

KENT COUNTY COUNCIL – PROPOSED RECORD OF DECISION

DECISION TO BE TAKEN BY:

Clair Bell, Cabinet Member for Adult Social Care and Public Health

DECISION NO:

22/00049

For publication Yes

Key decision: Yes

Affects two or more Electoral Divisions and Policy outside of the Policy Framework

Title of Decision: Adult Social Care Charging Policy Update

Decision: As Cabinet Member for Adult Social Care and Public Health, I propose to:

- a) **APPROVE** the amended Adult Social Care Charging Policy;
- b) **APPROVE** the funding arrangements required to implement the updated policy; and
- c) **DELEGATE** authority to the Corporate Director Adult Social Care and Health to take relevant actions, including keeping the policy updated as necessary and to implement it in line with the statutory duties

Reason(s) for decision: It has been identified, in response to a complaint, that the Department of Health and Social Care (DHSC) may have issued statutory guidance that conflicts with primary legislation in relation to this issue, albeit this appears to have been subsequently clarified by DHSC. The Authority has been applying the statutory guidance and not the relevant legislation. Kent County Council's Adult Social Care Charging Policy for homecare and other non-residential services must comply with the primary legislation and it is therefore necessary to fully review and update the Adult Social Care Charging Policy to bring it in line with the primary legislation.

Financial Implications: The annual cost to the Authority is estimated to be £280k, resulting from lost income from those people who have not had the disregard correctly applied. The cost of £280k in 2022-23 would be reported in budget monitoring and would not necessitate a substantive amendment to the budget. As part of the necessary financial arrangements required to implement this policy, as noted in the decision, the Authority will recommend making an appropriate financial provision for any prior year costs that may arise from the policy change. This will be presented along with other provision requirements to Cabinet in June 2022 as part of the Revenue Outturn report. Subject to further formal governance processes, including appropriate consultation and relevant Executive Decision making, there is scope for the Policy application to be amended to address undercharging and bring all charges in line with the legislation and correct policy approach. This would involve an increase in the charging for some people and therefore could result in an estimated £290k per annum income from year 2023/24 – this sum excludes any effects of increasing debt which may arise should the relevant policy changes be given effect in future. These arrangements would all be subject to future activity and do not impact on the current decision but are highlighted for context and to indicate future financial considerations for longer term management of this issue.

Legal implications: Counsel confirmed that the authority should be operating its policy for homecare and other non-residential services in line with the Care and Support (Charging Assessment Resource) Regulations 2014 and not the statutory guidance. The Authority needs to address any error in how savings credit disregard has been applied to our service users and correct

its charging policy accordingly. Any changes to charge people more will require further governance processes, including consultation activity to understand the impact of this change on our service users. On that basis, this decision does not seek to determine the application of the policy to those who may be charged more as a result. Any such arrangements may be addressed as part of a separate Key Decision which could be taken following the relevant consultation and engagement activity later in the year subject to ongoing review of the policy and the Council's financial position.

Equalities implications: A screening document has been completed and a full Equality Impact Assessment will be completed in line with the KCC requirements. And will remain under continuous review throughout any consultation and decision process.

Data Protection Implications: A Data Protection Impact Assessment (DPIA) has been completed and it will be subject to the usual information governance review. No data protection implications are expected to be noted or highlighted. Further updates will be completed, in line with process, prior to the proposed consultation.

Cabinet Committee recommendations and other consultation: The proposed decision will be discussed at the Adult Social Care Cabinet Committee on 18 May 2022 and the outcome included in the paperwork which the Cabinet Member will be asked to sign.

Any alternatives considered and rejected:

Any interest declared when the decision was taken and any dispensation granted by the Proper Officer:

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signed

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date