



**CABINET - 24 NOVEMBER 2023**

**CHARGING FOR SOCIAL CARE AND SUPPORT POLICY**

**REPORT OF DIRECTOR OF ADULTS AND COMMUNITIES**

**PART A**

**Purpose of the Report**

- 1 The purpose of this report is to present the proposed changes to be made to the Council's Charging for Social Care and Support Policy, attached as Appendix A to this report, and seek approval to carry out a consultation exercise on the revised Policy. The proposed changes are highlighted in Appendix B.

**Recommendations**

- 2 It is recommended that:
  - a) The proposed changes to the Council's Charging for Social Care and Support Policy be noted;
  - b) The Council's draft Charging for Social Care and Support Policy be approved for a consultation;
  - c) A further report be presented to the Cabinet in February 2024 presenting the outcome of the consultation and seeking approval of the revised Charging for Social Care and Support Policy.

**Reasons for Recommendations**

- 3 To approve a public consultation exercise on the draft revised Charging for Social Care and Support Policy which will inform the decision on the final Policy.

**Timetable for Decisions (including Scrutiny)**

- 4 Subject to the Cabinet's approval, the Policy will be the subject of a formal eight-week consultation exercise commencing in November 2023.
- 5 A further report will be submitted to the Cabinet in February 2024 which will present the outcome of the consultation and seek approval of the revised Policy subject to any amendments which may emerge as a result of the consultation process. If then approved, the Policy would be implemented from 8 April 2024.

## **Policy Framework and Previous Decisions**

- 6 The Care Act 2014 allows local authorities to charge for most care and support services. The Care and Support Statutory (CSS) Guidance requires that where a local authority decides to charge for services, it must follow the Care and Support (Charging and Assessment of Resources) Regulations (the Regulations) and have regard to the statutory guidance.
- 7 The CSS Guidance requires that local authorities should develop and maintain a policy on how they wish to apply this charging discretion locally and how it can:
  - ensure that people are not charged more than it is reasonably practicable for them to pay;
  - be comprehensive, to reduce variation in the way people are assessed and charged;
  - be clear and transparent, so people know what they will be charged;
  - promote wellbeing, social inclusion, and support the vision of personalisation, independence, choice and control;
  - support carers to look after their own health and wellbeing and to care effectively and safely;
  - be person-focused, reflecting the variety of care and caring journeys and the variety of options available to meet their needs;
  - apply the charging rules equally so those with similar needs or services are treated the same and minimise anomalies between different care settings;
  - 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;
  - be sustainable for local authorities in the long-term;
- 8 On 29 March 2022, the Cabinet approved the Council's current Charging for Social Care and Support Policy.
- 9 The revised Policy was presented to the Adults and Communities Overview and Scrutiny Committee on 6 November 2023, and its comments are set out in Part B of this report.

## **Resource Implications**

- 10 If the changes proposed are approved by the Cabinet, in due course training and awareness raising will be required within Adult Social Care Finance, the Localities and the Corporate Resources Finance Operations Teams. Initial consideration has also been explored to identify whether any amendments to the ContrOCC finance system used by the Department would be required.
- 11 The changes will need to be reflected, as far as possible, on the Council's On-line Financial Assessment Tool (Care Contribution Estimator).
- 12 The Director of Corporate Resources and Director of Law and Governance have been consulted on the content of this report.

**Circulation under the Local Issues Alert Procedure**

13 None.

**Officers to Contact**

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## **PART B**

### **Background**

- 14 The Policy sets out how the Council will undertake a financial assessment in relation to residential and non-residential care and support services including how different types of income and capital are treated and what allowances are permitted in calculating how much someone is required to contribute towards the cost of their care and support services. The Policy assists people to know what they will be charged.
- 15 The revised Policy is designed to continue to meet the principles for charging set out in the Guidance. A robust, up to date and comprehensive charging policy is required to ensure that the Council is able to charge and collect contributions towards the cost of care and support services and to ensure that the Council is able to respond to any future legal challenges regarding the Policy.

