

REPORT TO: East Lothian Council

MEETING DATE: 23 April 2024

BY: Director of Health and Social Care

SUBJECT: Non-Residential Charging: Social Care

1 PURPOSE

- 1.1 To inform East Lothian Council of the current position on the Non-Residential Charging policy for Social Care and the proposed changes.
- 1.2 To seek agreement from East Lothian Council to changes to the Non-Residential Charging Policy 2024- 2025.

2 RECOMMENDATIONS

- 2.1 East Lothian Council is asked to:
 1. Note the contents of this report.
 2. Agree the recommendations summarised in 2.2 of the report.
 3. Note that any increase to charges requires a 1-month notice period to the payer and that charges to each individual will be limited by the income protection measures outlined in paragraph 3.10.
- 2.2 Summary of Recommendations:
 1. Approve the inclusion of ILF charges within the current Financial Assessment Process.
 2. Approve the recommendation to increase the taper 1st taper from 60% to 65% from April 2024 with a further 5% increase in the following three years to 75% from 1 April 2027
 3. Approve the phased removal of the 2nd Taper within the current Financial Assessment Process.
 4. Approve the removal of the £50 board and lodgings disregard applied to people who live with family and/or friends who have no formal rental charge or tenancy responsibilities.

5. Approve the recommendation to remove subsidy for frozen meals and complete removal of the hiring costs of freezers and microwaves.
6. Approve the recommendation to reduce the subsidy for Community Alarms from 33% to 0% over a 3-year period from 1 April 2024.
7. Approve yearly updates of Financial Assessments to ensure charges are increased in line with benefits uplifts and increasing income.
8. Approve a 10% increase in charge for Care at Home, and transport and 6% increase for resource centre and transport to and from resource centres.

3 BACKGROUND

- 3.1 Councils are empowered by statute to make decisions about charging for non-residential community care services. This includes services provided under the Social Work (Scotland) Act 1968, the Mental Health (Scotland) Act 1984, and the Community Care and Health (Scotland) Act 2002. Additionally, a consequential modification to the Public Bodies (Joint Working) (Scotland) Act 2014 (the legislation which established Integration Authorities) makes it clear that social care charging is not delegated to IJBs and remains a Council function. As such, any changes to charging policies which relate to Adult Social Care services in East Lothian require to be approved and implemented by East Lothian Council.
- 3.2 East Lothian, along with the majority of councils in Scotland, charge for some of the services provided to our service users. These charges are an important source of income and are a means to help us to deliver services and our policy aims. Income from service charges is reinvested in order to maintain and develop services.
- 3.3 In March 2021, the Scottish Government pledged to end charging for non-residential social care services. In their Programme for Government 2023 to 2024 the Scottish Government clarified that they will “explore with Local Government and agree an approach to ending all non-residential social care support charges within the lifetime of this Parliament”. Precisely how, when, or indeed if, this will be delivered remains unclear. In the meantime, local authorities have been left with no choice but to charge for non-residential social care services.
- 3.4 Due to the level of protection afforded to our most financially challenged service users, through the use of a means tested charge, the total amount we receive from charging for non-residential services represents only a small percentage c.2.53% of the costs of delivering those services. In addition, (based on an analysis of the 2023/24 financial assessment data) 54% of service users who have a chargeable service do not pay anything towards the cost of the services they receive

(excluding alarms and meals), and the remaining 46% were assessed as being able to afford to contribute towards the cost of their care.

- 3.5 Convention of Scottish Local Authorities (CoSLA) national guidance provides councils with clarity on the regulations, legislation, and application of benefits to be applied when determining an individual's charge. The CoSLA guidance does not, however, 'require' councils to charge, and equally it does not prevent councils from implementing more generous treatment of an individual's circumstances than suggested in the guidance. The guidance provides a framework for councils to adopt whilst allowing for local accountability and discretion, and at the same time encourages councils to adopt best practice in the development of their policies.
- 3.6 Included within the CoSLA guidance are three main provisions to reduce the impact of social care charges: extending free personal care to all under 65s, waiving of charges for people who are terminally ill and providing support services for carers. These provisions have been fully implemented within East Lothian (see Appendix 3).
- 3.7 Members should be aware that the outbreak of the COVID-19 pandemic in early 2020 resulted in a halt of reviewing of annual financial assessments. In addition, the proposal of the Scottish Government at the time to remove non-residential charging, resulted in a hold on progressing any changes to the policy.

