

Application of Adult Social Care Charges Review

To:	Adults and Health Committee
Meeting Date:	12 December 2024
From:	Executive Director: Adults, Health and Commissioning
Electoral division(s):	All
Key decision:	No
Forward Plan ref:	Not applicable.
Executive Summary:	<p>This report outlines the findings and proposed recommendations of the review of Cambridgeshire County Council's Adult Social Care Charging Policy and application of associated legislation and guidance.</p> <p>Committee is asked to scrutinise the contents of the paper, providing a view that the Adult Charging Policy is legally compliant through interpretation and application of the Care Act 2014 and supporting guidance, and that the review confirms the application and use of the policy is consistent with other councils in the comparator group regionally and nationally.</p> <p>Committee is asked to agree the proposed recommendations to enhance the Council's transparency, information and advice it provides to its residents.</p>
Recommendations:	<p>The Committee is recommended to:</p> <ul style="list-style-type: none">a) support the 17 recommendations set out in Appendix 2 and summarised in Section 3 of the report.b) provide regular updates through Spokes meetings on the implementation of the recommendations.

1. Creating a greener, fairer and more caring Cambridgeshire

- 1.1 This report relates to Ambition 5: People enjoy healthy, safe and independent lives through timely support that is most suited to their needs.

2. Background

- 2.1 As part of the Business Planning process to support the Council's financial position, officers commissioned an independent review of the charging policy, and its interpretation of legislation and guidance, alongside its application against care and support provided by the Council. A specific aspect of the review was to take an anti-poverty view of the approach to charging, considering the impact on people because of the cost-of-living crisis, and ongoing financial pressures of many within Cambridgeshire.

The overall purpose of the review was:

- To provide assurance that the Cambridgeshire County Council's Adult Social Care Charging Policy is compliant with the Care Act 2014, equitable and in line with national policy, and describe where there is flexibility or choice in the interpretation and application of the legislation.
- To provide a clear rationale for those Adult Social Care services which are chargeable or not, the levels of fees set for each service and the impact of any changes including the financial cost and impact on levels of charges raised on both individuals and the Council as a whole.
- To consider any proposals and viability of such to support an anti-poverty approach on individuals and cost-of-living challenges they may face.

- 2.2 In September 2024, an external consultant was commissioned and commenced the review, with the scope agreed with the Chair and Vice-Chair. The outcome was to produce a full report of their findings, conclusions and any recommendations arising; to demonstrate critical challenge and external assurance of the Council's approach to charging for Adult Social Care services.

3. Main Issues

- 3.1 The Care Act 2014 (the Act) provides the legal framework for charging for adult social care and support. Section 14 of the Act enables local authorities with adult social care responsibilities, to charge a person in receipt of care and support services where it is permitted to charge, and Section 17 of the Act permits local authorities to undertake an assessment of an individual's financial resources to determine the amount, if any, that they will be required to pay towards the cost of their care.
- 3.2 The Care and Support (Charging and Assessment of Resources) Regulations 2014, and Care and Support Statutory Guidance (and annexes) (CASS) issued by the Department of

Health and Social Care under the Care Act 2014 set out much of the detail regarding charging for care.

- 3.3 The relevant parts of the Statutory guidance are Chapter 8: Charging and financial assessment, Annex A: Choice of accommodation and additional payments, Annex B: Treatment of capital, Annex C: Treatment of Income, Annex D: Recovery of debts, Annex E: Deprivation of assets and Annex F: Temporary and short-term residents in care homes.
- 3.4 The external review formed nine lines of enquiry on current arrangements, which included:
- Which services are chargeable, along with Council's application and interpretation of Section 14 and Section 17 of the Act, in respect of charging for services.
 - Those services charged for and how rates are established, including full cost recovery and benchmarking against other comparator councils.
 - The implications of the Charging Policy on individuals and the alignment to Cambridgeshire's anti-poverty work, to help understand the impact of the current Charging Policy on residents and the Council.
- 3.5 A detailed report following the agreed lines of enquiry was produced, (summary report in Appendix 1) that provided the assurance that the Charging Policy is compliant with the Care Act 2014, applied equitably and in line with legislation and guidance. The report also described where there is flexibility or choice, when shaping the charging policy, in the interpretation and application of the legislation.
- 3.6 Examining through an anti-poverty lens, the review also considered various proposals and viability of application, that might support a reduction in an individual's client contribution, that may offer some possible relief toward meeting the costs of their care and support, in the context of the cost-of-living challenges they may face.
- 3.7 Whilst there were 28 recommendations (Appendix 1) arising from the review, after consideration, officers recommend that 17 be presented to Committee for a decision to progress, with timescales as set out in Appendix 2, of which the key are as follows:
- (a) As the Adult Social Care Charging Policy meets legislation and is compliant with the Care Act 2014, there is no requirement for a further review for the financial year 2025/26. A full review will be undertaken in advance of 2026/27, to ensure the Policy continues to meet legislation and the needs of the Council.
 - (b) That no changes are made to scope of chargeable and non-chargeable services for 2025/26. Rate increases for these charges will still be subject to review and to reflect movements in operating cost/inflation.
 - (c) The annual fees and charges report will be broadened to include charges for services, to evidence costs for care and support, to help people understand the costs against the charges that the outcome of their financial assessment is applied against.

