

# WEST NORTHAMPTONSHIRE COUNCIL CABINET

**8<sup>th</sup> November 2022**

Cabinet Member for Adult Care, Wellbeing, and Health Integration: **CLlr Matt Golby**

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**Report Title**                      **Social Care Charging Reform Update**

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**Contributors/Checkers/Approvers**

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**List of Appendices**

**None**

**1. Purpose of Report**

- 1.1** To seek permission to consult on proposed changes to the West Northamptonshire Council Fees and Charges policy.
- 1.2** To provide an update to Cabinet on the Council's progress towards Social Care Reform
- 1.3** To note the utilisation of the Fair Costs of Care and Market Sustainability grant.

**1 Executive Summary**

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- 2.1 In September 2021 Government set out plans to introduce a lifetime cap on the amount anyone in England will need to spend on their care along with a more generous means-test for local authority financial assessment and greater support for people that fund their own care. This has led to publication of the People at the Heart of Care: adult social care reform white paper, in December 2021 and updated in March 2022 signalling reforms to social care charging along with further policy requirements to shape care markets and commission services within existing statutory responsibilities outlined in the Care Act 2014. This was highlighted in the Cabinet paper Commissioning residential and nursing care services for older people delivered on 14<sup>th</sup> June 2022.
- 2.2 West Northamptonshire Council currently process people's financial assessments for their contribution towards the cost of funded care services in accordance with the Care & Support Statutory Guidance and the local Fees & Charging Policy. This is for all people who have assessed eligible social care needs and have assets below the current charging threshold. In addition, the Council will arrange for care and support to be put in place for those who qualify for financial support towards their care costs.
- 2.3 Significant work has already begun to prepare West Northamptonshire Council for reform, including understanding the self-funder market and the financial implications of reform. In addition, the Council has submitted their Fair Costs of Care return and their draft Market Sustainability Plan. The Council is making good progress towards early assessments on 1<sup>st</sup> April 2023.
- 2.4 The Council is also preparing for implementation of section 18 (3) which enables new residents into a care home to ask the Council to arrange their care and access Council rates. In preparation for this change, the Council has reviewed its Fees and Charges Policy as well as staffing resource to be able to support this reform.
- 2.5 To comply with the statutory changes driven by Social Care Reform, West Northamptonshire Council is proposing that the Fees and Charges Policy is changed to include and explain the Council's interpretation of the new legislation and to afford us a level of policy protection. In addition, the Council is seeking permission to consult on the introduction of a self-funder care arrangement fee for the purposes of generating sufficient income to fund the staffing resource needed to support self-funders with care arrangements.
- 2.6 West Northamptonshire Council has also been allocated grant money from Department of Health and Social Care (DHSC) for the purpose of preparing for reform implementation and to start to move the Council towards the Fair Cost of Care. The Council has utilised the grant money in line with the grant conditions and further details are contained within the report for noting.

### **3 Recommendations**

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- 3.1 It is recommended that the Cabinet:

- a) Agrees to the Council consulting with the public for 28 days in respect of the new Self-funder Arrangement Fee. Feedback obtained from the consultation period will be provided to cabinet for decision making in February 2023.
- b) Acknowledge the changes required to the Fees and Charges Policy because of social care reform and the impact these reforms will have to the Council and the residents of West Northamptonshire.
- c) To note the utilisation of the 2022/23 DHSC Fair Cost of Care and Market Sustainability fund.

## **4 Reason for Recommendations**

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4.1 The recommendations seek to:

- Enable West Northamptonshire Council to meet the changes as stated in the Governments Social Care reforms and the statutory requirements originally set out in the Care Act 2014, by the 1<sup>st</sup> October 2023.
- Engage with the public on a 28-day consultation period, which will allow the Council to generate people's awareness of the imminent changes to social care and gather feedback to allow Cabinet to make an informed decision regarding the introduction of the Self-Funder Arrangement Fee.
- Be consistent with previous proposed changes to the Fees and Charges Policy and additional charges being asked of the residents of West Northamptonshire Council.
- Provide awareness to Cabinet relating to the utilisation of the DHSC Fair Cost of Care and Market Sustainability grant.