Current Charging Model

- 3.8 East Lothian Council's Non-Residential Charging Policy, which has been developed within the parameters of the current legislation and guidance, and is consistent with CoSLA's guidance, sets out the legislative background to charges for non-residential social care services. It also describes the services for which service users' contributions apply, together with the level of protection afforded to our most financially challenged service users, through the application of financial assessments, the impact of minimum income thresholds and charging tapers.
- 3.9 The current Non-Residential Charging Policy is based on a combination of charging models:
 1. **Free of charge:** we provide some services free of charge and free personal care for those assessed as requiring personal care.
 2. **Low flat rate charges:** we have a number of low flat rate charges: community meals, transport and community alarms.
 3. **Charges which are financially assessed:** such as Care at Home (for those limited range of tasks which are not classed as free personal care), attendance at building-based day centres (excluding older people day centres as the centre applies their own charge)
- 3.10 The policy also explains the income protection measures in place which include:

1. **Financial Assessment:** The Financial Assessment process for Non-Residential charges is complex. Financial Assessments are a national process used to calculate how much a service user can afford to pay towards the costs of their care; the amount a service user pays cannot be more than the cost of delivering that service(s). The Financial Assessment process captures how much income and capital a service user has, and also provides an opportunity to ensure service users are receiving the full range of benefits they are entitled to.
2. **Minimum income thresholds:** this is the minimum amount of income below which a service user should not be asked to pay towards the costs of the service(s) they receive. CoSLA provides annual advice on the level of weekly income below which a person should not be asked to pay charges. These are known as Minimum Income Thresholds and are updated each financial year in line with the Department of Work and Pensions (DWP) benefit up-rates. If the assessable weekly income is less than the minimum income threshold figure, there will be no charge for services other than the flat rate charges (East Lothian Council calculates contributions for adult social care based on what is known as "assessable income.") This term encompasses an individual's gross income, allowable expenses, and disregards. The use of assessable income is a means to maintain a balance between affordability and financial fairness.
3. **Buffer:** In order to provide additional support for those on a low income, a 'buffer' is added so that not all of a service user's remaining income is taken into account when calculating their payment towards the cost of their service(s). This therefore allows service users to retain more of their disposable income and has a similar impact as reducing the taper. In 2016 the buffer increased from 16.5% to 25%, with the associated cost (in relation to loss of income) to local authorities of doing so funded by the Scottish Government. The buffer has since remained at this level. At present the Scottish Government has given no indication of any plans to review or amend the current buffer rate.
4. **Tapers:** this is a locally agreed percentage applied to service users' income which has a direct impact on how much an individual will pay towards their care needs. Setting the percentage taper will be influenced by a number of factors, not least the requirement to raise income to maintain good quality support.

3.11 Appendix 1 to this report provides examples of how a service user's charge is calculated using East Lothian current Charging Policy.

Proposed Changes

3.12 **Financially Assess people who receive Independent Living Fund (ILF) funding.**

3.12.1 The ILF Scotland 2015 Fund is designed to support individuals who have complex disabilities to live independently. The 2015 Fund is currently closed to new applicants; however, 14 service users have services which have been historically funded and arranged by both ELHSCP and the Independent Living Fund (ILF).

3.12.2 ILF apply a flat charge to their service users of £43 per week (2023-2024). Currently we do not financially assess or charge people who receive ILF funding. However, the current ILF rate is significantly lower than the current weekly charges applied by ELC, which range from £15.69 to £116 per week. 76% of people who contribute towards their services via a charge from ELC are paying more than those who receive a charge from ILF.

3.12.3 To ensure equity of charges it is proposed that the 14 people who receive ILF funding currently should go through ELC's financial assessment process. The ILF charge will be taken into account with the financial assessment but should the financial assessment evidence ability to pay above their current ILF Charge then ELC would seek to bill for the difference between the newly ELC assessed charge and the £43 ILF charge.

3.12.4 Should the ILF reopen the same charging process would apply to new applicants, ensuring equity across service users receiving social care services.

3.13 Increase the taper 1 from 60% to 65 % from April 2024 with a further 5% increase in the following three years to 75% from 1 April 2027

3.13.1 The gradual removal lessens the impact of the increase of taper 1 to 75% and the complete removal of taper 2. Therefore, it is recommended that increasing the first taper is implemented in 2024 and increase in 5% increments to reach 75%.

3.13.2 The gradual increasing in taper will be a more affordable way to implement the increase and will be in line with current benefit uplifts on which the financial assessment is, in the most part, based.

3.13.3 Once the 2nd taper is removed in 26-27, taper 1 will be applied to the full available income.

3.14 Removal of the 2nd taper within the Financial Assessment Process over three years until removal in 2026/27

3.14.1 Part of the financial process includes a second two taper (see Appendix 1) which reduces the amount of available income for charging.

