

Decision No. 07/00967

To: Kevin Lynes, Cabinet Member, Adult Social Services

By: Oliver Mills, Managing Director, Kent Adult Social Services

Subject: FAIRER CHARGING POLICY FOR HOME CARE AND OTHER NON-RESIDENTIAL SERVICES (DOMICILIARY CHARGING POLICY)

Classification: Unrestricted

Summary: This report summarises the response from the consultation on proposed changes to the Domiciliary Charging Policy. The Cabinet Member for Adult Social Services is asked to consider the response to the consultation and approve the recommendation.

1. Introduction

- 1.1 The Department of Health issued the Fairer Charging Policy Guidance, under cover of the Local Authority Circular LAC (2001) 32. This sets out the broad framework for councils to ensure that charging policies are fair and operate consistently with the overall national social care objectives. The guidance was issued under Section 7 of the Local Authority Social Services Act, 1970. Councils must, therefore, adhere to any guidance issued under Section 7 by the Secretary of State.
- 1.2 The revenue budget for 2007/8 was approved by the County Council on 22 February 2007. As a result of the major pressure on Adult Social Care, the cash limit included additional income from domiciliary charges of £628,000, in order to enable KCC to retain eligibility criteria at the moderate level so that many disabled and older people could continue to receive a range of preventative services.
- 1.3 Users and carers, County Council Members, Kent Members of Parliament and Kent Adult Social Services staff have been kept informed of developments and progress through a number of communication channels such as letters, briefings, meetings and workshops.
- 1.4 The purpose of this report is to provide the Cabinet Member for Adult Social Services with a summary of the outcome of the consultation process in order for him to be in a position to take a decision on the proposed Policy. Proposed changes to KCC's Domiciliary Charging Policies were reported to the Adult Services Policy Overview Committee on 24 April 2007, prior to consultation.

2. Overview of the Fairer Charging Policy

- 2.1 Section 17 of the Health and Social Services and Social Security Adjudications Act 1983, gives councils a discretionary power to charge adult service users of non-residential services. This provides the framework within which councils may recover charges in respect of home care and other non-residential services. KCC, along with almost all local authorities in England, has used this power to charge for home care and other non-residential services.

- 2.2 The Fairer Charging Guidance stipulates that charging policies should not reduce the net income of adult service users below the defined basic levels of Income Support or the Guarantee Pension Credit, plus 25%. Indeed, a charging policy that reduces service users' net incomes below these defined basic levels would be subject to challenge, as well as potentially undermine efforts to promote independent living and social inclusion.
- 2.3 The Fairer Charging Guidance also exhorts councils to ensure that all service users retain some income, which is not taken in charges. Councils may decide to set a maximum percentage of disposable income, which may be taken in charges. Historically, in comparison to neighbouring councils in the South East region, Kent County Council has set a relatively low maximum percentage of disposable income (65%) to be taken in charges. The maximum percentage in those other authorities ranges from 85% to 100% of disposable income.
- 2.4 One of the central principles of the Fairer Charging Guidance is that an individual's assessed charge must relate to both the level of service and their means or ability to pay. However, the guidance leaves it up to local authorities to decide how to assess disability-related expenditure for those with a disability and in receipt of disability-related benefits. It is open to councils to decide whether to disregard a standard element of disability benefits for those receiving such benefit payments. KCC has gone further than this by providing a standard disability-related allowance for all service users, and not just those receiving disability-related benefits as required by the Government guidance.

3. Current KCC Charging Policy

- 3.1 Based on the County Council's current charging policy, charges for those assessed as having to pay towards the cost of their services are based on the comparison of a percentage of available income (the maximum percentage is currently 65%) with the cost of the support package. The lesser of the two figures is then applied as the charge. The income available for charging is arrived at after allowing for certain deductions and living expenses, including basic Income Support or Pension Credit plus 25%, certain housing related costs, and a standard allowance of £20 per week for disability-related expenditure. People in receipt of disability-related benefits have a right to receive an individual disability-related expenditure assessment which may result in higher disability related allowance.
- 3.2 Welfare rights and advice on benefits is regarded as a key part of the service which the County Council provides. Comprehensive benefit advice is provided at the time of financial assessment by the specialist finance staff. The introduction of the countywide Specialist Financial Teams, with staff who are able to carry out accurate financial assessments speedily, has taken these tasks from care management assessment staff. As a result those staff are able to focus support to those with more complex needs.
- 3.3 The information currently available on the County Council's Domiciliary Charging Policy indicates that in broad terms two fifths of people who receive domiciliary support services are assessed as not needing to pay any charge. This is because the income available for charging is less than the defined basic levels of income according to age, level of disability, family status or the appropriate Guarantee

Pension Credit. In contrast, about one fifth are assessed as being able to pay the full cost of their service. The remaining two fifths are assessed as being able to make some contribution towards their service.

