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| **From:** | Andrew Ireland, Corporate Director of Social Care, Health and Wellbeing |
| **To:** | Graham Gibbens, Cabinet Member for Adult Social Care and Public Health |
| **Decision Number**: | 17/00026 |
| **Subject:** | **PROPOSED CHANGES TO THE CHARGING POLICY FOR HOME CARE AND OTHER NON-RESIDENTIAL CARE AND SUPPORT** |
| **Classification:** | Unrestricted |
| **Past Pathway of Paper:** | Social Care Health and Wellbeing Directorate Management Team – 18 January 2017<br>Adult Social Care and Health Cabinet Committee – 14 March 2017 |
| F**uture Pathway of Paper:** | Cabinet Member decision |
| **Electoral Division**: | All |

**Summary:** This paper contains proposals for three changes to the Charging Policy for Home Care and other non-residential care and support to come into effect from April 2017, subject to endorsement by the Adult Social Care and Health Cabinet Committee and subsequent Executive Decision being taken by the Cabinet Member for Adult Social Care and Public Health.

**Recommendations:** The Cabinet Member for Adult Social Care and Public Health is asked to:

a) **APPROVE** the proposed changes to the Charging Policy for Home Care and other non-residential care and support to:

1) Change the rules on the treatment of savings/other capital[1] between £14,250 and £23,250 so that £1 per week for every £250 between these two amounts is taken into account (rather than the current £1 for every £500).
2) Change the current policy on the treatment of any second or more properties so that they are treated as capital in the financial calculation. It is proposed that this applies to new clients from April 2017 and existing clients from April 2018.
3) Introduce an Arrangement Fee for people who have over the capital threshold, currently £23,250, (and who therefore must pay the full cost of their care) but who nevertheless request KCC to make the arrangements for their care (as is permitted under the Care Act 2014).

b) **DELEGATE** authority to the Corporate Director of Social Care, Health and Wellbeing, or other nominated officer, to undertake the necessary actions to implement the decision.

## 1. Introduction

[1] For non-residential care and support the person’s own home (in which they live) is disregarded in the calculation of capital.

1.1 As a result of the need to make further savings, the KCC budget for 2017/18 includes making changes to the Charging policy for home care and other non-residential care and support.

1.2 This report sets out further detail on the proposed changes but in summary the three areas which have been identified are

1) change the rules on the treatment of savings/other capital[2] between £14,250 and £23,250 so that £1 per week for every £250 between these two amounts is taken into account (rather than the current £1 for every £500).

2) change the current policy on the treatment of any second or more properties so that they are treated as capital in the financial calculation. It is proposed that this applies to new clients from April 2017 and existing clients from April 2018.

3) introduce an Arrangement Fee for people who have over the capital threshold, currently £23,250, (and who therefore must pay the full cost of their care) but who nevertheless request KCC to make the arrangements for their care (as is permitted under the Care Act 2014).

1.4 Following endorsement by the Cabinet Committee, the Cabinet Member for Adult Social Care and Public Health will take an Executive Decision and it is proposed that these changes be implemented from Monday 10 April 2017.

## 2. Policy Framework

2.1 The policy agenda and the service objectives of the Social Care, Health and Wellbeing Directorate support the overall objectives of the County Council as set out in '*Increasing Opportunities, Improving Outcomes:* Kent County Council's Strategic Statement 2015 -2020 and '*A Commissioning Framework for Kent County Council: Delivering better outcomes for Kent residents trough improved commissioning'.*

2.2 The recognition for further savings through making changes to the Charging Policy for Home Care and other non-residential care and support was referenced in the KCC budget for 2017/18. Detailed proposals are outlined below.

## 3. Proposed changes to the policy on tariff income

3.1 The current tariff income rule for non-residential charging is based on the assumption that for every £500 (or part thereof) of capital[3] between £14,250 and £23,250, the client is able to contribute £1 per week towards the cost of their care. This amount is added to the weekly income when assessing the weekly charge payable by eligible clients. This is in contrast to the current rule for residential charging which assumes that for every £250 (or part thereof) of capital the client is able to contribute £1 per week towards the cost of their care.[4]

3.2 The Care and Support (Charging and Assessment of Resources) Regulations 2014, lay down the maximum amount of tariff income that can be taken into account, that is no more than £1 for every £250 between the two amounts referred

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[2] For non-residential care and support the person's own home (in which they live) is disregarded in the calculation of capital.
[3] For non-residential charging the value of the person's home is not taken into account in the calculation of their capital.
[4] People who have over £23,250 in capital (excluding their home) are expected to pay the full cost of their care so an income calculation is not carried out.

to above. However the regulations do allow flexibility so that Local Authorities can apply more generous rules if they so wish, as the Council has been doing since 2003.

3.3 It is proposed that the tariff income rules for non-residential care be made consistent with the residential care charging tariff income rules (£1 for every £250). This will also bring them in line with all other Local Authorities that we are aware of. A recent exercise was undertaken to compare the Council's tariff income rules on non-residential charging with other Local Authorities in England and the Council's policy on tariff income appeared to be the outlier as all other Authorities sampled considered £1 for every £250 of capital.

3.4 To give an example of how this could affect a person's charge: assuming that a single person has £250 income per week from pensions and benefits and they also have £16,250 savings in the bank; currently £4 per week will be added to their income in the charging calculation (i.e. £1 per every £500 between £14,250 and £23,250) resulting in an assessed income of £254 per week. If the proposal changes are endorsed, £8 per week will be added to their weekly income (i.e. £1 per every £250 between £14,250 and £23,250) resulting in an assessed income of £258 per week.

3.5 It is estimated that this proposal has the potential to generate additional income for the Council of up to £0.3 million in a full year.

