

Policy and Sustainability Committee

10:00, Tuesday, 12 March 2024

Implementation of full cost charges in care homes

Executive/routine
Wards

1. Recommendations

It is recommended that Policy and Sustainability Committee:

- 1.1 approve the proposed changes to the charging structure for care homes for older people managed by the Edinburgh Health and Social Care Partnership (the Partnership) and the change in care home charges for existing self-funding residents with effect from 1 June 2024.

Pat Togher

Chief Officer, Edinburgh Health and Social Care Partnership

Contact: Hazel Stewart, Programme Manager

E-mail: hazel.stewart@edinburgh.gov.uk

Implementation of full cost charges in care homes

2. Executive Summary

- 2.1 The Edinburgh Health and Social Care Partnership (the Partnership) is proposing a change in methodology used to set the full cost of charges for older people in care homes.
- 2.2 The new policy seeks to change the charging structure for charges to be paid by residents of care homes for older people managed by the Partnership on behalf of the City of Edinburgh Council (the Council) where the resident is liable to meet the full cost of their care. This will update the Council's approach to setting care home charges and ensure continued compliance with relevant legal and statutory guidance.
- 2.3 It is proposed that this new policy will be used to set the care home charges for financial year 2024/25 (from 1 June 2024).

3. Background

- 3.1 The rules for charging care home residents are set out in legislation and detailed in the charging for residential accommodation guidance (CRAG)¹, issued by the Scottish Government. The guidance states the following:
 - 3.1.1 "1006 Section 22 requires local authorities to set the standard rate for local authority homes at an amount equivalent to the full cost to the authority of providing the accommodation."
 - 3.1.2 "1010 In Local Authority managed homes, the authority must charge the full cost of providing the accommodation – the "standard rate". Where the local authority is satisfied that a resident is unable to pay the standard rate, it must assess his or her ability to pay and, on the basis of that assessment, decide the lower amount which should be paid."

¹ https://www.sehd.scot.nhs.uk/publications/CC2022_01.pdf

- 3.2 All care home residents aged over 65 are entitled to have the personal care and nursing elements of their care home fees met by the state, leaving them liable to meet the remainder of the charge. The actual charge to be paid by an individual is means tested and calculated in accordance with the guidance set out in CRAG. Any resident with capital and/or assets in excess of £35,000 (2024/25) is required to pay the full cost of their care (less the free personal and nursing care elements) until their capital falls below this threshold.
- 3.3 Most residents in the nine care homes managed by the Partnership on behalf of the Council contribute towards the cost of their care rather than meeting the full cost. However, approximately 7% of residents have been assessed as needing to meet the full cost of providing their care.
- 3.4 Charges to recover the full cost of the services are based on CRAG and are calculated on an annual basis. Advice from colleagues in legal services validates this process stating it is clear that section 22 of the National Assistance Act 1948 (“1948 Act”) imposes a duty on the Council to recover the ‘standard rate’ charge for care home accommodation unless a reduced charge has been imposed on an individual resident under s.22(3) of the 1948 Act. The ‘standard rate’ must be set at the full cost to the local authority for providing the accommodation (paras 1006 and 1010 of the CRAG guidance – detailed in section 3.1 above).
- 3.5 The methodology used to calculate the proposed 2024/25 charges has been refined from the approach used in previous years. These updates to the methodology are outlined in paragraph 4.2.

4. Main report

- 4.1 The Partnership provide care in nine Council owned care homes across the city. Four of the homes provide residential level care without nursing provision and five provide nursing level care with registered nurses onsite.
- 4.2 In cases where residents are assessed as required to meet the cost of the services they receive, the Council is required to set the charges on a full cost basis. Therefore, there is a legal requirement to recover the full cost of the service provision. The methodology to calculate these charges is reviewed on an annual basis and a number of changes are proposed for 2024/25 charges. These are set out below:

Move to single rate for each home

- 4.2.1 A single charge has applied for care provision in the four residential care homes. This reflects the fact that only one level of care is provided in these homes. The five larger care homes were designed to offer different levels of

care and the charging structure in place prior to 2024/25 was reflective of the different levels of care provision (residential, nursing and specialist dementia care).