### **Proposed Changes**

- 16 The revisions provide additional wording to reflect that the Policy is pursuant to the Council exercising its discretion to charge adults towards the cost of most care and support services, under the Care Act 2014.
- 17 The Policy now highlights that the On-line Care Contribution Estimator is available, in the customer portal within the Council's external website, to obtain an indicative contribution amount prior to agreeing any care and support services (<https://customerportal.leics.gov.uk/web/portal/pages/finance>).
- 18 Added clarification has been included for those situations where a person receives both short-term residential and non-residential care and support services in the same week. Charges are 1/7th of the full weekly contribution for each night of a residential stay.
- 19 As detailed in Appendix B, there are clarifications to the wording. This is not changing the principles of charging/assessments. The wording clarifications relate to:
  - The arrangements under the licence agreement and the financial assessment for permanent Shared Lives placements;
  - The meaning of 'incapacitated' for a qualifying relative for a mandatory property disregard for a residential financial assessment, i.e. a relative who is in receipt of a disability benefit or has an equivalent level of disability;
  - Circumstances where a person may be allowed to retain additional income (above their personal expenses allowance) in a residential financial assessment. For example, for a dependent child, or liability for housing costs relating to their former home;
  - Housing costs that could be included as an allowable expense in a non-residential financial assessment where there is legal liability on the person and proof of the costs;
  - Absences: planned care and support that are either not taken up or are not delivered. For example, if a person refuses to accept planned care and support services or if the services are not available as planned.

- 20 In addition to the above, the following provisions in the Policy have been reinforced. This is not changing the principles of charging/assessments.
- Following the death of a Person, the Council is not obligated to re-assess the person's financial assessment for the benefit of their estate. The Council has discretion to do so on request.
  - That the Council can refuse a request for preferred choice accommodation in a care home where it determines, following assessment, that the top-up amount is unaffordable. Should a top-up arrangement break down, the Council will undertake a care and support assessment which may lead to moving the resident to an alternative placement which does not involve a top-up amount.
  - That the MIG applied to a non-residential financial assessment is the one applicable at the start of the assessment week (Monday–Sunday) and that any change affecting it, such as a 25<sup>th</sup> birthday, will commence at the start of the following week.
  - That a new method of ensuring non-residential and residential financial assessments will take account of the position of a partner, where the partner's income and capital details are disclosed. This replaces the existing complex couples' adjustment calculation and will reduce the need for individual waiver requests.
  - To add to the list of potential allowable disability-related expenditure in a financial assessment, Court of Protection deputyship fees and costs relating to professional Appointeeship services, where a person lacks mental capacity to manage their own property and finances.
  - To enable the Council to obtain additional evidence to consider potential disability-related expenditure.
  - The right to appeal and waivers sections have been separated out to clarify differences.

### **Consultation**

- 21 Subject to the Cabinet's approval, the Policy will be the subject of a formal consultation exercise which is expected to commence in November 2023 and will run for eight weeks.
- 22 The consultation will involve the general public, service users and their friends and family who support them, advocacy support groups and specific organisations that offer advice and information to the public such as Age UK Leicestershire and Rutland.
- 23 The Engagement Panel in Adults and Communities (which comprises senior leaders, the Director of Adults and Communities, and volunteers who have lived experiences of accessing adult social care) will be involved in this process, and, due to the technical detail of the policy, advice is being sought from the Leicestershire Equalities Challenge Group for suggestions on making the consultation more accessible. The Group is an independently chaired partnership of people and organisations from across the County which works to maximise equality of outcomes in Leicestershire.
- 24 The consultation will take the form of an on-line survey that will also be available in paper format on request. Questions will be seeking people's feedback on their

understanding of the Policy and whether they agree or disagree with proposed changes. There will also be an opportunity for general comments on the Policy.