3.14.2 East Lothian has two tapers:

The first £50 of chargeable income above the threshold (Taper 1)	60%
Any additional chargeable income above the threshold (Taper 2)	75%

- 3.14.3 The second taper is outwith tapers in other local authority areas (see Appendix 2). This means that we are not accessing available income at a level to sustain services.
- 3.14.4 The complete removal of the 2nd taper will increase the amount of available income to pay for services. It will also mean some people who were not eligible for a charge may become eligible.
- 3.14.5 However, complete removal of the 2nd taper in a single year would have a significant impact on the charge to clients, with an average 22% increase in charge per week arising. It is therefore considered necessary and appropriate to phase the removal of the 2nd taper from 24/25 by applying an increase of 5% in 24/25, which results in an average 7.4% increase per person. This increase includes the impact of the increase of taper 1 in the same year by 5%.
- 3.14.6 Taper 2 would then increase by 10% in year 2 to 90% and then complete removal in year 3, 2026-27. Once the removal of taper 2 is complete, taper 1 would be applied to the full available income.

	23/24	Year 1 (24/25)	Year 2 (25/26)	Year 3 26/27
Taper 1	60%	65%	70%	75% (remove £50 allowance)
Taper 2	75%	80%	90%	100%
Average % increase in charge per person		7.4%	10.4%	9.4%

3.15 Approve the removal of the £50 board and lodgings disregard

- 3.15.1 If the service user is not directly liable for housing, council tax and water and sewerage costs (because, for example, they live with their parents or other people who are responsible for those bills), a set allowance of £50 per week for the services users 'board and lodgings' is applied.
- 3.15.2 The removal of this charge may allow some people who are living at home to be charged for their care services, in the same way those who live in their own homes would incur a charge.
- 3.15.3 The £50 payment is not monitored, and should the individual be making payments for 'board and lodgings' then this could be considered within the Charging Appeals process.

3.16 Remove subsidy for frozen meals and the hiring of freezers and microwaves

- 3.16.1 East Lothian HSCP provides this discretionary service to support people to live at home more independently, providing nutritious yet highly economical meals. East Lothian HSCP currently subsidises the meals provided in day centres, sheltered housing facilities and to service users within their own homes. For those service users who are not assessed as requiring this service or who make their own arrangements there is no corresponding food allowance.
- 3.16.2 There is also an arrangement from the provider of meals to provide hire of fridge freezers and/or microwaves. The cost of which has been covered by ELHSCP. The equipment is the property of the provider. This service is not used now as people are supported through welfare funds to purchase their own equipment outright or increasingly have the equipment already in place.
- 3.16.3 For those people who still have a freezer or microwave on hire, we would look to end this arrangement with the provider and support outright purchase for the individual through welfare funds if required.
- 3.16.4 The cost of the meal will be on full cost recovery and remain in line with the procured cost of the service. This would see an increase in 2024-2025 of 10% to £4.20 per meal.

3.17 Reduce the subsidy for Community Alarms from 30% to 0% over 2 years from 1 April 2024

- 3.17.1 East Lothian HSCP currently provides an enhanced service providing a Responder team 365 days a year, 24 hours a day, to support residents and their families by providing a first response, to triage and assist residents with falls, personal care or any emergency assistance required.
- 3.17.2 The Community Alarm team install all alarms and telecare sensors which allows for installations to take place seven days a week, supporting hospital discharges as alarms can be fitted on the day of discharge. Technicians and responders provide a robust end-to-end service, including equipment installation and maintenance.
- 3.17.3 There are currently 2141 alarms in service, of which approximately 80% pay towards their alarm cost. Costs can be waived through an appeals process and waiver is based on risk if the alarm was removed due to refusal to pay and/or financial hardship. In addition, where an alarm is in place due to a Compulsory Treatment Order, a charge can't be made.
- 3.17.4 The current (23/24) charge for alarms is £4.05 per week. This currently covers the previous historic cost of the alarm service and is comparable to the National average £4.01.
- 3.17.5 The cost of the community alarm is rising significantly to approximately £12.00 per week per alarm. This is due to the requirement to move the alarms from analogue to digital technology in the UK's telephone infrastructure. Cost increases are a result of:

1. Equipment upgrades: as part of this transition, various devices and services that rely on analogue telephone connectivity require to be upgraded to work with the new digital systems. This includes community alarm services. Upgrading this equipment is necessary to ensure it remains functional and can connect to the new digital infrastructure.
 2. SIM cards: the new digital-ready equipment will need to come equipped with SIM cards, enabling devices to connect to mobile networks and the internet, which is crucial for IP-based connectivity. This additional requirement adds to the cost of the equipment.
 3. Shorter shelf life: digital-ready alarm devices and their peripherals typically have a shorter shelf life compared to older analogue equipment. This means that they may need to be replaced more frequently.
- 3.17.6 For the 2023/24 financial year the current charge level is forecast to result in a 30% subsidy (£156,627)¹ of the costs of the community alarm service which is not financially sustainable.
- 3.17.7 In order to ensure the financial sustainability of this vital service and taking into account the increased costs associated with delivering the service, it would be prudent for East Lothian Council to revisit the subsidy with a review to a reduction.
- 3.17.8 It should be noted that previously the East Lothian Integration Joint Board has earmarked some £750,000 use of reserves to support the costs of transitioning from analogue to digital. During 2023/24 some £185,000 is estimated to be required for these costs, meaning £565,000 of previously earmarked funding may be available to support future ongoing transition costs.
- 3.17.9 The table below outlines a 3-year plan to reduce the anticipated subsidy from 30% to 0% (based on 23/24 forecast costs, including the estimated costs of analogue to digital transition). Members should, however, note that these are indicative and would be subject to annual pay award and other inflationary increases. There is also the possibility that some service users would decline to take or continue using this discretionary service in light of increasing charges. The potential increase in charges for 25/26 and 26/27 to achieve a break-even position (as indicated below) can be anticipated to require review in 24/25 as the costs and demand for the service may change.

¹ Estimated net costs for year before fees for alarms = £517,627. Estimated fees outturn for 23/24 = £361,000. Therefore estimated subsidy = £156,627 which is 30% of £517,627.

Year	% increase per alarm	£ Increase per alarm	Charge per week	Total Income (estimated)	Additional Income	Service Costs: estimated outturn 23/24 costs before income from charges	% Subsidy based on 23/24 costs
23/24	-		£4.05	£361,000	£0	£517,627	30%
24/25	11%	£0.45	£4.50	£401,111	£40,111	£517,627	23%
25/26 ^a	11%	£0.50	£5.00	£445,679	£44,568	£517,627	14%
26/27 ^a	16%	£0.80	£5.80	£516,988	£71,309	£517,627	0%
a – Potential changes in estimated costs and service demand for 25/26 and 26/27 may require further review of proposed charges to achieve a break-even position by the end of 26/27.							

3.18 Implement 10% increase in charge for Care at Home and transport and 6% increase for resource centre and transport to and from resource centres

3.18.1 As part of East Lothian Council and the HSCP's commitment to deliver on the Scottish Living Wage, Care at Home rates paid to our external providers are updated annually in line with the agreed Scottish Living Wage increase and, where relevant, inflationary increases. It is therefore recommended that the charges for Care at Home be increased in line with the Scottish Living Wage, in addition, where relevant, any inflationary increases should also be reflected in the charge. This alignment would better reflect the costs of providing the service and would be in line with the basis of the proposed contributions model. For 2024-2025 this would be 10%.

3.18.2 With regards to other financially assessed charges the increase should remain in line with the uplift in benefits each year which for 2024-2025 would result in a 6% uplift in charges.

3.18.3 These increases would still be subject to the Financial Assessment limits for the individual and the income protection measures noted earlier in this paper. Based on a typical monthly care at home billing schedule it is estimated that, of those currently contributing towards the costs of their care, some 88% are already at their maximum financial contribution, representing some 95% of the typical monthly income from care at home billing. Consequently, the initial impact on the partnership's income could be limited (below £5,000 per annum) because of the existing assessed contribution client ceiling.

3.18.4 Estimation of the impact of the changes after review of existing Financial Assessments is challenging due to the variability of factors affecting individual circumstances and changes since the previous assessments. Ignoring other factors affecting contribution limits, however, the increase in current income for the partnership could, in total, be approximately £54,000 for all those currently contributing. Additionally, some individuals not currently contributing to their care may, in future, be

assessed as being able to contribute and therefore these charge changes could impact on them.

3.19 Implement annual review of Non-residential Financial Assessments to ensure charges are increased in line with increases in income

3.19.1 With the exception of the meals related charges and community alarms the impact for any given individual of the proposed changes in charges noted above will be dependent on the financial assessment of that individual's circumstances. This determines the maximum contribution, where relevant, that the individual would be expected to make to the costs of their care.

3.19.2 Consequently, for an individual the impact of any change in relevant charge rates, changes in the taper, and the removal of the board and lodgings disregard will be dependent on the individual's personal and financial circumstances. For existing service users their maximum contribution is not affected until or unless a revised Financial Assessment is undertaken.