- 4.2.2 Although the Partnership has always aligned the charges to CRAG and were legally compliant, a three-tiered charging structure was adopted in the larger homes. Each of the larger 60 bed care homes were designed to have a specific unit that provided a higher level of care provision and the tiered charging structure was adopted to reflect this.
- 4.2.3 In 2022, the EHSCP introduced a new nursing model of care into the larger care homes to provide more complex nursing care to residents to meet increased demand. Nursing care is not chargeable and until recently recruitment to the nursing positions was ongoing therefore, the Partnership were unable to define the beds as nursing provision. The nursing model is now in place in all the larger care homes and the EHSCP can now classify these beds as nursing care home provision.
- 4.2.4 The Partnership now offers residential care in the four smaller care homes and nursing care in the five larger homes. It is, therefore, extremely difficult to justify the difference between the levels of care provision described in the existing charging structure as residents either reside in a residential home or a nursing home.
- 4.2.5 It is therefore **proposed** that the full cost charge in any of the Partnership managed care homes is calculated on the same basis for all residents. This will result in a single charge per home. There will be no change for the four smaller homes where a single charge is already in place but does reflect a change in methodology for the five larger homes.
- 4.2.6 Equally though, a degree of flexibility will be required to recognise that not all current residents fit this prescribed model. In this transitional period it is **proposed** that the charge will be reduced by £125.88 per week (based on the difference between the residential and nursing care national care home contract rates) where residents have been assessed as requiring a lower level of care and support. This assessment would be aligned to the free personal and nursing care (FPNC) assessment, so if assessed as not entitled to nursing element of FPNC, residents would see their charge reduced by £125.88 per week.

Energy, repairs and maintenance costs

- 4.2.7 Historically these costs have not been recovered from residents. These costs are accounted for centrally within the Council's accounting arrangements and

have not previously been included in the calculation of residential charges. This is not in line with CRAG which requires local authorities to cover the full cost of services provided.

- 4.2.8 This change will apply to each of the 9 homes and will see charges increase by between £66 and £126 per week.

Castlegreen and North Merchiston

- 4.2.9 The management of these homes changed during 2023/24, when the Partnership took over the running from Four Seasons Healthcare. As has been previously reported this change was accompanied by a material increase in the costs to run the homes, both in terms of the investment to bring the environment to an acceptable standard and the associated increased running costs. In line with CRAG, these increases have to be reflected in the charges to residents. This change brings charges for Castlegreen and North Merchiston more into line with the charges for the EHSCP's comparable homes at Marionville, Royston and Inchview.

Inflationary increases

- 4.2.10 As well as the factors discussed in 4.2.1 to 4.2.9 above, the charges have been increased to reflect standard inflationary changes. For example, the anticipated pay award and general cost increases.

Rationale

- 4.2.11 Ideally, all charges should be calculated in the December of the previous year to take effect from the following April. Budgets are set in February and charges must be agreed and approved to be included in the budget agreed by the Council.
- 4.3 The proposed new charging structure will ensure the Council recovers the appropriate level of income from charges relating to the provision of residential care and is compliant with the requirements set out in CRAG in relation to determining the full cost of providing services, reiterated by legal colleagues.
- 4.4 The proposed new charging structure will also ensure a consistent and equitable approach is applied to setting rates for those residents who are liable to meet the full cost of their care. However, due to the variation between the existing charges and newly calculated charges, this will have a significant impact on the majority of self funding residents. This is discussed further in section 5 below.
- 4.5 Legally, local authorities are required to charge the standard rate for the accommodation and cannot offer any form of protection to existing residents unless a reduced charge has been imposed on an individual resident under s.22(3) of the 1948 Act on a case-by-case basis. It is not therefore possible to cap the increase to mitigate the impact to a whole category of existing residents who are most adversely affected.

- 4.6 As this proposal is a change to the existing policy, an integrated impact assessment has been completed and is included at appendix 2.

5. Next Steps

- 5.1 Letters to residents and their families who may be impacted by these changes should they be approved were issued on the 1 March 2024. The correspondence informs families of this proposal and advises that face to face meetings will be arranged should the change to the charging structure be approved.
- 5.2 If approved, meetings will be established between the care home where the resident stays and their families to discuss the impact of the charges on an individual resident basis.
- 5.3 Following these meetings and prior to the charges taking effect, the Residential Review team (RRT), will undertake individual financial assessments of each resident impacted by the changes to ensure they still qualify to meet the full cost of their care. The financial threshold has increased for 2024/25 and any resident that's income and assets fall below the new threshold would have their financial status updated to become local authority funded.
- 5.4 Once the financial assessments have been completed, any residents that are assessed as being able to meet the full cost of their care will have their new charges applied from 1 June 2024.

