

Mayor and Cabinet			
Report Title	Adult Social Care Charging and Financial Assessment Framework		
Contributors	Executive Director for Community Services Executive Director for Customer Services	Item No.	
Class	Part 1	Date:	14 February 2018

Reasons for Lateness and Urgency

This report was not available for the original dispatch to enable Healthier Communities Select Committee to carry out pre-decision scrutiny of the report and the ASC Charging and Financial Assessment Framework. The scheduled date of HCSC was changed to Wednesday 7 February from an earlier scheduled date. The report is urgent cannot wait until the next meeting of the Mayor and Cabinet on 28 February 2018 because the Council is required to set out it's approach to charging and financial assessment.

Where a report is received less than 5 clear days before the date of the meeting at which the matter is being considered, then under the Local Government Act 1972 Section 100(b)(4) the Chair of the Committee can take the matter as a matter of urgency if he is satisfied that there are special circumstances requiring it to be treated as a matter of urgency. These special circumstances have to be specified in the minutes of the meeting.

1. Summary and purpose of report.

- 1.1 This report outlines the Adult Social Care Charging and Financial Assessment Framework, informed by consultation, in advance of presentation for agreement at Mayor and Cabinet.

2. Recommendation

- 2.1 Mayor and Cabinet is recommended to:

- Note the consultation undertaken
- Agree the Adult Social Care Charging and Financial Assessment Framework be adopted.

3. Policy Context

- 3.1 In allocating resources to adult social care services, the Council seeks to ensure that those with the most needs receive the community care services they need to maximise their independence and to enable them to live in their own homes in their local communities wherever possible.

- 3.2 This supports the Sustainable Community Strategy priority of Healthy, active and enjoyable - where people can actively participate in maintaining and improving their health and well-being.
- 3.3 It also supports the Council's corporate priorities of: caring for adults and older people, working with health services to support older people and adults in need of care and; Inspiring efficiency, effectiveness and equity : ensuring efficiency and equity in the delivery of excellent services to meet the needs of the community.

4. Charging and Financial Assessment Framework

- 4.1 The Care Act 2014 provides a single legal framework for charging for care and support. Section 14 and section 17 of the Act enable local authorities to decide how they will charge for care and support services that are arranged and funded by them. The Council is required under the Care Act, to set out its approach to charging and financial assessment.
- 4.2 In relation to charging and financial assessment, the Council adheres to the following national principles:
 - a. ensure that people are not charged more than it is reasonably practicable for them to pay for care and support;
 - b. be comprehensive - to reduce variation in the way people are assessed and charged;
 - c. be clear and transparent - so people know what they will be charged;
 - d. promote wellbeing, social inclusion, and support the vision of personalisation, independence, choice and control;
 - e. support carers to look after their own health and wellbeing and to care effectively and safely;
 - f. be client-focused - reflecting the variety of care and caring journeys and the variety of options available to meet their needs;
 - g. apply the charging rules consistently - so those with similar needs or services are treated the same and minimise anomalies between different care settings;
 - h. encourage and enable those who wish to stay in or take up employment, education or training, or plan for the future costs of meeting their needs to do so; and
 - i. be sustainable for the Council in the long-term.
- 4.3 The Adult Social Care Charging and Financial Assessment Framework (at Appendix A) proposes no changes to the existing policy and practice, as agreed most recently by Mayor and Cabinet in 2015. It is a consolidation of current policy and practice in relation to adult social care charging and financial assessment into one comprehensive framework document.

- 4.4 The creation of the framework document stems from a desire to bring together all relevant adult social care charging and financial assessment policy information into one purpose-written, public-facing policy document. Currently the totality of this information is solely available by referencing a range of sources including previous reports to Mayor and Cabinet.
- 4.5 The framework is not intended to replace the various channels and formats of information currently available on the Lewisham website but is intended to be the overarching framework document that contains all of the relevant policy information.
- 4.6 The framework will be routinely reviewed and updated when necessary eg: when Department of Health Guidance is issued in relation to capital limits, or if and when the Council makes a change to a relevant charging policy.
- 4.7 The framework is in line with the Care Act and all relevant charging policy (and practice) decisions of the Council to date.

