



CABINET - 9 FEBRUARY 2024

CHARGING FOR SOCIAL CARE AND SUPPORT POLICY
OUTCOME OF CONSULTATION

REPORT OF DIRECTOR OF ADULTS AND COMMUNITIES

PART A

Purpose of the Report

- 1 The purpose of this report is to present the outcome of the consultation on the proposed changes to be made to the Council's Charging for Social Care and Support Policy, attached as Appendix A, and to seek approval of the final Policy.

Recommendations

- 2 It is recommended that:
 - a) The outcome of the consultation on the proposed changes to be made to the Council's Charging for Social Care and Support Policy, be noted;
 - b) The Council's Charging for Social Care and Support Policy be approved for implementation from 8 April 2024.

Reasons for Recommendations

- 3 The revised Policy will meet the principles for charging set out in the Care and Support Statutory Guidance. It is a robust, up-to-date and comprehensive policy that will ensure that the Council is able to charge and collect contributions towards the cost of care and support services.
- 4 The feedback from the consultation exercise reflected the challenges in providing a technically detailed policy that is also easy to follow but there were no issues raised that have required any changes to the revised Policy. Further work will be undertaken to provide supporting information via factsheets to aid understanding.

Timetable for Decisions (including Scrutiny)

- 5 The Adults and Communities Overview and Scrutiny Committee considered a report on the proposed changes to the Policy at its meeting on 6 November 2023 and its comments were included in the previous report to the Cabinet on 24 November 2023. This report will be circulated to members of the Committee and any further comments will be reported to the Cabinet.

- 6 Subject to the Cabinet's approval, the Policy will be implemented from 8 April 2024.

Policy Framework and Previous Decisions

- 7 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.
- 8 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.
- 9 On 29 March 2022, the Cabinet approved the Council's current Charging for Social Care and Support Policy.
- 10 On 24 November 2023, the Cabinet approved the draft Charging for Social Care Policy for consultation.

Resource Implications

- 11 There are no resources implications arising from the recommendations in this report. If the changes proposed are approved by the Cabinet, training and awareness raising will take place with the relevant staff.
- 12 The changes will need to be reflected, as far as possible, on the Council's On-line Financial Assessment Tool (Care Contribution Estimator).
- 13 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

- 14 None.

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PART B

Background

- 15 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.
- 16 The revised Policy is designed to continue to meet the principles for charging set out in the CSS 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.

Changes to the Policy

- 17 As set out in the previous report, the proposed 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.
- 18 The Policy now highlights that the On-line Care Contribution Estimator is available, in the customer portal within the Council's external website, this allows people to obtain an indicative contribution amount prior to agreeing any care and support services (<https://customerportal.leics.gov.uk/web/portal/pages/finance>).
- 19 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.
- 20 There are also 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.

- A higher child disregard will be allowed in a non-residential financial assessment where a person is in receipt of Universal Credit including a Disabled Child Addition;
- An allowance will be made in both non-residential and residential financial assessments where a person is repaying debts by instalments under a Court Order.

21 In addition to the above, the following provisions in the Policy have been reinforced (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 Minimum Income Guarantee 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 25th 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 clarify that the Council can obtain additional evidence to consider potential disability-related expenditure.
- The right to appeal and waivers sections have been separated out to clarify differences.

Consultation

- 22 Consultation on the Policy took place for eight weeks from 27 November 2023 to 22 January 2024.
- 23 The consultation involved 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.
- 24 A dedicated email address and contact number was also made available for those wanting more information/ explanation and to request copies of the survey.
- 25 The consultation was promoted through the Council's social media channels, staff and provider updates and through community publications.

Consultation feedback

- 26 A total of 23 responses were received to the consultation. Of these, nine were interested members of the public and six were relatives or friends of someone receiving care arranged or funded by the Council. Overall, 67% strongly agreed, or tended to agree, with the proposals. 24% tended to disagree or strongly disagreed. Detailed analysis of the feedback is provided in Appendix B.
- 27 Many comments received were not pertinent to the actual consultation but to national policy, such as the disparity between charging for social care whilst NHS treatment is usually free at the point of access, or an individual's personal circumstances and the affordability of paying for their care.
- 28 Those general comments pertinent to the Policy changes were mixed. This does reflect the challenge to ensure that the Policy provides sufficient information to explain how the Council will treat quite complex technical aspects relating to financial assessments and charging.
- 29 Relevant comments relating to the Policy are summarised below:
- *The changes do not seem significant enough to disadvantage anyone any more than elements of the current policy might be deemed to do so.*
 - *The policy was fair.*
 - *The current rules over residential and non-residential in the same week are really complicated and widely misunderstood.*
 - *The policy was unfair and was not fair at all to disabled young adults and elderly adults.*
 - *The policy is too long winded it needs to be more precise and condensed down/simplified.*
 - *Most people don't have an idea or understanding of any of this.*
 - *Everything needs to be clarified in lay-man's terms, not corporate jargon.*
- 30 Further clarification on the Policy and terminology will be available to people through a series of factsheets which are being co-produced with people who have lived experience of receiving adult social care services.

Conclusions

- 31 The feedback received was varied and reflects some of the challenges in providing a technically detailed Policy that is easy to understand yet provides sufficient information to explain how the Council will treat complex aspects relating to financial assessments and charging. There will be further work to review the way supporting information is presented and more co-production with the Adults and Communities Engagement Panel (comprising senior leaders, the Director of Adults and Communities, and volunteers who have lived experiences of accessing adult social care) and the Leicestershire Equalities Challenge Group, an independently chaired partnership of people and organisations from across the County.
- 32 There was nothing raised through the consultation that necessitates a re-write or reconsideration of the proposed changes to the Policy.

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 Impact Assessment (EIA) screening was completed and agreed by the Department's Departmental Equalities Group on 13 December 2023.
- 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. It was concluded that a full EIA was not therefore required.
- 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

Report to the Cabinet: 29 March 2022 – Charging for Social Care and Support Policy
<https://democracy.leics.gov.uk/ieListDocuments.aspx?MId=6774> (item 114)

Report to the Adults and Communities Overview and Scrutiny Committee : 6 November 2023 – Charging for Social Care and Support Policy
<https://democracy.leics.gov.uk/ieListDocuments.aspx?MId=7110> (Item 10)

Report to the Cabinet: 24 November 2023 - Charging for Social Care and Support Policy
<https://democracy.leics.gov.uk/ieListDocuments.aspx?MId=7080> (item 295)

Appendices

- Appendix A – Proposed Charging Policy for Social Care and Support
 Appendix B – Results of the Social Care and Support Policy consultation

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