6. Financial impact

- 6.1 The revised charges have been calculated based on the budgeted cost for each care home and are available in appendix 1.
- 6.2 On average, weekly charges would increase by £225 or 20% using the approach outlined in this paper.
- 6.3 The financial impact on the residents currently required to meet the full cost of their care has been estimated. Based on the newly calculated charges, residents will see a weekly increase in their accommodation costs of between 16% and 109% however, if residents are assessed as not entitled to nursing element of FPNC, it is proposed that residents would see their charge reduced by £125.88 per week. The greatest impact will be on the residents in Castlegreen and North Merchiston, reflecting the increased costs of running these homes. A small number of residents (two) who are currently paying the specialist dementia care category rate will see a reduction in their weekly costs of between 20% and 24%. To fully assess the impact, consideration would have to be given of any remaining capital and how close this is to the limit of £35,000 (2024/25).

- 6.4 The Partnership will be reviewing free personal and nursing care rates for those who pay the full charge as this could mitigate the increases. A detailed communications plan will also be developed to ensure current residents are informed of the changes.

7. Equality and Poverty Impact

- 7.1 Full adoption of, and alignment to, CRAG will ensure that all residents in care homes managed by the Partnership and owned by the Council, who are liable to meet the full cost of their care will be treated equitably.
- 7.2 Adoption of this new charging structure will ensure a consistent and equitable approach is applied; however, this could have a significant impact on some residents currently being charged at a lower rate for their care.
- 7.3 There will be adverse impacts on existing residents, and this has been considered, especially as protected charges can no longer be applied. Following legal advice and to ensure compliance with legislation, there is not an option to cap the increase for existing residents as the Partnership must charge the full cost of providing the accommodation - the "standard rate". It could be argued that the existing charging structure has been extremely favourable especially when compared with the external market and the revised charging structure is much more realistic than what is currently in place. However, it is acknowledged that the new structure will have a significant impact on existing residents, particularly those who are currently charged at the lower residential rate.
- 7.4 Detail of the revised charges is included within [appendix 1](#).

8. Climate and Nature Emergency Implications

- 8.1 As a public body, the Council has statutory duties relating to climate emissions and biodiversity. The Council
- “must, in exercising its functions, act in the way best calculated to contribute to the delivery of emissions reduction targets”
- (Climate Change (Emissions Reductions Targets) (Scotland) Act 2019), and
- “in exercising any functions, to further the conservation of biodiversity so far as it is consistent with the proper exercise of those functions”
- (Nature Conservation (Scotland) Act 2004)

- 8.2 The City of Edinburgh Council declared a Climate Emergency in 2019 and committed to work towards a target of net zero emissions by 2030 for both city and corporate emissions and embedded this as a core priority of the Council Business Plan 2023-27. The Council also declared a Nature Emergency in 2023.

Environmental Impacts

- 8.3 There are no environmental impacts associated with this policy.

9. Risk, policy, compliance, governance and community impact

- 9.1 There has been no external consultation and engagement on the proposals set out in this report as they are only intended to rationalise and clarify the application of the Council's legal duties in respect of charging for residential care.
- 9.2 The new charges will come into effect from 1st June 2024.

10. Background reading/external references

- 10.1 N/A

11. Appendices

[Appendix 1](#): Detail of revised charges

Appendix 2 – Integrated Impact Assessment

Appendix 1 – Revised charges and impact

Care Home	23/24 care category	23/24 charge p/w	24/25 care category	24/25 charge p/w	Difference between 23/24 and 24/25 (p/w)
Clovenstone	Residential	£1,331	Residential	£1,612	£281
Ferrylee	Residential	£1,522	Residential	£1,815	£293
Ford's Road	Residential	£1,426	Residential	£1,631	£205
Jewel House	Residential	£1,311	Residential	£1,646	£335
Inch View	Residential	£1,385	Nursing	£1,716	£331
	Nursing	£1,575			£141
	Specialist Dementia	£1,883			£-167
Marionville Court	Residential	£1,375	Nursing	£1,668	£293
	Nursing	£1,564			£104
	Specialist Dementia	£1,870			£-202
Royston Court	Residential	£1,422	Nursing	£1,654	£232
	Nursing	£1,619			£35
	Specialist Dementia	£1,937			£-283
Castlegreen	Nursing	£1,099	Nursing	£1,621	£522
	Specialist Dementia	£1,300			£321
North Merchiston	Residential	£941	Nursing	£1,621	£680
	Nursing	£1,060			£561
	Specialist Dementia	£1,253			£368
Average		£1,437		£1,665	£225

