

KENT COUNTY COUNCIL - RECORD OF DECISION

DECISION TAKEN BY:

**Cabinet Member for
Adult Social Care and Public Health**

DECISION NO:

24/00049

For publication Yes

Key decision: YES

Title of Decision: Adult Social Care Charging Policy – Higher Level Disability Benefits

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

- a) **APPROVE** the changes to the Adult Social Care Charging Policy; and
- b) **DELEGATE** authority to the Corporate Director Adult Social Care and Health to revise the Adult Social Care Charging Policy and to take relevant actions, including keeping the policy updated as necessary, to implement the decision.

Reason(s) for decision: The council's budget which was approved in February 2024 included a proposed provision, subject to the necessary consultation and equality impact assessment, to change the charging policy for people who receive care and support in their own home or in the community. As a result, it is necessary to consider the amount of income generated through the contribution people may have to make towards the cost of their care and support.

This decision relates to the proposed changes to the charging policy. Specifically, to stop disregarding the higher or enhanced rates of Attendance Allowance (AA), Personal Independent Payment (PIP) and Disability Living Allowance (DLA) when calculating a person's contribution towards the cost of their care and support.

The proposed changes are estimated to raise an additional £3.7 million in income which, if this proposal is not implemented, then alternative savings/income would need to be achieved in other areas in KCC services. The legitimate aim being pursued is to set a charging policy which is sustainable for the council in the long term, and the need to reduce expenditure/ increase income in order to balance its budget. In light of the financial pressures which the council is facing, it must take measures to fill the budget gap, and it is imperative that it maximises income and manages spending within the resources available from government settlement and local taxation.

This policy and proposed change does not impact on people who live in and receive care and support in a residential care home.

Financial Implications: The latest budget monitoring presented to Cabinet on 21 March 2024 shows £30m budget gap for 2023-2024, of which £31.3m relates to the Adult Social Care and Health Directorate before management action and one-off use of reserves are considered. Members have agreed the immediate actions needed to reduce spending in the short term and have set the course for getting the council back to financial sustainability, securing the services that residents in Kent need the most.

Forecast spending growth in the 2024-2025 budget approved by full Council is £209.6m (excluding externally funded). The net change to the budget is £113.9m (matched by funding increases through government grants, council tax, etc), leaving £95.7m savings and reserves to balance the budget.

Of the above, the spending growth in adult social care (including the services for 18–25-year-olds) 2024-25 is £115.9m as stated in the 2024-2025 budget. The net change to the budget is £61.8m (matched by funding increases through government grants, council tax, etc), leaving £54.1m in savings/additional income which needs to be found, of which this proposal is included within.

The calculations informing the MTFP estimated that the proposed policy change could raise a net figure of approximately £3.4m in a full year. The £3.4m is after allowing £1m to cover the risk of increased debt and an increase in individual Disability Related Expenditure (DRE) assessments above the authorities' standard allowance.

The latest estimates suggest that the proposed changes could now raise approximately £3.7m in a full year if the policy was implemented, which is £0.3m higher than the original estimate as shown in the table below.

| Summary of Charging Change Estimates compared to MTFP | Full Year in 2025-2026 | 9 months 2024-2025 |
|---|------------------------|--------------------|
| | (£000) | (£000) |
| Latest Estimated Increased Additional Income | 3,703.9 | 2,777.9 |
| MTFP Assumptions | 3,400.0 | 2,600.0 |
| Impact on MTFP | 303.9 | 227.9 |

Legal Implications: The Care Act 2014 details the council's duty when assessing an individuals' care and support needs as well as the process for conducting financial assessments to work out how much the council will pay towards an individuals' care. The council has a power to charge individuals for meeting their needs under the Care Act.

The amount of any charge is determined by the Care and Support (Charging and Assessment of Resources) Regulations 2014 ("the Regulations"). The Regulations detail the income that the Council must, and must not, take into account. The Regulations provide for a "Minimum Income Guarantee" ("the MIG") – any charge must not leave the individual with less than this amount. The MIG is set by central Government and is updated annually. The Regulations also set out the income that must be disregarded.