## **5 Report Background**

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### **Self-Funder Arrangement Fee**

- 5.1 West Northamptonshire Council has a Fees and Charges Policy which describes how the Council undertakes a financial assessment to determine a person's contribution towards their care and support costs. The policy outlines the Governments statutory guidance and how West Northamptonshire Council applies this in practice. The policy was created in 2020 by Northamptonshire County Council following a period of public consultation regarding a rewrite of the policy and changes to the way that Disability Related Expenditure is applied to a financial assessment. This policy was adopted by West Northamptonshire Council following the change order and subsequent disaggregation in April 2021.
- 5.2 The current Fees and Charges Policy does not allow us to charge for arranging care on behalf a person who can self-fund their own care. However, the Care and Support Statutory guidance states:

*"8.58 Where the person's resources are above the financial limit, the person's entitlement to local authority support in meeting their needs may be dependent on the request having been made.*

*Therefore it is important that the person, and any carer, advocate or other person they wish to involve, are aware of this ability and the consequences for their care and support. The local authority **must** make clear to the person that they may be liable to pay an arrangement fee in addition to the costs of meeting their needs to cover the costs of putting in place the care and support required.”*

- 5.3 The Guidance also states that any charge must only cover the administration costs of arranging care on a person’s behalf. This means that the Council cannot and will not charge for any statutory assessments that need to take place. Therefore, the Council is proposing to consult with the residents of West Northamptonshire on the introduction of a self-funder fee which will solely be based on the actual cost of staff time in arranging the care.
- 5.4 As part of the social care reform changes, any new resident into a care home who has assets above the means test amount will be able to ask the Council to arrange their care for them, and access Local Authority rates with effect from 01/10/2023. This change will be phased in over a period of time to allow all existing self-funders to ask for the local authority to arrange their care. In West Northamptonshire, it is estimated that there are approximately 1,495 self-funding residents in care homes, with approximately 200 new self-funder admissions per year from 2023/24.
- 5.5 The Council has a Brokerage Team who are responsible for arranging care for people who qualify for Council support. This covers care homes and domiciliary based care services. The Brokerage Team arrange care for approximately 2,000 care packages per year. An additional 200 care arrangements would provide additional strain on the team and this would need to be resourced appropriately. The introduction of a self-funder arrangement fee would allow for sufficient income to be generated to fund additional posts to support the reform changes.
- 5.6 The proposed self-funder arrangement fee is £141 and would cover the staff time taken to broker a package of care on behalf of a self-funding resident. The fee would be a one-off charge made at the point that care is successfully arranged.

## **Legislative Reform**

- 5.7 In 2021 and early 2022 Government published a series of policy documents and guidance that signalled wide-ranging changes to the way health and social care is funded alongside reform to social care charging and associated requirements for local areas to prepare for the change. This includes:

[Build Back Better: Our Plan for Health and Social Care](#), 7 September 2021 – outlines new funding plans for health and social care and a commitment to introduce a lifetime cap on the amount anyone in England will need to spend on their care.

[People at the Heart of Care: adult social care reform white paper](#), 1 December 2021 – sets out a 10-year vision for adult social care alongside greater detail on the care cost cap to enable greater fairness, choice, and quality of care.

[Care and support statutory guidance - GOV.UK \(www.gov.uk\)](#) updated version

- 5.8 The current social care reforms were originally consulted on in 2015 and due for implementation in 2016 under the Dillnot Review. This was to limit the amount anyone pays towards meeting their care needs during their lifetime. The wide-ranging legislative change seeks to deliver on this commitment by introducing a cap on care costs by October 2023 to any person who has eligible needs.
- 5.9 From the 1 October 2023 the cap on care will be set at £86,000. This will be the maximum amount anyone who receives care after this date will have to pay for care to meet their eligible care and support needs. For those within the means test capital limits how a person progresses towards the cap will be based on their individual charge. For those outside the means test capital limits, how a person progresses towards the cap will be based on what the cost would be to the local authority if it were to meet their assessed eligible care needs. Daily Living Costs and any top-up payments will not be included in the individuals metering towards the cap.
- 5.10 Anyone with assets less than £20,000 (new capital limit) will not have to make any contribution to their care from their savings. Anyone with assets between £20,000 and £100,000 will be eligible for some means tested support, with the new upper capital limit of £100,000. This means that any person with assessed eligible needs who has less than £100,000 in capital will now qualify for Council funded support. The current threshold is £23,250.
- 5.11 These reforms will result in more people contacting the local authority as a self-funder would need to be assessed by the local authority as having eligible care needs. This is to determine the metering rate, as what it would cost the local authority to meet those eligible needs is what counts towards the cap. It is vital that every local authority starts to plan and prepare for these changes in advance to support smooth introduction of the reforms.
- 5.12 In addition to the above changes, Government has informed local authorities that the restriction around first party top ups is being removed. This means that a person can use their available capital to fund more expensive care without restriction. Any first party top ups will not be included within the metering towards the care cap however, this will mean that a person's available capital will reduce faster which will reduce the amount that they need to pay towards their care.
- 5.13 All the above changes will mean that significant changes are required to the Council's Fees and Charges policy.

