

Adult Social Care Scrutiny Commission Report

An Overview of Support for People who
self-fund their social care

Lead Member: Cllr Sarah Russell

Lead Strategic Director: Laurence Jones

Director: Ruth Lake

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Wards Affected: All
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1. Summary

1.1 This report provides the Adult Social Care Scrutiny Commission with an overview of the support offered to people who self-fund their Adult Social Care (ASC) support.

2. Recommendations

2.1 The Adult Social Care Scrutiny Commission is recommended to:

a) Note the report and to provide any comments

3. Overview Report

3.1 The Care Act 2014 sets out a clear legal framework for Local Authorities in their duties towards people who are deemed to be self-funders.

3.2 A person with assets of more than £23,250 is regarded as a self-funder of their care and support. What constitutes an asset depends on the setting of care (residential or non-residential) and the occupation of the 'home'. Commonly this is savings, stock or shares and property. The value of a person's home is not considered an asset where they are receiving community-based support in that home. A home is regarded as an asset where a person moves into residential or nursing care, unless it is being occupied by a relevant other person (spouse / carer).

3.3 It is worth noting that the financial reforms set out by the previous Government, in relation to a cap on the lifetime costs of care and a scaled approach to the treatment of income / assets from a higher financial threshold, were 'paused' indefinitely. There has been no different position given on this policy reform intention to date.

3.4 Self-funders have the right:

- To request an assessment, where it appears they have a need for care and support.
- To be supported with independent advocacy, where they appear to have substantial difficulty engaging with an assessment process and have no other person able to provide them with support.
- To the provisions of the Mental Capacity Act, where they lack capacity and best interest decisions may be made.

- To request that the Council meets their needs – the Local Authority has the power to charge for this support at full cost and to charge an arrangement fee.
- To receive reviews, where the Local Authority makes support arrangements on the self-funders behalf.

3.5 Additionally, self-funders have the right to access the universal support a Local Authority provides under the Care Act, including information, advice and guidance, preventative support and support that might promote general wellbeing.

3.6 Should a person's assets approach the threshold of £23,250, they may approach the Local Authority for an assessment, to determine their eligibility for care and support (if not already established) and a financial assessment to determine what contributions the Local Authority will make to their support arrangements.

3.7 The prevalence of self-funders in Leicester is difficult to state accurately, as most will not be known to the Local Authority. National estimates, based on population wealth, are that between 18 – 23% of people who require ASC support in Leicester may be in a position to self-fund their care.

3.8 The universal offer is made to people in Leicester without regard to their financial status. A person's financial position may be discussed during early conversations about care and support, to ensure that appropriate advice can be given; however, advice, information, guidance, signposting and access to preventative services are available to everyone regardless of their ability to self-fund care.

3.9 It is in the Council's interests to ensure that people's independence is maximised, as this promotes wellbeing and reduces the need for people to use their assets to pay for care that could have been avoided. Therefore, self-funders have full access to crisis response services and reablement, which are provided at no cost to anyone requiring this support, including people who would self-fund their longer-term care.

3.10 Leicester does not presently charge for support in arranging a person's care, where they are self-funding it. The Council is making arrangements for 53 self-funding individuals (21 receiving non-residential care and 32 people receiving residential care).

3.11 There are two significant areas of activity relating to self-funders – people who have property assets to be sold but where that has not yet happened, and people's whose assets have depleted to the financial threshold of £23,250.

3.12 The Council offers a Deferred Payment Scheme in line with national guidance, for people have a property to sell but need to pay for care costs in the interim period. The Council will meet those costs, and upon the sale

of the property, will recoup them. At that point, the individual will become self-funding unless / until their savings reduce to the financial threshold.

3.13 Should the Council be making community care arrangements for a person who is self-funding, the process of financial assessment and review will establish whether their assets are depleting to the threshold where Local Authority funding contributions might be made.

3.14 The Council is approached each year by people who are paying for care that they have arranged themselves, usually in residential or nursing care, and where their assets are at or approaching the threshold for support. As set out at 2.6, assessments are conducted to establish a person's eligible needs and their financial position and any contribution to be made by the Local Authority.

