairer Contributions Guidance – which specifically deals with calculating an individual's contribution to their personal budget. This Guidance is issued in addition to the 2003 Guidance and is not intended to replace it.
30. When assessing a person's financial charge for non-residential services, local authorities should assess savings no less generously than in CRAG. Considerations outlined in CRAG should apply to charging for non-residential care under Section 17 of HASSASSAA. Herefordshire County Council uses CRAG capital limits and tariff income when assessing an individual's liability to pay for their non-residential services.
31. Care And Support Bill 2012, which is currently being consulted upon, under Sect 14 and 15 gives a power to the Local Authority to impose charges and a requirement to undertake a financial assessment if charges are imposed.
32. The decision will need to comply with public law principles. In particular the decision maker must take into account all relevant factors and must not take into account irrelevant factors. The decision maker must take into account the Equality Assessment and the council's duties under S149 of the Equality Act 2010. The decision maker must take into account the responses to the consultation. Any decision which deviates from the discussion contained in the Report will need careful explanation. As the decision could be subject to Judicial Review the decision maker must be prepared to confirm the matters taken into consideration; the weight attached to all the factors and the reasoning behind each decision.

Risk Management

33. Adverse publicity, in raising charges for vulnerable people. Press briefings and press releases have been made available and a communication plan will be developed to reflect implementation of any agreed options.
34. Welfare reform changes being implemented from 2013 will impact as the amount of benefits being received by service users will reduce therefore reducing the amount of contribution to care. The reforms will be monitored and when indication of changes are released, model potential impact on income.
35. Increased charging may result in service users withdrawing from service in particular day services. In relation to some services, particularly for carers it has been argued that increasing charging will lessen the take up of some services which prevent people requiring higher cost care. There may therefore be some risk, though unquantifiable, that some adults may require higher cost services as a result of these changes. This will need to be monitored.
36. Re-configuring care services in response to the personalisation agenda may result in a reduction in the cost of provision and impact on income projections.

Consultees

As outlined in the report.

Appendices

Equality Analysis

Consultation Report

Proposed new charging policy consultation report September 2012.

Background Papers

Cabinet Report 30th June 2011 Income Proposals and Charging Proposals