3.19.3 A review of each Financial Assessment should therefore ideally occur each year to ensure that any uplift in relation to income as a result of increases in benefits is taken account of in the charge for services, and that the impact on the individual recognises their current financial circumstances and assessed capacity to contribute.

3.20 Engagement

3.1 East Lothian HSCP has a working group that considers Non-residential Charging. The group is attended by advocacy representation, Elected Member and officers from the social work operational team and finance team.

4 POLICY IMPLICATIONS

4.1 Non-residential Charging Policy will be updated on the outcome of this report.

5 INTEGRATED IMPACT ASSESSMENT

5.1 The subject of this report has been subject to an Integrated Impact Assessment process and the results have been published online. [IIA - Proposal to increase Non-Residential charges | East Lothian Council](#)

6 RESOURCE IMPLICATIONS

6.1 Financial – As detailed in the paper a predicted increase in income for ELHSCP as a result of the changes to rates and the Financial Assessment process is difficult to quantify. Predicted alarm charges

increase of £40,000 and Financial Assessed charges this would result in a approx. £54,000 full year affect in 24-25.

6.2 Personnel – N/A

6.3 Other – N/A

7 BACKGROUND PAPERS

7.1 [Non Residential Social Care Charging Policy 2023-24 | East Lothian Council](#)

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DATE	10 April 2024

APPENDIX 1

Financial Assessment

Total Income = £324.85 per week
Disregard = £111.70 per week
Net Income = £213.15
Charging Threshold = £137.00
Available Income = £76.15
Taper 1; 60% of first £50.00 = £30.00
Taper 2; 75% of remainder = £19.61
Assessed contribution = **£49.61 per week**

Increase in Tapers year 1

Total Income = £324.85 per week
Disregard = £111.70 per week
Net Income = £213.15
Charging Threshold = £137.00
Available Income = £76.15
Taper 1; 65% of first £50.00 = £32.50
Taper 2; 80% of remainder = £20.92
Assessed contribution = **£53.42 per week (increase of £3.81 per week)**

APPENDIX 2 - TAPERS

Local Authority	Taper 1	Taper 2
East Lothian	60% (of first £50)	75% (of remainder)
Mid Lothian	70% (of all available income)	N/A
West Lothian	65 % (of all available income)	N/A
Scottish Borders	75% (of all available income)	N/A
Angus	75% (of all available income)	N/A

APPENDIX 3

Main provisions to reduce the impact of social care charges and summary numbers of charges

1. Free Personal and Nursing Care was first introduced by the Community Care and Health (Scotland) Act 2002 and applied only to those aged 65 or over, assessed as needing personal and or nursing care, this was further extended from 1 April 2019 to those under 65 regardless of their condition. This means that, for those people in Non-residential care, Councils cannot charge for any assessed personal or nursing care needs. Those assessed as needing non-personal care services, or a mix of personal and non-personal care, may still be required to pay a charge subject to their Financial Assessment. The Financial Assessment determines the level of charge based on the individual's financial resources.
2. In respect of individuals with a terminal illness, the CoSLA guidance recommends – though does not stipulate – that charges for social care are waived. The prognosis of terminal illness is determined using the updated Scottish Government definition as follows: *“An individual is to be regarded as having a terminal illness for the purpose of determining entitlement to disability assistance if, having had regard to the (Chief Medical Officer's (CMO) guidance), it is the clinical judgement of a registered medical practitioner that the individual has a progressive disease that can reasonably be expected to cause the individual's death.”* East Lothian Council and East Lothian HSCP fully support the CoSLA recommendation and individuals with a terminal illness are not charged for non-residential social care.
3. East Lothian HSCP is dedicated to supporting carers in multiple ways. We allocate funding to ensure carers can access essential services without being charged. Additionally, we provide financial assistance through personal budget calculations to ease the burden on carers by funding replacement care and respite services. We also collaborate with and fund the local carers centre, a valuable resource for information, respite care, and other opportunities. Our comprehensive approach aims to empower carers, enhance their well-being, and enable them to continue providing essential care to their families without any additional costs. It should be noted with the implementation of this policy came a reduction in income particularly around the provision of respite.
4. Summary of people being charged for non-residential social care services March 2024:
 - 273 people receive a chargeable service
 - 126 people pay towards their care (94 with learning disabilities or mental health and 12 older people)
 - 81 people have been assessed as being unable to pay
 - 14 people have ILF so are not charged
 - 53 people still need to be assessed.