

By: Joel Cook – Democratic Services Manager

To: Scrutiny Committee – 10 July 2024

Subject: Call-in of Decision 24/00049 – Adult Social Care Charging Policy – Higher Level Disability Benefits

Background

1. The proposed decision was discussed at the [Adult Social Care Cabinet Committee on Wednesday, 15th May, 2024](#) prior to the key decision being taken by the Cabinet Member on 24 June 2024.
2. Following the decision being taken, the call-in request was submitted by Mr Streatfeild and Ms Meade, thus meeting the requirement for any call-in to be requested by two Members from different political Groups.
3. The reasons of the call-in were duly assessed by Democratic Services, including a review of the reasons given by those Members calling in the decision and an investigation into whether any issues raised in the call-in were adequately addressed by the decision paperwork, committee reports, responses to written questions or committee debate. The results of this review were considered by the Democratic Services Manager and the call-in was determined to be valid under the call-in arrangements set out in the Constitution. Call-in reasons must be clear, correct and align to one or more of the following criteria under s17.67 of the Constitution:

Members can call-in a decision for one or more of the following reasons:

- (a) The decision is not in line with the Council's Policy Framework,
 - (b) The decision is not in accordance with the Council's Budget,
 - (c) The decision was not taken in accordance with the principles of decision making set out in 8.5, and/or
 - (d) The decision was not taken in accordance with the arrangements set out in Section 12.
4. The reasons for this call-in are set out in the attached document (a), submitted by Mr Streatfeild and Ms Meade.
 5. The core call-in request elements determined as valid are reasons 1 and 3. Specifically, under reason 1, clarification is sought in terms of the implications and policy considerations relating to Disability Related Expenditure (DRE). While this mitigation area was flagged in the EqIA, it was noted in the reports that increased DRE costs would be unsustainable within KCC's budget which could undermine the budget management objectives of the decision. In view of the challenges in

this area and the negative impacts identified by the EqIA, the call-in queries how far the decision is proportionate to the objective of managing KCC's spending. Under Reason 3, clarity is sought regarding KCC's approach to 'acting reasonably' in relation to individual assessments, what this means in practice and the implications of such an approach within the context of increased costs for disabled service users.

Process

6. As per the call-in procedure, Democratic Services must consider all call-in requests against the criteria detailed in the constitution, which are themselves based on the legal requirements under the Local Government Act 2000 to have an appropriate mechanism to allow Executive decisions to be scrutinised. In determining the validity of any call-in, no judgement is made by Democratic Services as to whether the decision itself is flawed, inappropriate or invalid. Similarly, where some individual reasons submitted for an overall valid call-in are not assessed as valid, this does not mean they merit no consideration as part of any subsequent call-in meeting. Paragraph 5 of this report do not indicate endorsement or agreement with the challenges made in the call-in – this report only confirms that the points set out in the call-in are not all completely addressed through the available documentation and previous debate. It should be highlighted that the decision documentation is detailed, thorough and extensive. However, the call-in identified elements that merit further consideration or clarification. In accordance with the call-in arrangements, it is therefore for Members, via the Scrutiny Committee, to determine whether any reconsideration of the decision is necessary.
7. The Cabinet Member and relevant Officers will be attending the Scrutiny Committee meeting to present their response to the call-in and to respond to questions.
8. The Scrutiny Committee should consider the reasons set out by the Members calling-in the decision, the documentation already available and the response from the Executive given at the meeting, giving due regard to the information made available during questioning and discussion on this item.
9. The decision papers remain available online but are republished in the agenda pack as appendices for ease of reference.

Options for the Scrutiny Committee

10. The Scrutiny Committee may:
 - a) make no comments
 - b) express comments but not require reconsideration of the decision

- c) require implementation of the decision to be postponed pending reconsideration of the matter by the decision-maker in light of the Committee's comments; or
- d) require implementation of the decision to be postponed pending review or scrutiny of the matter by the full Council.

Attached documents

- a) Scrutiny call-in reasons submitted by Mr Streatfeild and Ms Meade.
- b) [24/00049 – Decision Report](#)
- c) [24/00049 – Record of Decision](#)
- d) [Appendix A – Higher Level of Disability Benefits Consultation Report](#)
- e) [Appendix B – EqlA Post Consultation](#)
- f) [Appendix C – Post consultation mitigations](#)
- g) [Appendix D – Financial calculation examples and mitigation explored](#)

Background Documents

[Adult Social Care Cabinet Committee on Wednesday, 15th May, 2024](#)

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