

DERBYSHIRE COUNTY COUNCIL

CABINET

5 May 2015

Report of the Strategic Director for Adult Care

URGENT DECISIONS TAKEN BY THE CHIEF EXECUTIVE

CHARGING FOR RESIDENTIAL CARE –

CARE ACT 2014

ADULT SOCIAL CARE

1. Purpose of the Report

To note an urgent decision taken by the Chief Executive in accordance with the Scheme of Delegation contained in the Council's Constitution.

2. Information and Analysis

Approval was sought to allow the Council to continue to charge for residential care under the new provision of the Care Act 2014. An urgent decision was required as relevant provisions of the Care Act came into force on 1st April 2014. A copy of the report of the Strategic Director of Adult Care explaining the circumstances in which the urgent decision was taken is attached as Appendix 1 to this report.

The decision was taken on 16 March 2015 by the Chief Executive.

3. Legal Considerations

The Chief Executive's decision was taken in accordance with the Scheme of Delegation contained in the Council's Constitution which provides,

“Notwithstanding any other provision of this Constitution, the Chief Executive shall have power, after discussion, if practicable (in this instance discussion was not practicable because of the time constraints) with the

Leader of the Council or the relevant Cabinet Member or Chair, to take such actions deemed to be necessary and expedient in matters requiring urgent consideration and which, because of the timescale involved, or the need to safeguard the interests of the County Council, cannot be dealt with by submission to the next following meeting of the Council, Cabinet, Cabinet Member or Committee”.

As a matter of good practice, Cabinet is being informed of the decision that has been taken under this provision.

4. Other Considerations

In preparing this report the relevance of the following factors has been considered; financial, prevention of crime and disorder, equality and diversity, human resources, environmental, health and transport considerations.

5. Key Decision

No

6. Is it necessary to waive the call-in period?

No

7. Officer's Recommendation

That the report be noted.

Mary McElvaney
Strategic Director – Adult Care
County Hall
MATLOCK

DERBYSHIRE COUNTY COUNCIL

Report to Chief Executive from Strategic Director, Adult Care

CHARGING FOR RESIDENTIAL CARE – CARE ACT 2014 **(ADULT CARE)**

Purpose of the Report

To approve the continuation of charging for residential and nursing care under the provision of the Care Act 2014.

A decision is required urgently, and before the Cabinet on the 24 March 2015, as this affects provision from the 1 April onwards.

The Chief Executive has power under the Constitution, after discussion, if practicable, with the Leader of the Council or the relevant Cabinet Member or Chairman to take such action deemed to be necessary and expedient in matters requiring urgent consideration and which, because of the times case involved, or the need to safeguard the interests of the County Council, cannot be dealt with by submission to the next following meeting of the Council, Cabinet, Cabinet Member or Committee.

Information and Analysis

The duty of a local authority to provide residential accommodation to individuals assessed as having an eligible need is set out in s.21 National Assistance Act 1948.

The current legislative framework for charging individuals for care within such a residential setting is set out under s.22 National Assistance Act 1948. The charging provision under s.22 is framed as a duty which requires the local authority to charge in accordance with a means tested approach. The only exceptions to the obligation to charge are during the first eight weeks of a stay, or if it is part of a package of intermediate care.

The way in which that means tested charging system operates is specified currently in the National Assistance (Assessment of Resources) Regulations 1992. Guidance known as CRAG (Charging for Residential Accommodation Guide) is published annually by the Department of Health and is s.7 Guidance.

In April 2015 the duty to charge for residential care under s.22 NAA 1948 is to be overtaken by s.14 Care Act 2014. The Government's policy that charging for all forms of care and support should be discretionary has seen the enactment of s.14 which means that the Council no longer has a duty to charge for residential care but a power to charge.

The Act has given the Secretary of State regulation-making powers and as such the Care and Support (Charging and Assessment of Resources) Regulations 2014 provides the mechanism under which an individual is financially assessed including the provision of capital and income thresholds. CRAG has been replaced by Care and Support Statutory Guidance and chapter 8 of that guidance refers. The charging regime for residential care at this time substantively reflects current practice. More significant reforms including the introduction of cap on care costs are not due to come onto the statute books until April 2016 at the earliest.

Income generated from charging for residential care is significant and allows the local authority to continue to meet need in an environment where there are significant budgetary pressures. The Council's budget is predicated on continued charging at the current rates. Exercise of the power under s.14 Care Act 2014 is strongly recommended. If this option is preferred then the rate of the charges will be governed by the Care and Support (Charging and Assessment of Resources) Regulations 2014.

OFFICER RECOMMENDATION

That the Chief Executive approves the Council charging for residential and nursing care from 1 April 2015 under s.14 Care Act 2014 and the Care and Support (Charging and Assessment of Resources) Regulations 2014.

Approved.

16.3.15.

