

COUNCIL

25 March 2024

REVIEW OF THE CHARGING FOR CARE AND SUPPORT POLICY

Report of the Portfolio Holder for Adults and Health

Strategic Objectives	Support the most vulnerable Providing good public services	
Exempt Information	No	
Cabinet Member(s) Responsible:	Cllr Diane Ellison, Portfolio Holder for Adults and Health	
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Ward Councillors	All	

1 SUMMARY AND RECOMMENDATIONS

1.1 Summary

- 1.1.1 Cabinet approved a review of the Charging for Care and Support Policy (Report 131/2023) with the aim of providing a new transparent and consistent policy for charging adults receiving care and support services in Rutland.
- 1.1.2 A public consultation was undertaken to inform the content of the final policy. This is detailed at 2.3.

1.2 Recommendations

- 1.2.1 To approve the revised Charging for Care and Support Policy with effect from 1 April 2024, to be implemented using a phased approach detailed at point 2.1.4.
- 1.2.2 To approve the proposals 1-6 detailed below:
- 1.2.2.1 Proposal 1- that an online form and online account are promoted in the first instance

with other methods of support being offered if a person or their family and friends are not able to use the online facility.

- 1.2.2.2 Proposal 2- that light touch financial assessments are offered where appropriate.
- 1.2.2.3 Proposal 3- that self-assessment with banded rates of Disability Related Expenditure (DRE) is used and promoted on the basis that a service user can ask for a full financial assessment at any time.
- 1.2.2.4 Proposal 4- that an additional 10% allowance be applied to people who meet the eligibility criteria detailed in Appendix 4.
- 1.2.2.5 Proposal 5- to adopt Appendix 5 as our DRE methodology and procedures for DRE.
- 1.2.2.6 Proposal 6- charges can be waived in exceptional circumstances as detailed in Section 26.0 of the policy.
- 1.2.3 To authorise the Strategic Director for Adults and Health, in consultation with the Portfolio Holder with responsibility for Adults and Health to apply updates and make minor changes to the policy or appendices because of best practice, updated guidance or legislation.

1.3 Reasons for Recommendations

- 1.3.1 Cabinet approved a review of the policy on 17th October 2023 with the aim of providing a new transparent, and consistent policy for charging adults receiving care and support services in Rutland.
- 1.3.2 A public consultation was undertaken from 1st November 2023 to 24th January 2024. A summary of the responses received is detailed at Appendix B.

2 REPORT

2.1 Introductory Paragraph

- 2.1.1 The Care Act 2014, the Care and Support Statutory (Charging and Assessment of Resources) Regulations 2014 and the detailed Statutory Guidance on Charging and Financial Assessment, provide detailed rules that the Council must follow. Within this framework, the Council has a degree of discretion as to how it operates the charging framework, and this is detailed in the new policy at Appendix A.
- 2.1.2 The Charging for Care and Support Policy for Rutland was amended in 2015 (Report 241/2015) and again in 2016 (Report 117/2016). A full rewrite of the current Policy has not been undertaken, this means that the Policy is now dated and is not providing the clarity and transparency that is expected by service users, officers, and other interested parties.
- 2.1.3 The new policy was drafted based on several aims as follows:
 - To ensure the Council has an up-to-date policy by considering the latest best practice, law, and guidance;
 - To consider any relevant legal developments;

- To make better use of technology;
- To ensure the policy is written in plain language, is transparent, and consistent for service users, officers, and other interested parties;
- To ensure that the policy reflects the council's aims and objectives, detailed in the corporate plans; and
- To consider the cost to the Council in adopting a new policy given that the council's medium term financial position remains challenging.

2.1.4 The policy will be phased in over a period of time. This will ensure that people who are being charged currently are not disadvantaged. The following will apply:

- People who are new to paying for care after 1 April 2024, will be charged under the new policy.
- People with existing financial assessments will be offered the opportunity to change to the new policy upon their annual review. e.g. self- assessment.
- People who have a change to their care and support needs or a change in their circumstances will be charged under the new policy from the date of the change. e.g. a person moves from a commissioned service to a Direct Payment.

2.1.5 The Council can choose not to adopt a new policy at this time. This is not recommended due to the issues and aims raised at points 2.1.2 and 2.1.3.

2.1.6 The Council can choose to progress some proposals and not others. It is important that Council members understand the views of respondents before deciding what proposals to take forward and the financial implications.