3.15 Whilst the process is clearly defined and for many people is a seamless transition, the difference between exercising complete autonomy over what care needs are met and how, and the Care Act framework for statutory support, can lead to some challenges for individuals. It can also present challenges to the Local Authority.

3.16 Eligibility of need:

A person must be deemed to have eligible needs in line with the Care Act, to be entitled to statutory support by a Local Authority. The care being received must be necessary and proportionate to meet eligible needs.

Whilst it is not often the case that a self-funding individual is assessed to be wholly ineligible for support, there are occasions where the nature, extent or setting of support are not deemed to meet the statutory guidance. Typically this would be seen as people living in residential care who do not require 24 hours support to meet their needs and could be supported in a community setting.

3.17 Choice and cost:

A person who has self-funded an independently chosen care home is likely to be paying a higher weekly rate than a person placed by a Local Authority. This may be linked solely to the market forces, where providers charge self-funding individuals more; it may also be linked to choices that individuals have made about the standard of their environment. A sizeable proportion of a care fee relates to 'hotel and accommodation' costs and 'luxury' facilities will be considerably more expensive than the Council would expect to fund.

3.18 In the situations above, the Council may not agree to fund the care that is in place, in full or in part. Where a person is living in a care home, this presents a difficult situation, in exploring alternative settings, either in the community or in a less expensive care home that adequately meets an individual's needs. This can be upsetting for individuals and families, who, understandably, do not wish to move from their current home. Each year, the Council will work with a small number of individuals faced with this situation.

- 3.19 The Council's position is to understand the options available to the individual and to assess the impact of any changes to their support plan on their wellbeing. Some individuals may have family members who are able to make 3rd party top ups, thus supplementing the fee paid by the Council to remain in a higher cost setting that is not assessed to be necessary to meet needs.
- 3.20 Where there is no option of additional funding, the Council will explore a move for that person to another setting. Whilst every situation is unique, typically considerations will include the extent to which a person is able to engage in that decision and their views; any impacts on people who might visit the person in that setting were they to move elsewhere; and whether the person is likely to experience significant distress should they move. It should be noted that people move between placements for many reasons without experiencing significant harm or distress, or where distress can be managed in the initial period and the move is necessary (for example because a person has developed needs that can only be met in a registered nursing home). Whilst the Council would not wish to disrupt care arrangements, it is our responsibility to ensure that public funding is fairly and carefully spent and this may require us to make decisions that families or individuals do not welcome.
- 3.21 For context, in 2023/4 275 people were recorded as a new admission to Local Authority funded residential / nursing care. Of these, 20 were people who became 'new' admissions to funded care (but were already living in care), due to their savings dropping below the threshold.

4.1 Finance

There are no financial implications arising directly from this report.

Signed: Georgia Shelton

Date: 12/12/2024

4.2 Legal

The duties of the local authority are fully set out within the report. There are no legal implications related to this report the purpose of which is to provide an overview of support offered.

Signed: Susan Holmes

Date: 20th December 2024

4.3 Equalities Implications

Under the Equality Act 2010, public authorities have a Public Sector Equality Duty (PSED) which means that, in carrying out their functions, they have a statutory duty to pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited by the Act, to advance equality of opportunity between people who share a protected characteristic and those who don't and to foster good relations between people who share a protected characteristic and those who don't.

Protected Characteristics under the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

There are no direct equality implications arising from this report. However, we need to ensure equality considerations are taken into account when offering support to people who self-fund their Adult Social Care (ASC) support. The council's universal offer should be accessible and help self-funders to understand the process in an accessible manner.

Signed: Sukhi Biring, Equalities Officer

Date: 10 December 2024

4.4 Climate emergency implications

There are no significant climate emergency implications directly associated with this report.

Signed: Aidan Davis, Sustainability Officer, Ext 37 2284

Date: 9 December 2024

5. Background information and other papers:

None

6. Appendices

None