	AGENDA ITEM 4
	PAF/06/18

Committee:	**People and Families Policy and Scrutiny Committee**
Date:	**15 March 2018**
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People and Families Scrutiny Committee

Briefing: Assessing the implementation of the ECC's domiciliary care charging policy

Date: 15 March 2018

Background

ECC provides domiciliary care (support for people living in their own homes) to about 10,000 people, including via Direct Payments. The cost of the services is either fully or partly met by ECC, depending on the financial status of the person.

The basis for charging

The decision on whether or not to charge for Adult Social Care (ASC) services is left to individual local authorities. It has been a long-standing policy of ECC to charge.

Having decided to charge, a local authority must do so in line with statutory guidance published by the Department of Health and Social Care (DHSC) which is updated by means of a Local Authority Circular. ECC charging arrangements operate in line with the guidance, and are audited to ensure compliance and operational effectiveness.

How ECC charges

The framework for charging for Adult Social Care (ASC) support is set out in the statutory Care and Support Guidance (DHSC, 2018). The guidance covers both treatment of income and capital and the identification and correct attribution of DRE.

Adults are assessed on the basis of the individual income and capital net of any housing costs, or tenancy related service charges. Adults must, after charging, be left with their Minimum Income Guarantee (MIG) amount, the MIG varies according to age, and is set by the Secretary of State for Health and Social Care annually. The relevant circular setting out the MIG levels at the time of the changes can be found here: Social care charging for local authorities: 2017 to 2018 - GOV.UK .

The latest revision to this circular can be found here: Social care charging for local authorities: 2018 to 2019 - GOV.UK

Charging determinations and identification of DREs form part of the wider assessment process used to determine both the correct level of support required by an adult and what, if any, their contribution to the cost of that support should be.

ECC changes to charging for 2017/18

In December 2016, the Cabinet decided to make changes to charging for people who received domiciliary care services:

- Charging people from the date they receive care, and not when the financial assessment is made
- Including capital value of all property owned (other than own home) in the financial assessment
- Align the use of DREs much more closely to the Care & Support Guidance
- Reduce the Maximum Capital Threshold from £27,000 to £23,250
- Reduce the Minimum Income Guarantee for Older People to £189/week in order to align with the statutory minimum (NB. this was not required to be part of the formal Cabinet Decision)

In October 2017, the Cabinet Member for Health and Adult Social Care agreed to assess the implementation of the changes to charging (Cabinet decision FP/574/08/16: Changes to charges for Adult Social Care – December 2016).

This paper presents the findings of a review into the implementation of ECC's domiciliary care charging policy introduced in April 2017.

Review findings (Full review report is at Appendix 1)

Summary

This activity represented a significant change in charging practice. It was aimed at bringing Essex County Council's arrangements into closer alignment with the provisions of the Care and Support Guidance (Department of Health, 2017, updated 2018) this intention was reflected in the Cabinet Decision that mandated the change.

Overall, the implementation of the changes was successful and the measures taken to ensure equity and fairness worked well:

- the policy change has been implemented as stated in the Cabinet Paper
- ECC's arrangements are now in line with that adopted by most Councils
- Governance arrangements (re. consultation about the changes) were compliant and appropriate, as overseen by ECC's Monitoring Officer
- Analysis shows that the impacts anticipated in the Equality Impact Assessment were correct
- How much a person pays is based on their assessed ability to pay, and the formula used to make the determination is statutory, including the treatment of Disability Related Expenditure (DRE)
- 68% of adults continue to pay nothing
- Of those who saw increases, 65% of adults saw increases of less than £20 a week
- Additional revenue generated is expected to be some £10.3m, an increase of £6m on the figure anticipated in the Cabinet Decision
- Additional revenue has resulted from; a/ modelling assumptions were overly conservative, and b/ social care practice issues that were uncovered
- Some issues with processes have been identified and are being addressed as part of our ongoing organisational redesign

Detail

It is now anticipated that the income from charging for domiciliary support for the period April 2017 to March 2018 will be £24.1m, of which £10.3m is thought to be due to the charging changes.

The following table summarises the changes in invoicing by impairment group for those adults receiving support through a managed service at the time the changes came into effect in April 2017:

Average charging increases from 2016/17 to 2017/18	OP	LD	PSI	MH	Totals	Totals
	Service Users	Service Users	Service Users	Service Users	Service Users	% of Service Users
Charge increase £0	931	524	281	61	**1797**	36%
Charge increase <£20	814	452	156	11	**1433**	29%
Charge increase £20 - £40	511	162	47	2	**722**	14%
Charge increase £40 - £60	358	75	21	2	**456**	9%
Charge increase £60 - £80	206	25	6	0	**237**	5%
Charge increase £80 - £100	100	21	9	1	**131**	3%
Charge increase >£100	165	29	8	2	**204**	4%
Totals	**3085**	**1288**	**528**	**79**	**4980**	**100%**

The new charging arrangements have resulted in 6% more adults (by volume) paying a contribution to the cost of their care. This represents an additional 500 people. These figures are averages and reflect best available data.