Integrated Impact Assessment – Summary Report

Each of the numbered sections below must be completed
Please state if the IIA is interim or final

1. Title of proposal

Care Home Charging

2. What will change as a result of this proposal?

The care home charging policy will change the charging structure for charges to be paid by residents of care homes for older people managed by the EHSCP on behalf of the City of Edinburgh Council where the resident is liable to meet the full cost of their care.

3. Briefly describe public involvement in this proposal to date and planned

There has been no public involvement with this proposal to date, a communications plan will be developed to structure the comms and engagement activities required to implement this proposal.

4. Is the proposal considered strategic under the Fairer Scotland Duty?

No

5. Date of IIA

6th February 2024

6. Who was present at the IIA? Identify facilitator, lead officer, report writer and any employee representative present and main stakeholder (e.g. Council, NHS)

Name	Job Title	Date of IIA training
Jane Brown	Senior Care Home Manager	
Hazel Stewart	Programme Manager	February 2020
Jacqui Macrae	Chief Nurse	
Alison Aliscio	Transaction officer	
Gail James	Senior Social Worker	
Shirley Middleton	Business Manager	
Catherine Smith	Transaction team manager	

7. Evidence available at the time of the IIA

Evidence	Available – detail source	Comments: what does the evidence tell you with regard to different groups who may be affected and to the environmental impacts of your proposal
Data on populations in need		Older people over 65 and residents within the Partnership managed care homes
Data on service uptake/access		The proposed changes will affect 24 residents within the Partnership managed care homes
Data on socio-economic disadvantage e.g. low income, low wealth, material deprivation, area deprivation.		
Data on equality outcomes		
Research/literature evidence		https://www.sehd.scot.nhs.uk/publications/CC2022_01.pdf
Public/patient/client experience information		
Evidence of inclusive engagement of people who use the service and involvement findings		There has been no engagement with service users at this time however a comms plan is being developed to advise resident's affected by the changes of the likely impact this will have on them
Evidence of unmet need		n/a
Good practice guidelines		https://www.sehd.scot.nhs.uk/publications/CC2022_01.pdf
Carbon emissions generated/reduced data		n/a
Environmental data		n/a
Risk from cumulative impacts		

Evidence	Available – detail source	Comments: what does the evidence tell you with regard to different groups who may be affected and to the environmental impacts of your proposal
Other (please specify)		
Additional evidence required		

8. In summary, what impacts were identified and which groups will they affect?

Equality, Health and Wellbeing and Human Rights	Affected populations
<p>Positive – Access to enhanced nursing care on site instead of peripatetic support (district nursing) in the larger 60 bed care homes. An equitable charging structure for all residents who are self-funding. More clarity on the charging structure through implementation of a single rate per care home and better understanding by residents, families and staff. Moving to a single rate per care home will be easier to manage internally and will be easier to explain to families. The new charging structure will see a reduced rate for some residents and families who are paying the higher specialist dementia rate at present. The financial impact of the new charging structure won't lead to any resident losing their home, care will continue to be provided either through self-funding or residents moving to local authority funded if their assets fall below the threshold of £35,000 – all self-funding residents will be reassessed financially to ensure they are assessed as needing to meet the full cost of their care. Any resident assessed as having assets below the threshold will transition to local authority funded. Staff will be able to easily identify accommodation options for future residents based on their assessed need with the older homes offering residential care and the larger homes offering nursing care.</p>	<p>Older people, over 65 in EHSCP managed care homes who are Self-Funding</p>
<p>Negative – Anxiety for residents and families moving to a different charge. There is the potential of challenge from families due to the changes to the rates in the larger care homes, families could question why the rate has changed so</p>	

Equality, Health and Wellbeing and Human Rights	Affected populations
<p>significantly when there doesn't appear to be a change to the care provision.</p> <p>No ability to apply a protected rate to existing residents due to existing policy – potential for challenge by residents and families who may have been offered protection previously.</p> <p>Residents who are most significantly affected may see their assets reduce much quicker than anticipated due to the increased charge for their care.</p>	

