

From: Andrew Ireland, Corporate Director Social Care Health and Wellbeing

To: Graham Gibbens, Cabinet Member for Adult Social Care and Public Health, 17 December 2014.

Decision No: **14/00135**

Subject: **CARE ACT IMPLEMENTATION – CHARGING FOR CARE AND SUPPORT FUNCTIONS**

Classification: Unrestricted

Past Pathway: Adults Transformation Board 22 October 2014, CMT 11 November 2014, Cabinet 1 December 2014, Adult Social Care and Public Health Cabinet Committee 4 December 2014

Electoral Division: All

**Summary:** From April 2015 the existing powers and duties to charge for adult care and support will cease and charging will become a power under Section 14 of the Care Act. It is recommended that from April 2015 Kent County Council continues to charge for adult care and support in the same way as it does currently but that this is put on a firm legal footing by a Key Decision to exercise the power to charge under Section 14 of the Care Act 2014

**Recommendation:** That the Cabinet Member for Adult Social Care and Public Health makes the decision that Kent County Council exercises its power under Section 14 of the Care Act 2014 to charge from 1 April 2015 for the same adult care and support services that it currently charges for as at 31 March 2014.

## 1. Introduction

1.1 The Care Act 2014 received Royal Assent in May this year. It will be implemented in two stages starting in April 2015 with the introduction of the new legal framework. The majority of the reforms will come into effect in April 2015 but the key 'Dilnot' reforms (cap on care costs and raising of the capital threshold) and new rights for self-funders in relation to care homes will not be instituted until April 2016 (subject to final decisions by the Government).

## 2. Power to charge for care and support

2.1 The current legal framework governing charging for adult care and support involves a mixture of duties and powers. Councils are under a duty to charge for residential care under section 22(1) of the National Assistance Act 1948 and have a power to charge for non-residential services under section 17 of the Health and Social Services and Social Security Adjudication Act 1983. These powers and duties will cease from April 2015 and are being replaced by a power to charge under section 14 of the Care Act 2014.

2.2 As charging will be a power only from April 2015, KCC has to actively make a decision about which services it will charge for. Having taken such a decision, the way charges are to be worked out (i.e. the rules around means-testing) will be broadly the same as currently. These are to be governed by The Care and Support (Charging and Assessment of Resources) Regulations 2014 and the accompanying Statutory Guidance. It is important to note that the significant increase in the capital threshold for residential care charging does not come into force until April 2016.

2.3 It is recommended that for 2015 -16 we preserve the status quo and continue to charge the same groups of people and for the same services as we currently do. However, it will be necessary for a Key Decision to be taken by the Cabinet Member in order for charging to be put on a firm legal basis under the new legal framework. Kent Legal Services have endorsed this view.

2.4 With regard to public consultation, it is believed that this is not required at this stage as no substantive changes are to be made to Kent's charging regime. Any minor changes to the rules on charging are those that have been prescribed by Government and these do not significantly affect service users' contributions.

### **3. Equalities Impact Assessment**

3.1 It was considered whether an Equalities Impact Assessment should be carried out but it was decided this was not necessary as there will be no substantive changes to which people are charged for care and support and for which services.

### **4. Cabinet Committee input**

4.1 The proposed decision was considered by the 4 December 2014 Adult Social Care and Health Cabinet Committee.

4.2 The Cabinet Committee resolved that the decision proposed to be taken by the Cabinet Member for Adult Social Care and Health (that the County Council should exercise its power under Section 14 of the Care Act 2014 to charge, from 1 April 2015, for the same services that it currently charges for, as at 31 March 2014) be endorsed.

### **5. Recommendations**

**5.1 Recommendation:** That the Cabinet Member for Adult Social Care and Public Health makes the decision that Kent County Council exercises its power under Section 14 of the Care Act 2014 to charge from 1 April 2015 for the same adult care and support services that it currently charges for as at 31 March 2014.

### **6. Appendices**

Appendix 1 – Record of Decision on Charging

### **7. Background documents:**

Care Act 2014

Statutory Regulations 2014 – released October 2014

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