### **Fair Cost of Care and Market Sustainability Fund**

- 5.14 In early 2022, Government announced that a Fair Cost of Care and Market Sustainability Fund would be provided to Local Authorities. The purpose of the fund is to support Local Authorities to prepare for changes brought about by reform, and to support Local Authorities to move towards the Fair Cost of Care. A separate briefing will be provided at a later date regarding the outcome of the Fair Cost of Care exercise.
- 5.15 The grant conditions specified that Local Authorities could use up to 25% of the fund on implementation activities which includes strengthening internal commissioning resource to

undertake the Fair Cost of Care Exercise, completing the market sustainability plan and gaining additional oversight of the care market in light of the changes that reform will bring.

- 5.16 The remaining 75% of the fund must be used to increase fee rates paid beyond ordinary inflationary increases, costs associated to work force challenges, National Living Wage and National Insurance increases. The 75% of funding must be used to increase rates to start to move towards the Fair Cost of Care rates.
- 5.17 West Northamptonshire Council was allocated £982,135 by Government to support the implementation of reform. To date, West Northamptonshire Council has allocated £748,297 towards increasing fees in line with the conditions of the grant. It should be noted that the fund has been used as a contribution towards increasing care costs, which greatly outweighs the value of the grant. In addition, the Council has used £233,838 on additional staff capacity to undertake activity associated to the delivery of the grant ,requirements. The year to date spend is £77,310.

## **6 Issues and Choices**

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- 6.1 The intention of introducing a self-funder fee is to offset the additional resource costs required to implement section 18(3) of social care reform. Current Brokerage resource is working at maximum capacity. Therefore, the additional workload would need to be funded to enable sufficient capacity to arrange care for self-funders.
- 6.2 The Council has developed a good understanding of the number of self-funders currently in care homes in West Northamptonshire however, given that there are multiple changes occurring that mostly affect self-funders, there are significant variables which impact on our ability to model how many self-funders would ask the Council to arrange their care. Our best understanding is that between 200-300 new self-funding care home residents per year will ask the Council to arrange their care for them.
- 6.3 As a result of the change to section 18(3), Council's are required to have sufficient contracted capacity to be able to offer self-funders care home placements at our contracted rates. Our current contracted rates are out of date and, whilst they have generally increased year on year due to an inflationary uplift, they have not increased in line with the increase in complexity. West Northamptonshire Council will need to recommission independent care sector beds before reform changes goes live, with increased rates, to increase contracted capacity to meet our statutory obligations.
- 6.4 The financial impact of reform will be significant, and while Government are confirming that funding will be made available to support reform, it is unlikely that firm confirmation of any fund allocation will be confirmed until 2023. This means that it is difficult for West Northamptonshire Council to address funding and capacity concerns without confirmation of additional funding.

## **Options**

**6.9 Option 1 (recommended)** – Agree to a public consultation which will enable the Council to meet the changes as stated in the governments Social Care reforms and advise on the Self-Funder Arrangement Fee. This approach would be consistent with previous proposed changes to the Fees & Charges Policy.

**6.10 Option 2 (Not recommended)** – Do nothing and continue not to charge for arranging care on behalf of a self-funder. However, given the expected increase in demand, additional Council funding will be required so that situations where people are left with no support are mitigated.

**7 Implications (including financial implications)**

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**7.1 Resources & Financial**

**7.1.1** The full financial impact of social care reform is currently being modelled. Final analysis will be shared with cabinet members once the full financial implications are understood.

