

Report to the Cabinet

Meeting to be held on Thursday, 7 September 2023

Report of the Executive Director of Adult Services and Health & Wellbeing

Part I

Electoral Division affected:
(All Divisions);

Corporate Priorities:
Caring for the vulnerable;

Adult Social Care Short Breaks Policy

(Appendices 'A' to 'C' refer)

Contact for further information:

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Brief Summary

The Adult Social Care Short Breaks Policy (formerly Respite Policy) sets out the county council's approach to providing and charging for Short Breaks from October 2023.

The Short Breaks Policy aligns to a strength-based social care practice model.

Strength-based social care practice is a way of working with people who have care and support needs as well as their families and carers, to work together to determine the outcomes a person wants to achieve and linking this to the person's own strengths and assets. Strengths and assets can be the person's own skills and abilities, their social network and includes community resources (what is available to them locally which can support them).

The practice model supports practitioners to have distinct conversations with a person and/or their families and carers and how they can access:

- Information, advice and guidance about accessing universal support.
- Short breaks for up to 6 weeks to regain skills and confidence, and to prevent, reduce and delay the need for long-term care and support.
- Long-term support which is assessed against Care Act eligibility, for both the person with care and support needs and their carer.



The proposed Policy is aligned to delivering best practice and implementing national policy on charging for adult social care, based on a financial assessment.

In accordance with the county council's budget options for 2023/24, it is proposed to deliver the budgeted additional income from cared for people in receipt of short breaks through implementation of the following:

- Removing the current cap on charges for residential short breaks so that people pay up to the actual cost of receiving the service, subject to a financial assessment under the Care Act 2014, which determines how much a cared for person can afford to pay; and
- Where direct payments are used to purchase short breaks, the person will be charged what they can afford to pay up to the actual cost of the care, based on a financial assessment.

This is deemed to be a Key Decision and the requirements of Standing Order C19 have been complied with.

Recommendation

Cabinet is asked to consider and approve the proposed Adult Social Care Short Breaks Policy as set out at Appendix 'A'.

Detail

Following a recent Local Government Ombudsman case ruling, and to bring the current Short Breaks Policy fully in line with the statutory requirements of the Care Act 2014, the county council needs to change the way it charges for short breaks. The Ombudsman found that the provision of a standard charge for short breaks was not in line with the Care Act 2014 and that, instead, people should be offered a financial assessment to determine what they can afford to pay towards this care, as they would with short term residential care.

To ensure that the changes were communicated appropriately to cared for people, the county council took the decision to cap the contribution for short breaks, at the same limit as the previous standard contribution of £116.20 per week for 2022/23. The proposed Adult Social Care Short Breaks Policy, set out at Appendix 'A', sets out the county council's approach to providing and charging for short breaks from October 2023, removing the capped contribution rate.

The decision to cap the contribution took effect from 11 April 2022, and affected approximately 600-700 people receiving short breaks. Letters were sent out to notify people of the change to the policy to offer a financial assessment and, as the majority saw a reduction in charges, no concerns were raised. Calls were monitored over a 4-week period and approximately 30 calls were received; of these, 25 callers requested more information, i.e., what this change meant for them, and 5 people requested a reassessment as their circumstances had changed since they were last assessed.



People in receipt of short breaks, or their representatives, were offered a financial assessment to determine how much they could afford to pay towards the cost of their short breaks. They were either advised of what the charge would be, following the financial assessment (if they chose to have a financial assessment), or the capped weekly charge if they declined a financial assessment.

Since the implementation of the decision to cap the contribution in April 2022, no complaints or concerns have been raised by people about the process. Following financial assessments being undertaken to determine affordability, the majority of people had seen a reduction in their short breaks charge. The feedback received on capping the contribution for short breaks was therefore positive overall.

However, following the Ombudsman case ruling, and to bring the current Short Breaks policy fully in line with the statutory requirements of the Care Act 2014, it is now proposed that the current cap of £116.20 per week for Short Breaks is removed, so that those people who can afford to pay the full cost do so.

The county council has also developed a Short Breaks Factsheet which provides information for carers, including an explanation of the financial implications of short breaks, as set out at Appendix 'B'. The current arrangements for paying a 3rd party top up and for short breaks provisioned via direct payments will also remain unchanged at this time.

Appendices

Appendices 'A' – 'C' are attached to this report. For clarification they are summarised below and referenced at relevant points within this report.

Appendix	Title
Appendix 'A'	Adult Short Breaks Policy Statement
Appendix 'B'	Adults Short Breaks Factsheet – Information for Carers
Appendix 'C'	Equality Analysis Toolkit

Engagement

The county council contacted the 600-700 people receiving Short Breaks, to inform them of the proposed change to the short breaks charging policy and to include the information about a capped charge. No complaints were received following this letter, 30 calls were received, 25 people asked for more information and 5 people requested a reassessment of their financial contribution. A further letter will be sent to people who utilise short breaks following the decision from Cabinet. This will advise people of the removal of the capped charge and that all people accessing residential short breaks will now be assessed for what they can afford to pay. The cap will be removed from 1 October 2023, subject to Cabinet agreement.