3.6 This proposal will not be applied retrospectively and will only apply to the financial assessment from April 2017, both to new clients from this point and also existing clients in their annual reassessment.

## 4. Proposed changes to the policy on second and other properties

4.1 In the calculation of capital for non-residential charging the value of a person's main home (which they live in) cannot be taken into account. However it is permitted to take into account the value (net of mortgages etc) of any second/additional properties owned by the client unless they are clearly part of a business and the person is taking steps to realise their share.[5]

4.2 Despite this being permitted, the Council does not currently include the value of any additional properties in the calculation of capital. Only rental income, if any, is taken into account in the calculation of weekly income. The effect of this is that the Council is financially contributing to the care of some people who would otherwise be assessed as having above the £23,250 threshold and therefore able to pay the full cost of their care.

4.3 The rationale for the current policy was that it might be difficult for some people with second/other properties to release the capital locked in these properties in time to pay for their care and support. However it appears that again, Kent is an outlier with regard to this policy and most other Local Authorities do take the value into account as capital.

4.4 It is proposed that the Council's policy is brought in line with the government regulations and the practice of most other Authorities. The proposal is to introduce

[5] The Care and Support (Charging and Assessment of Resources) Regulations, Schedule 2, para 9 and Para 50 in Annex B to the Care and Support Statutory Guidance.

the change for new clients from April 2017 but to only apply it to existing clients from April 2018, thereby giving them a year to make the necessary arrangements.

4.5 In practice this policy will make most people, to which it applies, self-funders or full-costers if they wish the Council to continue to make the arrangements, as they are allowed to do under the Care Act.

4.6 There is a concern that it might be difficult for some individuals to release the capital in such properties quickly enough to be able to pay for their care. As outlined in section 5 below, individuals who have in excess of the capital threshold can request the Local Authority to arrange their care in return for an arrangement fee. In such circumstances it would be possible (albeit not desirable) to allow such individuals to build up a debt whilst they are trying to dispose of their property or make other arrangements to release the capital. In addition, in very exceptional circumstances, the property might be disregarded in the capital calculation (with senior management approval).

4.7 It is not possible to accurately predict savings from the proposed change but, based on known existing non-residential clients with second/additional properties, this could be in the region of £400,000 in 2018-19.

## 5. Proposal to introduce an Arrangement Fee for full-cost clients

5.1 People who have over the current capital threshold of £23,250 (excluding their main home if they live in the community in a non-residential setting) usually make their own arrangements for care and support. They are referred to as "self-funders". The Council has always, nevertheless, arranged care for some people in this category and charged them the full cost of their care and support. Such clients are known as "full-costers". Until the Care Act came into effect in April 2015 the Council could not charge such people an arrangement fee for this. The Care Act does now give the Council this power but currently only for non-residential care and support and only for certain categories of full-cost clients.

5.2 Appendix 1 contains details of the legal powers under the Care Act to charge an Arrangement Fee and also a table showing which people the Arrangement Fee can be applied to.

5.3 As Appendix 1 indicates, an Arrangement Fee will <u>not</u> be charged when the Council is meeting the needs of a person who has over the capital threshold but who lacks capacity and has no-one appointed to act for them (Section 18 (4) of the Care Act). However, once such a person has obtained a legal representative the Council would then be able to charge the Arrangement Fee if asked to continue to arrange their care.

5.4 Bearing in mind the legal framework outlined in Appendix 1, it is proposed to charge a flat annual Arrangement Fee from April 2017 of £104. This will be paid in weekly instalments (£2 per week) and added to the invoice for the care and support.

5.5 The annual fee of £104 includes the cost of raising an invoice, paying a provider invoice and negotiating and arranging a care package.

5.6 It is proposed to apply the Arrangement Fee to all people (new and existing) who fall within one of the categories of people the Council can charge the Arrangement Fee (see Appendix 1). This will include someone with over the capital limit who has previously asked the Council to make the arrangements (since April 2015 when the Care Act came in) and for whom the Council is doing so but at the moment not charging any fee.

## 6. Equality Impact Assessment

6.1 An Equality Impact Assessment has been carried out and is attached to this report as Appendix 2.

## 7. Financial Implications

7.1 The proposed changes are expected to result in the additional income as set out in sections 3 and 4.

## 8. Legal Implications

8.1 KCC's statutory obligations for Adult Social Care are set out principally in the Care Act 2014, the Mental Capacity Act 2005 and the Mental Health Act 1983. Further details for the specific proposals are outlined in this report.

## 9. Communication with service users and staff

9.1 A letter has already been sent in January to existing service users that may be affected by any of the three proposed changes. The letter made clear that the changes were still subject to a decision being taken by the County Council.

9.2 If the proposed changes go ahead, further communication will be sent to those affected with details of their new charge from 10 April 2017.

9.3 The relevant changes to the public facing charging booklets will be made and the Contact Centre, Case Management and Finance staff fully briefed on the changes.

## 10. Recommendations

**10.1 Recommendations:** The Cabinet Member for Adult Social Care and Public Health is asked to:

a) **APPROVE** the proposed changes to the Charging Policy for Home Care and other non-residential care and support to:

1) Change the rules on the treatment of savings/other capital[6] between £14,250 and £23,250 so that £1 per week for every £250 between these two amounts is taken into account (rather than the current £1 for every £500).
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their care) but who nevertheless request KCC to make the arrangements for their care (as is permitted under the Care Act 2014).

b) **DELEGATE** authority to the Corporate Director of Social Care, Health and Wellbeing, or other nominated officer, to undertake the necessary actions to implement the decision.

## 11. Background documents

Care Act 2014
http://www.legislation.gov.uk/ukpga/2014/23/pdfs/ukpga_20140023_en.pdf

Care Act Support Statutory Guidance
https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance

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