Environment and Sustainability including climate change emissions and impacts	Affected populations
<p>Positive – The charging structure is now reflective of the care provision offered within each care home, specifying the type of care, making it easier for staff to identify the right environment for residents requiring 24-hour care based on an assessment of their needs.</p> <p>The proposed charging structure includes a charge towards repairs and maintenance of the care homes which was previously covered by facilities management within the council. This charge ensures that repairs and maintenance costs are covered enabling the care homes to be maintained to the agreed standard without adding additional financial pressure to the Partnership, this is particularly important for the older homes in the estate to ensure they can continue to operate.</p>	<p>Older people, over 65 in EHSCP managed care homes who are Self-Funding</p>
<p>Negative</p> <p>The proposed charging structure sees a substantial impact on the unit cost of Ferrylee care home, this doesn't affect any of the residents as Ferrylee does not have self funding residents. The increased unit cost is due to the staffing ratio per number of operational beds. By only operating 27 of 43 beds, the Partnership is not maximising the use of the environment.</p> <p>The increased unit cost of Ferrylee is more comparable with the nursing care homes even though Ferrylee does not employ nurses due to environmental limitations, if the beds are to remain closed, consideration should be given to the staffing ratio within the care home.</p>	

Economic	Affected populations
<p>Positive – The proposed charging structure will see a reduced charge for a small number of residents paying the higher specialist dementia rate at present.</p>	<p>Older people, over 65 in EHSCP managed care homes who are Self-Funding</p>

Economic	Affected populations
<p>Residents will now be able to claim the nursing element of free personal and nursing care in larger 60 bed care homes potentially having a positive impact on their finances.</p> <p>The income maximisation for the Partnership will improve.</p> <p>A simpler charging structure will make it easier for internal teams to recharge to one rate per care home.</p> <p>The proposed charging structure will mean that the Partnership managed care homes are more aligned to the private and independent sector charges, increasing the income recovery potential.</p>	
<p>Negative – Potential for some residents to become local authority funded sooner than anticipated due to assets falling below the threshold.</p> <p>Potential impact on families of residents who may have anticipated an inheritance which could be considerably reduced or depleted due to the increase in charges.</p> <p>Residents in Castlegreen and North Merchiston care homes are the most adversely affected due to previous fees, set by Four Seasons Healthcare, being so low. A mitigation has been applied to reduce the cost for these residents.</p>	

9. Is any part of this policy/ service to be carried out wholly or partly by contractors and if so how will equality, human rights including children’s rights, environmental and sustainability issues be addressed?

No

10. Consider how you will communicate information about this policy/ service change to children and young people and those affected by sensory impairment, speech impairment, low level literacy or numeracy, learning difficulties or English as a second language? Please provide a summary of the communications plan.

Yes – communications plan in development for residents, families and staff.

11. Is the plan, programme, strategy or policy likely to result in significant environmental effects, either positive or negative? If yes, it is likely that a Strategic Environmental Assessment (SEA) will be required and the impacts identified in the IIA should be included in this. See section 2.10 in the Guidance for further information.

No

12. Additional Information and Evidence Required

If further evidence is required, please note how it will be gathered. If appropriate, mark this report as interim and submit updated final report once further evidence has been gathered.

13. Specific to this IIA only, what recommended actions have been, or will be, undertaken and by when? (these should be drawn from 7 – 11 above) Please complete:

Specific actions (as a result of the IIA which may include financial implications, mitigating actions and risks of cumulative impacts)	Who will take them forward (name and job title)	Deadline for progressing	Review date
Comms and engagement plan	John McKee/Jane Brown	March 2024	
Increased workload for teams required to implement the policy – resource requirements may need considered	Transactions team Care home managers/business support	April 2024	

14. Are there any negative impacts in section 8 for which there are no identified mitigating actions?

No

15. How will you monitor how this proposal affects different groups, including people with protected characteristics?

Ongoing reviews and assessments at appropriate points in time

16. Sign off by Head of Service

Name

Date

17. Publication

Completed and signed IIAs should be sent to:

integratedimpactassessments@edinburgh.gov.uk to be published on the Council website www.edinburgh.gov.uk/impactassessments

Edinburgh Integration Joint Board/Health and Social Care

sarah.bryson@edinburgh.gov.uk to be published at

www.edinburghhsc.scot/the-ijb/integrated-impact-assessments/