Implications:

This item has the following implications, as indicated:



Workforce

Support for Lancashire residents is guided by the county council's adult social care policies, procedures and practice guidance. The accuracy and relevance of these documents is essential to support practice and the delivery of high-quality services.

There will be additional implications and responsibilities for the county council's operational staff.

All social care practitioners undertake the task of completing 3rd party forms. The Adult Social Care Short Breaks Policy may increase the number of forms that will need to be processed. In addition, more complex discussions will need to take place with people around their finances in relation to short breaks and renewal, whereby these conversations have only previously taken place in connection with short and long term residential placements.

In addition, people in receipt of direct payments for short breaks did not previously require a financial assessment. However, under the new policy, this will be required, should a person wish to utilise a direct payment to access a residential short break placement.

There will be training required for staff, for example, in the county council's Customer Access Service, in order that they can inform service users of the changes, and manage a possible increase in calls.

Equality and Cohesion

The Care Act 2014 itself was implemented following a period of consultation, and its provisions were assessed for their equality impact. Policies, procedures and guidance documents are primarily intended as a guide for social care employees in applying the Care Act 2014, and in ensuring delivery of quality care and support. It is an intrinsic requirement that these are applied objectively and fairly to all people with protected characteristics (age, disability, gender identity, sex/gender, race, religion or belief, sexual orientation, pregnancy and maternity and marriage or civil partnership status) and that, where necessary, reasonable adjustments are made to assist disabled people to participate in the process, or other steps are taken to meet the requirements of the Equality Act 2010.

Furthermore, in line with the Public Sector Equality Duty, each policy, procedure and guidance document has been considered by the Equality and Cohesion Manager, and a short appendix added to highlight the aims of the Public Sector Equality Duty and protected characteristics in a proportionate manner. It is intended that this will provide staff with a bespoke summary of how each policy, procedure and guidance may impact on protected characteristics groups and that this is proportionate means of showing due regards in relation to each individual policy, procedure and guidance document.

The Equality Analysis Toolkit is set out at Appendix 'C'.



Financial

If the person cared for receives a short break in a residential care setting through a direct payment, they will be offered a financial assessment if they have less than £23,250 in savings, to determine what they can afford to pay towards their short break. If the person cared for has a recent, valid non-residential financial assessment in place, they will not require a new assessment as the current non-residential assessment will be used for their short break. If the person cared for has more than £23,250 in savings, or does not wish to complete a financial assessment, they will be required to pay the full cost of their short break, exclusive of any 3rd party top up.

If the person cared for chooses a home with higher fees, the difference between this standard fee and the fee which the care home has requested must be paid as a top-up. This is called a '3rd party top-up payment' which cannot be paid by the person cared for. The carer, a family member or friend can agree to pay this extra sum of money, on top of the fee the care home receives from the county council and in addition to the amount paid by the person cared for. The family member or friend must be willing and able to make the payment. The 3rd party payee will be invoiced by the county council and will be required to sign a 3rd party top-up agreement.

Through removing the current cap in the charge for short breaks, some cared for people will see an increase in their charge, where they can afford to pay higher than the current £116.20 per week, as determined by a financial assessment. Out of an indicative total of approximately 600 cared for people, it is estimated that:

- Around 60 full cost paying cared for people per year will see an increase in their charge by an average c£300-£400 per week of respite.
- Around 30 cared for people per year will see an increase in their charge by an average c£80 per week of respite.
- All other users of residential short breaks will see no change or a reduction in their contribution.

The majority of those people seeing an increase in the charge are expected to be older age adults.

If the person cared for is financially assessed to pay the full cost of their Short Break, they will not be offered Direct Payments as an option. They will be able to request that the county council arrange their short break on their behalf, or they may choose to approach a care home directly.

As part of the 2023/24 budget, Full Council approved a saving in relation to the former Respite Policy (Reference A007); the saving identified was for £0.100m in 2023/24. If the Adult Social Care Short Breaks Policy is not put in place, alternative ways of meeting the agreed saving would need to be explored or this would result in an additional pressure on the medium-term financial strategy.

Risk management

The Care Act Statutory Guidance sets out that the county council should develop and maintain policies in relation to a number of subject areas covered in the Act. If



the recommendation is not taken forward, the county council may be at risk of future legal challenges.

List of Background Papers

Paper	Date	Contact/Tel
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None

Reason for inclusion in Part II, if appropriate

N/A