**7.1.2** At the time of writing, Government funding to support reform has not been finalised. West Northamptonshire Council is therefore unable to confirm how reform will be funded which makes planning for reform difficult.

**7.1.3** It is anticipated that introducing a self-funder fee would generate approximately £56,400 per year from implementation. The financial benefit for 2023/24 is estimated to be £28,200. As DHSC phase in additional self-funders being able to ask the Council to arrange their care, we can expect additional income being generated from this activity equating to up to £275,000.

**7.2 Legal**

**7.2.1** The Care Act 2014, as amended, and the Care and Support Statutory Guidance, as amended, enables a local authority to charge a self-funder an arrangement fee for the costs the local authority actually incurs in arranging that person’s care.

**7.2.2** This report recommends a period of public consultation in order for the Council consider the options available for changes to its Fees and Charges Policy including the introduction of an arrangement fee for self-funders.

**7.3 Risks**

**7.3.1** Should approval of the recommendations not be given the Council would risk being unable to meet some of the requirements for social care reforms.

**7.3.2** Risk/s associated with the proposal:

Risk	Mitigation	Residual Risk
Changes to be made to the Fees and Charges Policy from 1 <sup>st</sup> October 2023	The Fees and Charges Policy will be compliant with government guidance and reforms	Green

Public Consultation on the introduction of Self-Funder Arrangement Fee from 1 <sup>st</sup> October 2023	The public will be informed of this additional cost should they request to access to the Council's contracted	Green

### 7.3.3 Risk/s associated with not agreeing to the proposal:

Risk	Mitigation	Residual Risk
Changes <b>not</b> made to the Fees and Charges Policy from 1 <sup>st</sup> October 2023	The Council will not be compliant with government guidance and reforms and be seen as failing their statutory duties.	Red
Public Consultation on the introduction of Self-Funder Arrangement Fee from 1 <sup>st</sup> October 2023	The Council would not be consistent in their approach by not consulting on the introduction of the Self-Funder Arrangement Fee.	Red

## 7.4 Communication and Consultation

**7.4.1** The Council wishes to hold a public consultation on the implementation of the Self-Funder Arrangement Fee due to the Social Care reforms being introduced by the government from 1<sup>st</sup> October 2023. To ensure timely and effective consultation, a communication and engagement strategy will be required, which will be developed alongside the consultation plan with a focus on investigating the following key areas:

- lines of enquiry in relation to the introduction of a self-funder fee arrangement fee
- providing key information relating to the changes due to Social Care reform being introduced by the Government from 1<sup>st</sup> October 2023

**7.4.2** The Communications Team are involved with project delivery to support message development to identified audiences including current service users, newly eligible users and providers via targeted methods of communication.

- Targeting all people that may be affected by the reforms is critical to meet awareness as well as ensure feedback from these audiences is reflected in recommendations to cabinet to make an informed decision regarding the introduction of the Self-Funder Arrangement Fee. To meet the guidance, the Council will ensure promotion of the legislative changes,



engage our provider market to increase feedback and responses as well as discussions with stakeholders as part of the consultation activity.

- The communications plan will support the consultation strategy as well as align with key milestones of the social care reform to ensure awareness raising and information of changes are shared in a timely, coordinated way to audiences.
- An equalities impact assessment will also be completed and shared with Cabinet in February 2023.

7.4.3 In addition, internal communications has commenced, including wider awareness raising and conversations with directly impacted staff.

- Additional training, advice, and further contact with staff within Adult Social Care will be developed as the Council progresses towards early assessments due to start on 1<sup>st</sup> April 2023 and also 1<sup>st</sup> October 2023.

## **7.5 Overview & Scrutiny**

7.5.1 There are no comments made by the Overview and Scrutiny Committee in relation to this report and its recommendations.

## **7.6 Climate Impact**

7.6.1 There is no climate impact

## **7.7 Community Impact**

7.7.1 There is no community impact

## **8 Background Papers**

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Current policy

[Fees and Charges Policy for Adult Social Care \(northamptonshire.gov.uk\)](https://www.northamptonshire.gov.uk/fees-and-charges-policy-for-adult-social-care)

(Old version)