5. Consultation

- 5.1 Although no changes were proposed to adult social care charging and financial assessment within the framework, it was felt that a focused, proportionate consultation seeking feedback on the draft document could be beneficial to the structure, format and design of the document.
- 5.2 The Consultation was open and accessible via the Council's website from the 3rd of November 2017 to the 1st of January 2018. All relevant local organisations, as outlined to and informed by the feedback of the Healthier Communities Select Committee in November, were approached directly and invited to respond to the consultation.
- 5.3 Healthier Communities Select Committee were informed of the outcome of the consultation and received the final draft of the framework. The committee noted the report and the framework at its meeting on Wednesday 7 February.
- 5.4 Formal responses from individuals via the Council's website were very small in number. In addition to the public questionnaire on the Council's website the Head of Adult Social Care liaised directly with appropriate colleagues and local support organisations to gather professional feedback, and the views of the individuals that the voluntary sector organisations support and advocate on behalf of.
- 5.5 A number of voluntary sector organisations, who collectively provide support to a large number of adult social care service users within Lewisham, gave detailed feedback on the framework and offered to

continue to work with officers to further develop the range of information sources and support available.

- 5.6 The feedback accepted the necessity of a comprehensive framework outlining charging and assessment, for both the council and the public, and welcomed the intention to provide comprehensive information, but recognised the difficulties in pulling all of the information into one document in a way that is easy to understand.
- 5.7 There was universal agreement that alternative summary versions of the information, as per the range of summary leaflets on the website, must continue to be used and shared widely with service users. We will also work with organisations locally to further develop the existing guides so they are as accessible as possible.
- 5.8 Some specific changes were suggested in relation to some of the details within the framework and these are detailed below.

6. Changes

- 6.1 As a result of feedback received and some system improvement work that has been completed, the following minor amendments have been made to the framework since it's consideration by HCSC in November, or will be taken forward in partnership with the support organisations in due course:

- 6.2 Debt recovery

Since the drafting of the framework, work has progressed with the development of a corporate debt policy. Therefore section 13 of the framework has been amended accordingly, and a link to the debt policy will be inserted when the debt policy is finalised.

- 6.3 Financial assessment

Since the draft framework was written, ongoing work to upgrade the interaction between the Council's charging and adult social care systems has progressed sufficiently to mean that the Council is now able to routinely implement cohort wide changes (such as DWP rate changes) automatically, rather than on a case by case basis. In light of this, the text in section 5 has been amended to clarify that actual known changes to both income and care packages will be used in an annual reassessment, alongside assumed income where still appropriate.

- 6.4 Clarity and expectations

The level of detail in the document and presenting it in an accessible way is recognised as a challenge. To be comprehensive it is necessary to include the level of detail it does, however, officers will continue to work with Lewisham MIND, Carers Lewisham and others to inform the development of this and subsequent documents/summary versions in due course which will incorporate the specific feedback. Additional text has been included to clarify that if there is a need for respite to support a person in remaining at home, this would be

assessed as part of a care and support assessment and that this would then be calculated within the cost of the care and support package across the course of a year.

6.5 Partnership Working

In line with the suggestions from support organisations; we will continue to develop the capabilities of our upgraded computer systems to explore potential further developments around notifications and reminders. We will further explore options to work in partnership with appropriate support organisations to support people to provide up to date financial information in a timely manner.

7. Financial Implications

- 7.1 There are no proposed changes within the charging and financial assessment process, therefore there are no direct financial implications from this report.

8. Legal implications

- 8.1 The Care Act enables the Local Authority to charge for services provided, in accordance with Regulations and Guidance. In setting any charging framework, Local Authorities are required to consult both current and future potential service users, together with stakeholders, providing sufficient and accessible information to enable the proposals to be understood and a timely and reasonable response to be made to be considered as part of the decision- making process.

9. Equalities implications

- 9.1 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 9.2 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
- 9.3 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to

have due regard to the need to achieve the goals listed in the paragraph above.

- 9.4 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 9.5 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

- 9.6 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
- [The essential guide to the public sector equality duty](#)
 - [Meeting the equality duty in policy and decision-making](#)
 - [Engagement and the equality duty: A guide for public authorities](#)
 - [Objectives and the equality duty. A guide for public authorities](#)
 - [Equality Information and the Equality Duty: A Guide for Public Authorities](#)
- 9.7 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

For further information on this report please contact Robert Mellors, Group Finance Manager Community Services on 02083146628

Background documents:

M&C ASC decision 2015

HCSC report November 2017

HCSC report February 2018

Appendix A – Adult Social Care Charging and Financial Assessment Framework