Adults have continued to have their eligible needs met and to be left with their minimum level of guaranteed income. ECC will always look again at an assessed charge if someone tells us they can't afford to pay it, or believe that a charge is

incorrect. All such requests are considered by experienced staff and where required a formal social care review will triggered.

Approximately 6,000 calls were received from 1 March 2017 to 31 August 2017, from which about 2,000 service users requested a review of their finances. 224 cases went to Escalation Review Panel and four became Judicial Review threats. To date no formal legal proceedings have been brought against the Council**.**

Lessons learned

Organisational infrastructure - existing arrangements showed that systems do not routinely collect key data, making monitoring difficult, and they do not allow optimal support for front-line working.

Change management - no formal change management strategy was in place to ensure consideration of the wider impact of the changes on practice and systems.

APPENDIX 1

REPORT ON IMPLEMENTATION OF CHARGING CHANGES REVIEW

The Terms of Reference for this review are attached at **Attachment A**.

Summary Findings

This activity represented a major change in charging practice. It was specifically aimed at increasing revenue from charging by bringing Essex County Council's arrangements into closer alignment with the provisions of the Care and Support Guidance (Department of Health, 2017, updated 2018) this intention was reflected in the Cabinet Decision that mandated the change.

Overall the implementation of the changes was successful and the measures taken to ensure equity and fairness worked reasonably well.

The level of revenue estimated in the Cabinet Paper is substantially lower than that actually being generated.

In summary;

- the policy change has been implemented as stated in the Cabinet Paper;
- there is evidence that while extra resources were made available the implementation of the changes was more challenging than had been anticipated;
- the Equality Impact Assessment correctly identified the impacted groups and there is no evidence to indicate that other groups have been unexpectedly impacted by the policy change;
- the change is projected to generate a greater level of income than stated in the Cabinet Paper the disparity apparently being due to a/ the modelling assumptions used to determine the figure in the Cabinet Decision and b/ to poor practice in this area prior to the change.

More detailed analysis is attached at **Attachment B.**

Lessons learned

Organisational infrastructure

Existing infrastructure arrangements, at both organisational and system level, did not support the change well. In particular existing systems do not routinely collect key data, making monitoring difficult, and they do not effectively support front line working.

The effect of this was to make implementation of the change a/more difficult to achieve, b/to monitor effectively, and, c/ to control appropriately at an operational level.

Change management

At the points of decision and implementation there was no formal change management strategy for Adult Social Care. As a result a number of major initiatives, for example the roll-out of "Good Lives", and the April 2016 changes to charging, were implemented without a formal change plan designed to ensure full consideration of the wider impact of the changes on practice and systems.

This absence resulted in a lack of an effective support and monitoring structure that could provide a strategic system wide view and support effective risk management. This absence left the project team and front line staff without a clear pathway to address issues as they arose.

Context

The framework for charging

The framework for charging for Adults Social Care (ASC) support is set out in the statutory Care and Support Guidance (Department of Health and Social Care, 2017, updated 2018). The guidance covers both treatment of income and capital and the identification and correct attribution of Disability Related Expenditure (DRE).

Adults are assessed on the basis of their individual income and capital net of any housing costs, or tenancy related service charges. Adults must, after charging, be left with the sum of money known as their Minimum Income Guarantee (MIG) which varies according to age and is set by the Secretary of State for Health on a yearly basis. The relevant circular setting out the MIG levels can be found here: Social care charging for local authorities: 2017 to 2018 - GOV.UK

Charging determinations and identification of DREs form part of the wider assessment process used to determine both the correct level of support required by an adult and what, if any, their contribution to the cost of that support should be.

Financial impact

It is now anticipated that the income from charging for domiciliary support (including relevant direct payments) for the period April '17 – March '18 will be £24.1m, of which £10.3m is thought to be due to the charging changes.

The table below summarises the changes in invoicing by impairment group for those adults receiving support through a managed service at the time the changes came into effect in April 2017.

It should be noted that this represents the best available data, however it is not possible to say exactly how much of the change in invoices is directly the result of the changes.