The Council must act under the general guidance of the Secretary of State (currently set out in the Care and Support statutory guidance ("the Guidance"). The Guidance states that local authorities should have a policy on how they wish to exercise the discretion to charge and that local authorities should consult people with care and support needs when deciding how to exercise this discretion. In doing so, local authorities should consider how to protect a person's income.

The council must comply with the public sector equality duty in section 149 of the Equality Act 2010, and must have due regard to the three equality needs set out in section 149(1) – i.e. the need to eliminate discrimination, the need to promote equality of opportunity and the need to foster good relations between different protected groups. The Council is also under a duty to avoid discriminating against an individual in the exercise of its public functions (section 29(6) of the Equality Act 2010). The council is also under a duty to act compatibly with Convention rights, which includes Article 14 of the Convention.

Equalities implications: An initial Equality Impact Assessment was published alongside the consultation document on Let's talk Kent. This has since been updated to reflect the views of consultees and other stakeholders from the consultation. This is a live document and will continue to be reviewed and updated.

Data Protection implications: A full Data Protection Impact Assessment was carried out and signed off by the Information Governance Lead and the Corporate Director Adult Social Care and Health.

Cabinet Committee recommendations and other consultation: KCC undertook a public consultation from 6 February to 7 April 2024. The consultation was hosted on KCC's [Let's talk Kent](#) website, with hard copies and support available for those who could not participate online.

The proposed decision was discussed at the Adult Social Care Cabinet Committee on 15 May 2024 and the recommendations were endorsed by the majority.

Any alternatives considered and rejected:

| Alternative option considered | Why the option has not been taken forward to consultation |
|--|---|
| <p>Only apply the proposed change to people new to receiving care and support from KCC's adult social care service from the date the new policy is implemented. This would mean that existing people receiving adult social care services would not have the higher or enhanced rates of disability benefits considered when KCC calculates a person's income</p> | <p>Whilst this would reduce the number of people impacted by the proposed change it would not be fair and equitable for all people who draw on care and support and would not deliver the planned savings/income requirement.</p> |
| <p>Introduce the policy in stages, no more than a £12 increase to anyone's charge per year, for existing people who draw on care and support to give them time to adjust</p> | <p>Whilst this would reduce the impact of the proposed change it does not deliver the planned savings/income requirement as quickly. This would also be quite challenging to administrate both manually and on the case management system.</p> |
| <p>An increase to the £17 standard Disability Related Expenditure (DRE) that is already applied to all people in receipt of non-residential services.</p> <p>This is in addition to any individual DRE applications.</p> | <p>This does not take into account the individual's needs and is treating everyone the same regardless of need. This would reduce the income available for adult social care and cause a budget gap and would be applied to all rather than just those who receive the higher and enhanced benefits.</p> |
| <p>Increase Minimum Income Guarantee (MIG) for basic living expenses such as utility bills and food</p> | <p>This would reduce the income available for adult social care and cause an even larger budget gap. This would also be applied to all and not address those who have a greater need or increased charge.</p> <p>More information regarding the MIG can be found in the supporting recommendation report.</p> |
| <p>In line with policy, we offer individual DRE assessment when requested. This option is to undertake individual DRE assessments for all individuals directly impacted regardless of request.</p> | <p>This would reduce the funding available for adult social care and have a significant impact on operational resources and the possibility for people to go through an unnecessary process. Currently there are 114 number of individual DRE's above the standard £17.</p> |

Do nothing

Does not deliver the aim of achieving the desired level of income to balance the budget (due to the Council's prioritisation of moving to new models of care under the budget recovery strategy "Securing Kent's Future").

Any interest declared when the decision was taken and any dispensation granted by the Proper Officer: None



24 June 2024

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signed

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date