

Essex County Council
Cabinet Office
PO Box 11, County Hall
Chelmsford
Essex CM1 1LX



Ms Wendy Burt & Mr Peter Brown
Essex Mencap
Unit 1 Harwich Enterprise Centre
Tyler Road, Harwich
C012 4PH

Date: 6 October 2017
Our Ref: ECC3171822 09 17

Dear Ms Burt and Mr Brown

Re: Charging for adult social care

Thank you for your letter of 22 September 2017 sent to Cllr Madden. I am replying as the Cabinet Member with responsibility for adult social care.

Before dealing with your points in turn I would like to say that we did not take the decision to change the way in which we calculate individual's charges lightly. Essex has, for many years, had a system of charging that was, in comparison with most other local authorities with adult social care responsibility, relatively generous. As you know like most local authorities, Essex is faced with continuing financial pressure and we can no longer afford this approach.

The provisions governing charging are set out in the Care Act 2014, the Care Act (Charging and Assessment of Resources) Regulations 2014 and in detail in the Care and Support Statutory Guidance (Department of Health, 2017). While a local authority always has the discretion to allow people to retain more of their income and capital, all local authorities must ensure that they do not charge more than is provided for in the Guidance.

What the Council has done, in practice, is to align its charging policy and systems to the Care Act and implement the guidance in full, including the provisions relating to disability related expenditure and treatment of capital. This has resulted in some people being required to pay more for their care, however both the methodology we are using, and the minimum levels of income we are leaving people with fully complies with the law, the Care and Support Guidance and the provisions of LAC 2017(1). The latter is a circular from the Department of Health, usually issued annually, that tells us what levels of income must remain after charging. It should be noted that the income levels are set by the Secretary of State for Health, not the local authority.

Turning now to your specific points:

The Consultation

The consultation process on the charging reforms went through our formal governance procedures, and was published on our website in the normal way. In addition we wrote to some 9,000 adults whom we believed were likely to be affected by the change by drawing attention to it. The information used was our invoicing list and was the most comprehensive data available to us at the time. The statement that we posted to all services users (or their representatives) was therefore made in good faith. I am sorry if there were some people who did not receive the letter the Council sent to them.

Turning to your 4th point, Essex County Council routinely publishes consultations on its website, in the same way as many other councils and government departments do. Essex Mencap and Essex Carers' Network are well-established and sophisticated organisations and presumably routinely responds to consultations in which it has an interest. You will appreciate that there are many bodies supporting the frail and elderly and those with disabilities across Essex, and it would be impractical to contact them all individually. However, we did write to approximately 9,000 service users who we anticipated could be affected by the changes.

Application of the changes to Disability Related Expenditure (DRE)

The examples given in our letter of the October 2016 were correct. We will not routinely pay for gardening or line rental for a telephone. We may pay for items such as the extra cost of clearing a pathway to ensure a person can safely access their property or for a telephone line where it's been installed for the sole purpose of supporting the operation of an alarm call system, as in both cases these expenditures directly link the adult's disability. The statutory guidance addressing this issue is set out at Annex C of the Care and Support Guidance.

Disproportionate impact on the most disabled of DRE changes

I note your point relating to the impact of the changes on the most disabled. We do not accept that it is the case that the most disabled have the highest level of DREs in our experience the picture is considerably more diverse.

It is our position that we will always meet eligible needs, in line with relevant law and statutory guidance, including Annex C. We believe that this is the only approach that is fair, proportionate, and sustainable.

Calculation of charges

The Council sends adult's paying a charge a breakdown of the calculation as part of the annual charging letter, this year we also included additional information making clear what the changes were as they related to DREs and inviting anyone who disagreed with their assessment to contact us, a dedicated phone number was provided for the purpose.

Where appropriate we have revised adjusted financial assessments as a result of representations made to us following the charging letter. I would agree that the explanation of the calculation could be clearer and we are looking at what can be done about this within the constraints imposed by our existing infrastructure.

Scale of the increases

It is true that some adults have seen a substantial increase in their charges as a result of the changes we have implemented, however it is also the case that no one has been left with less than their guaranteed minimum income in accordance with the law. While I do understand that lifestyles choices are important to the adult concerned, I have to be clear that our role is to meet eligible needs (not preferences) and to do so in line with the statutory guidance as set out above.

Working with the CCGs

We are working extensively with our partners in the CCGs and the acute hospitals to develop and deliver a more integrated approach to meeting need, but in this context the position is clear, the Council will not allow DREs for items that it falls to health to provide, such as incontinence pads.

While I fully understand that the changes we have introduced are having a considerable impact on those affected by them I am satisfied that we have acted lawfully and that the implementation has been as fair and transparent as possible. As a Council we have a duty to collect the revenue due to us to ensure we can continue to support those who need our help.

We will continue to charge in line with the Cabinet Decision of December 2016 and the relevant law and statutory guidance.

I realise that the contents of this letter will be disappointing but I hope this provides you with sufficient reassurance that the Council is acting within the remit of its statutory powers and lawfully.

Perhaps I can add a personal footnote. The above letter sets out the facts and rationale for the increases in an objective way. At a human level, neither I, my fellow councillors nor our officers want to impose ever higher charges. We recognise the impact they are having on some of your members but we do have a legal obligation to ensure the financial sustainability of the council on behalf of all our residents. I'm sure our paths will cross and look forward to meeting you in due course.

Yours sincerely



Cllr John Spence
Cabinet Member for Adult Social Care

Please reply to: Member Enquiries Team
Email: Member.Enquiries@essex.gov.uk
Internet: www.essex.gov.uk