Average charging increases from 2016/17 to 2017/18	OP	LD	PSI	MH	Totals	Totals
	Service Users	Service Users	Service Users	Service Users	Service Users	% of Service Users
Charge increase £0	931	524	281	61	**1797**	36%
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Charge increase >£100	165	29	8	2	**204**	4%
Totals	**3085**	**1288**	**528**	**79**	**4980**	**100%**

The new charging arrangements have resulted in an additional 6% more adults, (by volume), overall paying a contribution to the cost of their care. This represents an additional 500 adults. These figures are averages and reflect best available data.

Enquiries and Complaints

Significantly, we have collated some data which highlights the relatively low impact of the changes in terms of public challenge to the changes. Approximately 6,000 calls (including repeated calls) were received from 1st March '17- 31st August '17 out of which approximately 2,000 service users requested a review of their finances, 224 cases went to Escalation Review Panel by early November '17 and only four became Judicial Review threats. To date no formal legal proceedings have been brought against the Council.

Effect of previous practice on financial impact

Previous practice around charging, and DREs in particular was not robust and it is likely that the true extent of that fragility has only become clear as a result of these changes exposing individual cases. This is seen most clearly in the case of changes to DREs.

Determination of DREs

For expenditure to be a DRE, the adult must have a qualifying benefit and then fulfil the conditions set out in Annex C of the Care and Support Guidance. In essence the expenditure must be:

- Directly related to the adult's disability,
- Necessary, and
- Reasonable.

Some expenditure will be directly related to the adult's disability but will fail on the application of necessity: for example, incontinence pads are not necessary as DREs as the NHS has a responsibility to provide adequate supplies.

Reasonableness is based on the extra cost arising directly attributable to the disability, so clothing is a requirement we all have, but if an adult has higher wear on their clothing due to their impairment, then the DRE will be limited to the amount of that additional cost.

Throughout the implementation of the charging changes it has been clear that our previous practice on DREs was not consistent with approach set out in Annex B and as a result significant reductions in charges and therefore revenue has resulted over a period of years.

Examples of items previously allowed outside Annex C (Statutory Guidance)

The list below sets out some examples of items we have seen that fall outside the scope of Annex C

- Cost of private healthcare (eg BUPA subscription)
- Incontinence pads
- Gardening over and above that required to maintain access to the property
- Hairdressing (including styling, colouring, cutting, others) – hair washing should be in the Care and Support plan as part of the personal care element
- Cost of private dental care
- Standard cost of daily living (eg food, tv licence, cinema tickets, pub, phone line, gym, etc.)
- Funeral Plans
- Personal Trainer
- Physiotherapy, Hydrotherapy, other alternative therapies
- Transfer from and to medical appointments where the NHS has responsibility
- Dietary requirements which are not medically necessary (eg fizzy drinks and treats, eating disorders, etc.)

Expenditure that should have been in the Care and Support plan

Further distorting the position were examples of items that should have been considered as part of the adult's Care and Support Plan and therefore included within their chargeable personal budget. These include;

- Personal Care
- Elective Private Respite Care / Holidays
- Transfer from and to places identified to meet eligible needs (eg Day Centres)

The result of removing these items or correctly reallocating them to the Care and Support plan as appropriate will have had a significant impact on the adult's assessed charge.

Attachment A – Terms of reference for the review

To assess the implementation of the changes to charging set out in the Cabinet Decision in December 2016 against:

- The stated policy intention in the Decision
- The published equality impact assessment
- The anticipated income earned by the changes

Key lines of enquiry

The review will;

- Assess whether the policy intention has been implemented effectively including;
    - Ability of financial assessment and revenue collection systems and social care practice to support the change
- Assess whether;
    - the anticipated impacts set out in the Equality Impact Assessment were correct and if not what unexpected impacts have there been including whether any group(s,) in the scope of the changes, have been disproportionately impacted
    - The mitigations set out in the published equality impact assessment have been robust in practice
- Assess whether;
    - the changes have generated revenue within the range set out in the Cabinet Report
    - If the revenue has been different than anticipated what has led to that outcome

A lessons learned summary should be provided so that continuous learning is facilitated as it is expected that policy changes of this nature will continue to be necessary in the near future.

