

KENT COUNTY COUNCIL – RECORD OF DECISION

DECISION TAKEN BY:

Cabinet Member for Adult Social Care and Public Health

DECISION NO:

20/00014

For publication**Key decision**

Affects more than 2 Electoral Divisions

Subject: ADULT SOCIAL CARE AND HEALTH NON-RESIDENTIAL CHARGING POLICY

Decision: As Cabinet Member for Adult Social Care and Public Health, I agree to:

- a) **AMEND** the Adult Social Care and Health Non-Residential Charging Policy to align with the Department of Health's Minimum Income Guarantee Guidance: and
- b) **DELEGATE** authority to the Corporate Director of Adult Social Care and Health, or other nominated officer, to undertake the necessary actions to implement the decision.

Reason(s) for decision: Kent County Council (KCC) has the ability to charge for some services, permitted through the Care Act 2014 and Care and Support Statutory Guidance. Over a number of years, the council has provided subsidies, which are over and above the Department of Health's guidance on charging for certain aspects, including Non-Residential Charging of social care. A number of local authorities have reduced their subsidies to align with the national guidance. A decision was taken to review the subsidies provided to ensure consistency, fairness and the best use of resources to support all our social care clients.

The review of the Adult Social Care and Health Non-Residential Charging Policy began in February 2019 and identified several areas where Kent is not aligned with national guidance.

The three main areas identified were:

- 1) Higher Minimum Income Guarantee (MIG) - the Minimum Income Guarantee (MIG) is an amount of money stated by the Department of Health to be left with clients in order to meet daily living costs.
- 2) Disregarding certain elements of higher-level disability benefits from income.
- 3) Providing a Disability Related Expenditure (DRE) to those who do not receive disability benefits.

After engaging Invicta Law for guidance, the Higher MIG (Option 1) was deemed to be something that ASCH could review and consult on to gain the views of those impacted by the proposed change. The reasons for this were:

- It would have a smaller impact than options 2 and 3
- It would be short term, as 350 of the 373 clients would revert to the MIG they currently receive if the proposed changes were agreed
- It aligns ASCH's new case management system – Mosaic - to the national guidance and other councils charging policies.

Financial Implications: If the policy is changed to align the MIG to the Department of Health Guidance, the potential financial impacts on the clients are set out below:

- 1) Reduce the standard MIG rate from £91.40 to £72.40 per week for those aged 18 to 24, a decrease of £19.

- 2) Only apply a Disability Premium MIG of £40.35 per week to the standard MIG for those on Lower, standard, middle, enhanced and higher rates of disability benefits; Employment and Support Allowance (ESA) Support Group or Universal Credit Limited capability for work and work related activity.
- 3) Only apply an Enhanced Disability premium MIG of £19.70 per week to the standard MIG for those on enhanced and higher rates of disability benefits.; Employment Support Allowance Support Group or Universal Credit Limited capability for work and work related activity.

The amounts for the two disability premiums, detailed above, will not change.

If the policy is changed to align the MIG to the Department of Health Guidance this will mean an estimated additional income of £500k.

Legal Implications: KCC engaged Invicta Law in May 2019 to seek advice on the process required if the policy was to be amended with any of the three main areas of consideration. Invicta Law confirmed that all three were lawful and that any change to the policy would need to be applied to everyone and it could not be applied to just new clients.

Equality Implications: An Equalities Impact Assessment (EqIA) was created at the start of the project and updated throughout the consultation process. The EqIA identified a potential negative impact on the following protected characteristics:

- Age (high impact)
- Disability (high impact)
- Gender identify (medium impact)
- Carer's responsibilities (medium impact)

Throughout the consultation, groups that support these protected characteristics were engaged and the feedback has been included in the EqIA.

The response from Invicta Law was that any change would need to be applied to all the clients equally at the same time to ensure equalities.

Data Protection Impact Assessment Implications: A Data Protection Impact Assessment (DPIA) was initially screened at the start of the project and it was found that a full DPIA was required as a number of questions were answered yes. The document was passed through the process to the Data Protection Officer, however no data protection implications were noted or highlighted.

Cabinet Committee recommendations and other consultation: The proposed decision was discussed at the Adult Social Care Cabinet Committee on 4 March 2020 and the recommendations were endorsed.

Formal consultation on proposals to amend the Adult Social Care and Health Non-Residential Charging Policy was launched on 25 October 2019 and closed on 8 December 2019.

Cross party member briefings on the proposed changes have taken place.

Any alternatives considered: As set out above three main areas were identified where Kent is not aligned with national guidance. Options 2 and 3 were considered but not agreed by Cabinet Members for the following reasons

Option 2 - Disregarding certain elements of higher-level disability benefits from income. Whilst this

option does reduce the subsidies the council provides, the impact on the clients affected (approximately 3,800 clients) would have been too great. This may need to be reviewed in the future.

Option 3 - Providing a Disability Related Expenditure (DRE) to those who do not receive disability benefits - there are costs that arise from a disability or long-term health condition. It was decided that this could be reviewed in the future as it is presumed that each client who is receiving care and support through ASCH would require this disregard and further investigation was recommended. This effects approximately 100 people.

Any interest declared when the decision was taken and any dispensation granted by the Proper Officer:

Ceara Ben

Signed

10th March 2020

date