2.1.7 An update will be provided to Cabinet next year to report on progress of the approved changes to the policy.

2.2 Background

2.2.1 Whilst the policy has been re-written, the vast majority has not changed. The re-write has provided clarity in certain areas that were missing from the current policy e.g. there is now a section on what happens if a financial assessment is not completed. There are appendices that detail the rates we use and how we work out what Disability Related Expenditure (DRE) a person has.

2.2.2 We consulted on some areas to gain a better understanding of the help people might need and to determine our approach; these are detailed below:

2.2.3 Proposal 1 – applying for a financial assessment

2.2.3.1 We asked if people would be able to complete an online form and if they cannot, what help they might need. Most of the respondents (78%) said that they would be able to complete an online form. Some people said they would need help, using a variety of different methods that most suited their needs e.g. telephone, face to face.

2.2.3.2 It is proposed that an online form and account are promoted in the first instance,

with other methods such as telephone, appointment and home visits being offered if a person, or family and friends are not able to use the online facility. This approach brings benefits for both service users and the Council as detailed in the consultation questionnaire.

2.2.4 Proposal 2 – Light touch financial assessments

2.2.4.1 We asked if a light touch financial assessment would be of benefit. A majority (56%) of the respondents said it would be appropriate for them.

2.2.4.2 It is proposed that light touch financial assessments are offered where appropriate. This meets the requirements set out in the Care Act and benefits service users and the Council as detailed in the consultation questionnaire.

2.2.5 Proposal 3 – Self-assessment

2.2.5.1 We asked if a self-assessment would be of benefit. 50% of the respondents said that it would, with 36% saying they do not know. Some people said they would need a full financial assessment, and this will be retained as an option. If people need help, this will be made available to most suit their needs e.g. telephone, face to face.

2.2.5.2 It is proposed that self-assessment with banded rates of DRE is used and promoted on the basis that a service user can ask for a full financial assessment at any time. This benefits service users and the Council as detailed in the consultation questionnaire.

2.2.6 Proposal 4 – Income for certain groups

2.2.6.1 We asked which group of people, who share common characteristics, should be allowed to retain more of their income, above the Minimum Income Guarantee (MIG) set by Government.

2.2.6.2 The Council is not obliged to apply any other allowances other than the MIG it determines to be appropriate. The Council must consider the cost implications when determining which group, if any, it chooses to provide with any additional support by means of a higher MIG rate. Most of the consultation respondents were in favour of this approach; however, it is not affordable for the Council to apply this as a blanket approach to every service user.

2.2.6.3 Officers have modelled the financial impact based on specific eligibility criteria to allow people with severe disabilities with no capacity to undertake any paid employment to retain a further 10% of their income e.g. the MIG plus 10%. This will affect c10-15 current service users, who would retain an additional amount of c£15-£20 per week, before other factors are considered in the calculation. The financial implications for the Council are set out in 3.1.4.

2.2.6.4 It is proposed that an additional 10% allowance be applied to people who meet the eligibility criteria detailed in Appendix 4.

2.2.7 Proposal 5 – Disability Related Expenditure

2.2.7.1 We outlined our approach to DRE and asked if this was fair. In broad terms responders (64%) were in favour, with only 8% saying it was not fair. Several comments were received that explained people's views. These are detailed in

Appendix B.

2.2.7.2 Applying banded rates of DRE speeds up the financial assessment process and saves administration time and therefore cost. Modelling has been undertaken for all current service users to understand the financial impact. On average they would each pay an extra £3.05 per week, with individual contributions ranging from a reduction of £20.00 to an extra £58.95 per week, due to the vast differences in existing DRE claimed. It should be noted that some people will choose to have a full financial assessment which may result in an increased or reduced DRE. The financial implications for the Council are set out in 3.1.4.

2.2.7.3 It is proposed to adopt Appendix 5 as our methodology and procedures for DRE. This appendix details a fair and consistent approach. The rates used will be updated annually in accordance with guidance issued from the Department of Health and Social Care and other relevant sources.

2.2.8 **Proposal 6 – Waiving Charges**

2.2.9 We outlined our approach to waiving charges and asked if this was fair. Respondents were in favour of this approach (65%).

2.2.10 It is proposed that the policy includes a section on waiving charges, in exceptional circumstances, as detailed in Section 26.0 of the Policy. This ensures the Council has a mechanism to waiver charges although it is envisaged that it will be used very rarely.

2.3 **Consultation**

2.4 The summary of the consultation responses is detailed in Appendix B. This includes a summary of the activities undertaken during the consultation for promotion and an analysis of the responses and the equality impact data.