Attachment B

Line of Enquiry	Findings
Has the policy intention been implemented effectively?	The additional 2017/18 income earned (after bad debt) based on invoices raised to date and future projections are forecast to be £10.3m. No additional income was received before April 2017. The first tranche of invoices for managed services was issued in June 2017. It should be noted that all Direct Payments are made net of any client contribution. Evidence shows that additional resource was budgeted and allocated to deal with the anticipated increased volume. but some issues did arise that are described below. The level and complexity of calls in response to the policy change generated exceptional call volume in March, June and August 2017. New costs for resources requested in the Cabinet Paper have been allocated and no additional requests for further funds have been made.
Assess the ability of financial assessment and revenue collection systems and social care practice to support the change	There is some evidence concerning the number of internal financial referral rejections between Social Workers and Financial Assessment team. This issue existed before the new policy was implemented and seems to have worsened as a result of it and supports the wider conclusion relating to infrastructure. Reasons for rejection included DREs being added to care packages despite them not meeting the updated DRE practice guidance. This led to an increase in the number of rejections following the Financial Assessment stage and an increase in work load due to a revised package being required and subsequent re-review. From the perspective of the Social Worker the opinion is that more could have been done to drive understanding of the new arrangements. The following evidence supports the conclusion relating to change management. In November 2016 the Social Care Income (SCI) Steering Group decided to create the Adults Implementation Group, led by a former DLD, to manage the implementation of the policy change. A decision at SCI was recorded for the need

	for a defined set of points of contact in Adult Operations to sort out where referrals were an issue. It is unclear who those contact points were. There is reference in May 2017 that all work moves to the Directors of Local Delivery from mid-June and indication that there were still issues with “BAU process and practice”. It is believed that with the then DLD leaving and a lack of clarity of future post holders due to the Organisation Redesign that the levels of attention given to the issue were insufficient. In order to reduce the rejection rates a new “assurance” step was eventually introduced in June 2017 where the Practice and Development team would filter the financial referral review before being received by the Financial Assessment Team. There is evidence that the Steering Group were also repeatedly advised about a separate issue relating to the volume of calls from SUs and how the project team was struggling to deal with this at times. It was agreed in May 2017 that the responsibility for dealing with the volume should be with the Quadrants and not the project team. It seems that there were still some process and issues within the Quadrants regarding how and what needed to be done. There is evidence that a number of communication bulletins were produced which included guidance on determining DREs and many team meetings with Adult Operations were attended to present the policy and process change but this did not seem to be effective. From a practitioner perspective there appears to be an opinion of imposed change with insufficient buy in or understanding and support to that change, and more could have been done to educate and support the workforce and understand from their perspective. There is also evidence that the same teams were being affected by numerous policy changes or other initiatives at the same time (e.g. Budget Recovery, Sustainability, Transport, Good Lives) and this could have led to the issues. The turnover of senior management at that time may also have been a contributing factor to a lack of action taken to address certain issues. It also appears that the project team carried the weight of responsibility for the change and subsequent volume of calls; that could have been handled in a more effective way at an earlier stage. suggestions have been made that champions in quadrants or a “practice forum” could have been created. It appears

	that these may have been suggested but resource not identified.
Assess if the anticipated impacts set out in the EqIA were correct and if not what unexpected impacts have there been on any other group	In consultation with Head of Equalities and Diversity, the nature of impacts were deemed to be correctly stated, across all groups the impact would be a potential increase in their own care costs. The Mosaic system does apply a care grouping category, though different to the Equality Impact Assessment (EqIA) categories, it can be used to determine the type of group that requested that the outcome of the review be escalated further. Analysis of 224 cases who asked for their DREs to be reconsidered showed that 69% were from groups within "Older People" category with 21% are those within "Learning Disability Support" category. From this it can be reasonably concluded that the affected groups were as expected in the EqIA and no unexpected impacts on other groups have been identified.
Assess if the mitigations set out in the EqIA have been robust in practice	The first 2 mitigating actions stated in the EqIA could have been drafted more effectively. So the adverse impact of an increase in SU pay towards care is not mitigated by a public consultation as an example. The final adverse impact addresses the potential hardship that may result and the mitigation refers to the statutory means test being specifically designed to prevent hardship, as it guarantees that no adult will be left with less than their minimum guaranteed income as set out in LAC 2017(1), as well as an offer to increase Social Worker capacity to undertake follow ups on cases of possible hardship. Evidence shows that additional capacity was put in place using staff from the Hub of Independent Practitioners.
Assess if the changes have generated revenue within the range set out in the Cabinet Report	The additional 2017/18 income earned (after bad debt) based on invoices raised to date and future projections are forecast to be £10.3m. This is higher than the figure quoted in the Cabinet Paper.
Assess if the revenue is different to what was anticipated; what has led to this?	The reason for the increase in expected income can be attributed in part to the original model being built on projected income and assumptions built to go alongside the Cabinet Report. In this model there was an assumption that 14% of the income would be reduced as a result of re-reviews and an additional 21% was reduced due to provision for bad debt. In additional practice issues as set out above have played a significant part in the increase in income.