4. Consultation Process

- 4.1 Local authorities are required by government guidance to consult on changes in their charging policies, and this must follow the standard guidance on consultation. Accordingly, when the decision was made to consult on the proposed changes, Kent Adult Social Services followed the Cabinet Office *Code of practice on written consultation*, and guidance in the Fairer Charging document. The consultation was undertaken over a 12-week period from 8 May 2007 to 31 July 2007.
- 4.2 An initial Equality Impact Assessment was carried out as part of the consultation process.
- 4.3 The full *Consultation Analysis Report*, detailing the outcome of the consultation, is attached to this report (see Appendix 1). The response will be published on the KCC Website at www.kent.gov.uk/SocialCare/about-social-care/surveys-and-consultations/ in line with good practice and the commitment given during the consultation process. The report will also be made available to any interested individual or representative group that requests it. There is also the capacity to provide the report in different formats on request.

5. Proposed Charging Policy and Summary of Responses from consultation.

The response from the consultation to each of the five proposals is set out below:

Proposal 1: Do you agree that KCC should increase from 65 to 85 the percentage of available income to work out a person's charge?

No reply	Agree	Disagree	Neither agree nor disagree	Don't know	Total Responses
77	563	1072	302	280	2294

It is evident that the largest single response was from the 1072, people who disagreed with this proposal i.e. 47% of total responses. This compares with 25% of the total responses who told us that they agreed. In all, 53% of the total responses were from people who did not tell us they disagreed with this proposal.

Proposal 2: Do you agree that KCC should use the actual cost of providing home care services to work out what a person should pay, instead of a standard cost as it is now?

No reply	Agree	Disagree	Neither agree nor disagree	Don't know	Total Responses
89	708	812	360	325	2294

As with proposal 1, it is evident that the largest single response was from people who disagreed with this proposal, namely 35% of the total response. However, the number of people who told us they positively agreed with this proposal is only slightly less at 31%. Again, it is interesting to note that 65% of the total responses were from people who did not tell us they disagreed with this proposal. What we do

not know is the proportion of people in this position who responded in each category. This proposal will, in the main, affect people who either pay the full cost of their care (because they have capital above the upper capital limit) or whose charge is based on the cost of their care (because their available income is greater than the cost of their care). This may explain why 1482 (65%) people either agreed or did not express a view either way, whilst 812 (35%) disagreed with this proposal.

Proposal 3: Do you agree that KCC should make sure that no-one who is receiving home care services, will pay more than an extra £15 per week from October this year on top of his or her present charge?

No reply	Agree	Disagree	Neither agree nor disagree	Don't know	Total Responses
105	1399	380	200	210	2294

There is a strong agreement to this proposal. This response is consistent with the experience and the views expressed by service users and their carers when we made changes to the policy in April 2006.

Proposal 4: Do you agree that KCC should keep the £15 per week maximum (cap) in place for up to three years, if it applies?

No reply	Agree	Disagree	Neither agree nor disagree	Don't know	Total Responses
134	1469	218	212	261	2294

There was overwhelming support for this proposal which is entirely consistent with responses to Proposal 3 and therefore to be expected.

Proposal 5: Do you agree that KCC should keep the Disability Related Expenditure Assessment (DREA) at £20 per week for everyone?

No reply	Agree	Disagree	Neither agree nor disagree	Don't know	Total Responses
151	1471	168	206	298	2294

Disability Related Expenditure Assessment is the term used for extra costs that people have in their everyday lives because of their disability. A significant majority of people agreed with this proposal. This may reflect recognition that Disability Related Expenditure is difficult to assess and that giving everyone a £20 per week standard allowance offers a simple and transparent solution. It should be noted that the relatively small number of people who did not agree would be able to exercise their right to an individual assessment, as is current practice.

6. Summary

- 6.1 The proposed changes in the Kent Adult Social Services Domiciliary Charging Policy are consistent with the Fairer Charging Policy Guidance, which was issued under Section 7 of the Local Authority Social Services Act, 1970. The response to the consultation has been summarised and a full report is attached.

- The consultation on this subject took place between 8 May 2007 and 31 July 2007.
- The analysis and outcome of the consultation are set out in the *Consultation Analysis Report*.
- Preparation for changes to information systems; practice and training are near completion and can be put in place for the policy to be implemented if a decision to that effect is taken.
- The Domiciliary Charging Policy will come into effect on 22 October 2007.

7. Recommendations

7.1 The Cabinet Member for Adult Social Services is asked to:

- a. NOTE the contents of the *Consultation Analysis Report*
- b. APPROVE the proposed Domiciliary Charging Policy as detailed in Appendix 2 to this report.

Michael Thomas-Sam
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Background documents:

SMT Report, 31 August 2007
Adult Services Policy Overview Committee Report, 24 April 2007
SMT Report, 15 December 2006
Fairer Charging Policies for Home Care and other non-residential Social Services, September 2003
Local Authority Circular (2001) 32
Cabinet Office Code of practice on written consultation, November 2000

Appendices:

Appendix 1: *Consultation Analysis Report*, 28 August 2007
Appendix 2: Domiciliary Charging Policy, 22 October 2007
Appendix 3: Charging for Domiciliary Care - user, relatives and carers guide, 22 October 2007