3 **IMPLICATIONS OF THE RECOMMENDATION**

3.1 **Financial Implications**

3.1.1 This section has been approved by Andrew Merry, Head of Finance (ds151)

3.1.2 The review of the policy is largely cost neutral. There may be some savings if more people accept banded rates for DRE.

3.1.3 Software was purchased for the online form and account as part of the wider care act reform activities in 2021/22, which was later shelved. Should the care reforms be reintroduced the Council will be in a good position to implement care accounts and a cap on care.

3.1.4 The following details the proposals and the cost implications:

Proposal	Potential impact for the Council	Potential impact for service users
Proposal 1	£0	£0
Proposal 2	£0	£0

Proposal 3	£0	£0
Proposal 4	Cost of c£15,000 per annum	c£780-£1,040 per annum retained income
Proposal 5	Saving of c£30,000 per annum; if 100% of people accept banded rates for DRE, the actual % is likely to be less.	£158 per annum average additional charge
Proposal 6*	£0	£0

*It is envisaged that the current bad debt provision would be utilised for any waivers awarded.

The main financial issues arising for this Report are as follows:

Revenue	2023/2024	2024/2025	2025/2026	2026/27
Expenditure	No impact	No impact	No impact	No impact
Income	No impact	c£4,000	c£6,000	C£8,000

3.2 Legal Implications

3.2.1 This section has been approved by Sarah Khawaja, Head of Legal and Democratic Services.

3.2.2 The legal implications are as follows:

3.2.2.1 The Care Act 2014, the Care and Support Statutory (Charging and Assessment of Resources) Regulations 2014 and the detailed Statutory Guidance on Charging and Financial Assessment, provide detailed rules that the Council must follow. Within this framework, the Council has a degree of discretion as to how it operates the charging framework, and this is detailed in the policy.

3.2.2.2 Care charges can be subject to judicial review. Any judicial review challenge to a care charges decision must be issued promptly, and in any event within three months of the decision challenged, unless the court extends time. The policy has been updated at section 24.0 to ensure the Council has sufficient time to consider a request for a review and a subsequent appeal.

3.3 Risk Management Implications

3.3.1 The main risks to this Report and the Council achieving its objectives are as follows:

3.3.1.1 Risk/s: The policy may be subject to a legal challenge if a person disputes the amount they are charged.

3.3.1.2 Assessment of Risk: Medium

3.3.1.3 Mitigation: The proposals go some way to mitigating the risk of a challenge, in particular the proposal to allow severely disabled working age people to retain more of their income. Section 24 that deal with reviews and appeals has also been

updated to provide a fair process and extends the time needed to fully consider requests.

3.3.1.4 Residual Risk: Low

3.3.1.5 Record of Risk: Directorate Risk Register

3.4 Data Protection Implications

3.4.1 A Data Protection Impact Assessment (DPIA) has not been completed because there are no identified risks or issues to the rights and freedoms of individuals.

3.5 Equality Implications

3.5.1 An Equality Impact Assessment (EqIA) questionnaire has been completed. No adverse or other significant issues were identified. A copy of the EqIA questionnaire can be obtained from Andrea Grinney.

3.6 Community Safety Implications

3.6.1 The Council has a duty in accordance with S17 Crime and Disorder Act 1988, when exercising its functions, to have due regard to the likely effect of that exercise of those functions on and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social behaviour).

3.6.2 This duty has been considered and there are no community safety implications relating to the recommendations.

3.7 Health and Wellbeing Implications

3.7.1 Any health or wellbeing implications are noted in the Summary of the consultation at Appendix B.

3.8 Environmental and Climate Change Implications

3.8.1 On 11 January 2021 Rutland County Council acknowledged that it was in a climate emergency. The Council understands that it needs to take urgent action to address it.

3.8.2 There are no environmental and climate change implications of the Recommendations.

3.9 Procurement Implications

3.9.1 There are no procurement implications

3.10 Human Resource Implications

3.10.1 The team have a vacancy for the Assessment and Charging Officer post. Recruitment to the role has been unsuccessful. The day-to-day assessment work is currently being undertaken by a worker supplied by Civica OnDemand. It is likely that the workload will decrease following the implementation of self-service facilities.

3.10.2 The resources needed in the future will be kept under review and are factored into the Resources Directorate's Budget proposals for 2024/25.

4 BACKGROUND PAPERS

4.1 Report 131/2023

5 APPENDICES

5.1 Appendix A – Charging for Care and Support policy (draft) and appendices

5.2 Appendix B – Summary of the Consultation

5.3 Appendix C – Consultation document

An Accessible Version of this Report is available upon request – Contact 01572 722577.