- 25 A dedicated email address and contact number will be available for those wanting more information and to request copies of the survey.
- 26 The consultation will be promoted through the Council's media releases and social media channels, the weekly provider bulletin sent to Care Providers, direct mailing and contact with advocacy and support groups, through staff on visits and engagement with service users and their families. There is an opportunity to add messages to invoices that are sent to service users. A QR code will be made available to put onto promotional materials that will take people directly to the online version of the survey.
- 27 The consultation will be led by Adults and Communities Department's Adult Social Care Finance Team, in conjunction with the Council's Policy, Business Intelligence and Communications Teams.

### **Comments of the Adults and Communities Overview and Scrutiny Committee**

- 28 The Committee considered a report on the proposed changes to the Policy at its meeting on 6 November 2023.
- 29 Members noted that the proposed changes were largely to clarify wording and no changes had been made to charging rates and statutory thresholds. There would be an amendment in relation to assessment of couples (replacing the existing complex 'couples adjustment') to ensure that partners are better protected.
- 30 In response to a question, the Director advised the Committee regarding the inclusion of property owned abroad in financial assessments for care and support services and undertook to ensure that this was referenced in the Policy. It was noted that every assessment was undertaken individually as each person's circumstances were different. (Subsequent to the meeting, the Director confirmed that property/land in the UK or abroad were included in capital assessments and appropriate reference had now been made in the draft Policy to address this.)
- 31 It was noted that in some instances the cost of care would not be recouped until an individual died and their assets were sold. The Director said that there was a large amount owing to the Authority (in various forms such as held debt, payment pending, and some in mitigation) which was held as a corporate debt. He undertook to provide more detail to members of the Committee outside of the meeting.
- 32 The Committee supported the changes to the Policy. It was noted that members would be kept informed of the outcome of the consultation exercise should it not prove possible to bring a further report to the Committee before the final Policy was submitted to the Cabinet for approval.

### **Equality Implications**

- 33 All users of chargeable care and support services will have been assessed as having eligible care and support needs under the Care Act 2014. In reviewing the Policy

regard has been had to the Council's legal duty to have due regard to the Armed Forces Covenant.

- 34 An Equality and Human Rights Impact Assessment screening has been completed and will be considered by the Department's Departmental Equalities Group.
- 35 The screening indicated that there will be mainly positive impacts under the proposals such as partner adjustments. There could be a mixed impact as a result of financially assessing short-term residential care and support on a non-residential basis, where non-residential care and support services are also utilised in the same week. Depending on a person's individual circumstances, including their package of care and their financial assessment, this would have a positive impact but could potentially have a negative impact for some individuals.
- 36 As detailed above there is an existing dispute and appeal mechanism in the Policy, in addition to the statutory complaints process that enables people to challenge the Council's decision on their assessed contribution.

### **Human Rights Implications**

- 37 There are no Human Rights Implications arising from this report.

### **Background Papers**

Care and support statutory guidance – 5 October 2023

<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#charging-and-financial-assessment>

The Care and Support (Charging and Assessment of Resources) Regulations 2014

<https://www.legislation.gov.uk/uksi/2014/2672/contents/made?text=care%20act#match-1>

Charging Policy for Social Care and Support

<https://www.leicestershire.gov.uk/sites/default/files/field/pdf/2022/1/31/lcc-charging-policy-care-act.pdf>

Report to the Cabinet: 29 March 2022 – Charging for Social Care and Support Policy

<https://politics.leics.gov.uk/ieListDocuments.aspx?MIId=6774> (item 114)

Report to the Adults and Communities Overview and Scrutiny Committee : 6 November 2023 – Charging for Social Care and Support Policy

<https://politics.leics.gov.uk/ieListDocuments.aspx?MIId=7110> (Item 10)

### **Appendices**

Appendix A – Proposed Charging Policy for Social Care and Support

Appendix B – Proposed changes to Social Care and Support Policy

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