- (d) To ensure greater openness and transparency, the annual review of charges will form appendices within the Adult Social Care Charging Policy, including a list of indicative costs of care paid to providers, to better support decision making for self-funders.
- (e) To produce additional online information and advice and promote transparency of fees and charges outside of the charging policy, typical rates for care and support for those with issues with paying for care already received.
- (f) To consider the options and potential for the introduction of a financial assessment 'appeal and waiver' process, ensuring compliance with regulation and financial scheme of delegation; and understanding the financial implications of any such process.
- (g) To consider options to finance an increase in the capacity of Welfare Benefits Advisors, to focus on maximising welfare benefit take up, given the current waiting list for this service, to better support an operating model for benefits maximisation and welfare support. To include in this review ongoing work from Cambridge City and South Cambs Low Income Family Tracker (LIFT).
- (h) Some of the other recommendations proposed not to be progressed at this time may have financial implications for the council, so will be considered during the business planning session for 2026/27.

3.8 The 11 recommendations that officers did not recommend be presented to Committee, are in the main regarding investment into business analytics and insights, for example development of a contributions forecasting tool to aid informed decision making based on accurate impact data, and Policy and Insight Team to provide analytic and statistical analysis of property/capital/income and assessed expenditure. Officers did not recommend these to be taken forward, as they do not provide value to those people who use services.

4. Conclusion and reasons for recommendations

4.1 The recommendations are made as they meet the outcome objectives of the review:

- (a) To provide assurance that the Cambridgeshire County Council's Adult Social Care Charging Policy is compliant with the Care Act 2014, equitable and in line with national policy, and describe where there is flexibility or choice in the interpretation and application of the legislation.
- (b) To provide a clear rationale for those adult social care services which are chargeable or not, the levels of fees for set for each service and the impact of any changes including the financial cost and impact on levels of charges raised on both individuals and the Council as a whole.
- (c) To consider any proposals and viability of such to support an anti-poverty approach on individuals and cost-of-living challenges they may face.

5. Significant Implications

5.1 Finance Implications

No direct financial implications from the recommendations proposed.

Recommendations with potential financial impact will be subject to business planning work during 2025/26 and if supported, for subsequent implementation in 2026/27.

5.2 Legal Implications

Section 9 of the Act states that where it appears to a local authority that an adult may have needs for care and support, the authority must assess whether an adult has needs for care and support, and, if so, what those needs are. Subsequently, Section 18 of the Act confers a duty on the Council to meet the eligible needs of individuals ordinarily resident in their area.

When providing such services, Section 14(1) of the Act confers a power upon the Council to make a charge for meeting needs under section 18 of the Act. However, by section 14(7) of the Act, the Council may not make a charge under section 14(1) if the income of the adult concerned would, after deduction of the amount of the charge, fall below such amount as is specified in regulations (the Minimum Income Guarantee).

Section 17(1) of the Act provides that, where a local authority considers that it would charge the adult under section 14(1) for meeting at least some of his eligible needs, it must assess (a) the level of the adult's financial resources, and (b) the amount (if any) which the adult would be likely to be able to pay towards the costs of meeting the needs for care and support.

The current Adults Charging Policy was reviewed by the Council's legal representatives and Kings Counsel in March 2024 as part of an ongoing Judicial Review. The review in preparation for the case determined the Adult Charging Policy to be compliant with the Care Act 2014, applied equitably and in line with legislation and guidance.

The Judicial Review itself is currently stayed until the appeal judgement of R (YVR by YUL) v Birmingham City Council [2024] EWHC 701 (Admin) which addresses the same issues as the current claim.

The Policy continues to be compliant with relevant legislation including the Care Act 2014 and associated Regulations and Statutory Guidance as outlined in section 3 above and is pursuing a legitimate aim of considering a person's eligible needs and finances on an individual basis taking into consideration the income that they may have with ensuring that the Council can set a balanced budget and maximising funds available to discharge the Council's duties under the Act.

The external independent review that has been commissioned by the Council has investigated the impact of individuals who could be affected by the lines of enquiry to

change the Charging Policy, whilst balancing this impact with the financial position of the Council (Appendix sections 1.3, 1.5 and 1.6).

While findings set out in Appendix 2, section 1.5 makes reference to the impact on people who use services and outlines the impact of the financial pressures associated with that line of enquiry, this needs to be expanded to review specifically the impact on people who use our services who cannot work and then outline how any mitigation of discrimination against this cohort would impact any financial pressures on the Council. For example, if the Council was not to charge those individuals for services it would lose a significant amount of income, but the services would still need to be provided to the individual.

5.3 Risk Implications

There are no risks arising from the recommendations contained in this report.

No health & safety implications.

No staff consultation. If the subsequent business case investment in additional Welfare Benefits Advisors is approved this will result in additional recruitment; approvals for such will follow the normal business planning and workforce approval process at that time.

5.4 Equality and Diversity Implications

If the proposed recommendations are agreed, then no new EDI or EQIA implications will arise. Outputs from the agreed actions will themselves be subject to EQIA.

Further exploration into the cohort of clients who are unable to work and potential changes to the Charging Policy will have EDI or EQIA implications and will be addressed at that time with its individual EQIA.

6. Source Documents

6.1 The Care Act <https://www.legislation.gov.uk/ukpga/2014/23/contents>

6.2 Care and support statutory guidance ("CASS")
<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-supportstatutory-guidance>

6.3 Cambridgeshire County Council Adult Social Care Charging Policy
<https://www.cambridgeshire.gov.uk/asset-library/Adult-Social-Care-charging-policy-April2020-updated-July-2023.pdf>