



REPORT TO: MEETING OF MORAY COUNCIL ON 10 NOVEMBER 2021

SUBJECT: POLICY FOR CONTRIBUTING TO THE COST OF ADULT SOCIAL CARE AND SUPPORT

BY: CHIEF SOCIAL WORK OFFICER – HEALTH AND SOCIAL CARE MORAY

1. REASON FOR REPORT

- 1.1 The purpose of this report is to recommend the Council consider and adopt the updated Health and Social Care Moray (HSCM) Contributions Policy in relation to charges applying to non-residential social care services

2. RECOMMENDATION

- 2.1 It is recommended that Council agrees to adopt as policy the draft HSCM Contributions Policy as attached at APPENDIX 1**

3. BACKGROUND

- 3.1. Section 87 of the Social Work (Scotland) Act 1968 permits a local authority providing social care services under that Act or under other defined legislation to recover such charges as they consider reasonable. Charges for relevant residential accommodation are regulated by the National Assistance Act 1948.
- 3.2. Given the above, a local authority has a degree of discretion in the way it charges for non-residential social care services. Scottish Government Guidance has been issued to local authorities to assist them in determining charging policies. In addition, and since 2002, COSLA has regularly produced and updated a National Strategy and Guidance in relation to Charges Applying to Non-residential Social Care Services as referred to below.
- 3.3. This policy update takes into account more recent legislative changes affecting HSCM's power to seek or not seek a financial contribution towards the cost of providing an individual with eligible needs with non-residential care and support. For example, the [Carers \(Scotland\) Act 2016](#) (not charging unpaid carers for eligible support) and [The Community Care \(Personal Care and Nursing Care\) \(Scotland\) Amendment \(No. 2\) Regulations 2018](#) (extending free personal care to all eligible adults irrespective of age).
- 3.4. The HSCM Contributions Policy implements and underpins locally the strategy and guidance referred to within the Cosla National Strategy and Guidance on Charges Applying to Social Care Support for People at Home 2021/22 available

at: <https://www.cosla.gov.uk/about-cosla/our-teams/health-and-social-care/social-care-charging-information>.

4. KEY MATTERS RELEVANT TO RECOMMENDATION

- 4.1. The policy update removes, for the sake of clarity, flat-rate charges (these are additional to the service user's contribution to their individual budget under Self-Directed Support (SDS)) from the Contributions Policy itself, although the flat-rate charges themselves remain in place outside of this policy. The flat-rate charges (i.e. maintenance of stair lifts etc.) have been removed from the terms of the Policy because they are not part of the contributions calculation/financial assessment under SDS. The Council agreed the Charges for 2021/22 at its meeting on 18 February 2021. With regard to flat-rate charges, the policy update advises caution when introducing any additional flat-rate charges or increasing the existing flat-rate charges, because it is only the assessed contribution towards the individual budget under SDS that is mindful of the service user's charging threshold/minimum income guarantee. This holds particular relevance for the principles of the CoSLA Guidance and maximising independent living and economic participation in the community for the service user.
- 4.2. The policy update also reflects recommendations by HSCM, in line with the discretion afforded by the CoSLA Guidance, relating to the Contributions Policy. For example, at what percentage of the service user's available income (subject to a financial assessment of the service user's income and capital) to set the Taper. Any Taper of less than 100% of available income means the service user keeps some additional income above their charging threshold/minimum income guarantee (which supports the principles of the guidance including the Contributions Policy being human rights compatible, ensuring dignity, supporting independent living and maximising economic participation in the community for the service user). The 2021/22 Taper percentage will remain at 70% of the Service User's available income.
- 4.3. This update also takes into account the non-financial (in terms of income from contributions) changes to the administration of the contributions, individual budget and direct payments (Option 1 of SDS) processes – to provide for increased efficiency for HSCM and increased clarity for service users (i.e. changing back to a weekly individual budget from an annual individual budget for service users – therefore ending the confusing (for the service user) process whereby a service user whose support ends during the annual cycle of their individual budget, having to contribute to their support after the support has actually ended. Further administrative changes are highlighted in the updated policy such as; paying HSCM's contribution to the service user's individual budget net of the service user's contribution (consistent with guidance) and introduction of prepayment cards for some service users with a direct payment (option 1 of SDS).
- 4.4. If the Council agrees to adopt the updated policy, this will be reviewed regularly through the SDS Steering Group to ensure that it remains consistent with legislative requirements, national developments and local policy. In addition, these documents will be made available to the public on the Moray Council's and the Health and Social Care Moray's websites

- 4.5. S87 of the Social Work (Scotland) Act 1968 contains the power to charge for services and accommodation and is not a power that can be transferred to the IJB. That means decisions as to what charges are set is one for the Council alone.. The same section also makes provisions about contributions and also falls within the sole remit of the Council.

5 OTHER KEY MATTERS RELEVANT TO THE RECOMMENDATION

- 5.1 The review of the policy has included input from the Chief Social Work Officer, Senior Management Team, Community Care Finance Team and Self-directed Support Team. At all times striking a balance between the principles of the guidance and ensuring HSCM raises enough income to maintain provision of quality support to all eligible individuals.
- 5.2 The policy describes the role of the Charging Appeals Panel, which deals with appeals relating to the financial assessment and service users assessed contributions. For example, dealing with requests/appeals for additional service user income to be disregarded from a financial assessment (the service user retains additional amounts of their weekly income) to help with additional costs related to a disability (disability-related expenditure, examples are contained in the CoSLA Guidance).
- 5.3 The guidance for both Self-directed Support and Charging/Contributions provide discretion for HSCM to make the administrative efficiency changes described here and in the updated Policy without compromising the principles of the guidance or the operation of the charging/contributions, direct payments and SDS processes.

6. SUMMARY OF IMPLICATIONS

a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP)) and Moray Integration Joint Board Strategic Commissioning Plan 2019 – 2029

The levying of charges for social care services is an essential component of delivering priorities on a sustainable basis.

b) Policy and Legal

Since 2002, COSLA has regularly produced and updated a National Strategy and Guidance in relation to Charges Applying to Non-residential Social Care Services. A copy of the guidance can be found here:-

CoSLA National Strategy & Guidance – [Charges Applying to Social Care Support at Home](#)

The Policy update also takes into account of the following guidance and legislation:

[Section 87](#) of the Social Work (Scotland) Act 1968 (charges that may be made for services and accommodation)

[The Community Care \(Personal Care and Nursing Care\) \(Scotland\) Amendment \(No. 2\) Regulations 2018](#) (extending free personal care to

all eligible adults irrespective of age) and the linked Free Personal & Nursing Care updated guidance [CCD3/2018](#)

[Carers \(Scotland\) Act 2016](#) (not charging unpaid carers for eligible support) and the linked [guidance](#)

[Social Care \(Self Directed Support\) \(SDS\) \(Scotland\) Act 2013](#) and the linked [SDS Statutory Guidance](#)

c) Financial implications

Recent legislative changes (see above re: not charging unpaid carers and the extension of free personal care to under 65's who are eligible) had to be applied without discretion. The latter change in particular meant a reduction in income from contributions.

As described earlier, HSCM (and specifically the Chief Social Work Officer as confirmed in the CoSLA Guidance) has some discretion under the guidance. Particularly relevant to this policy update is the discretion on the percentage of the service user's available income (following financial assessment) that should be required as a contribution towards their individual budget – i.e. the percentage level in setting the Taper. That discretion has been used to keep the Taper at the same level of 70% of the service user's available income (after other income disregards are applied) as a contribution to the cost of their individual budget under Self-directed Support. That means the service user retains 30% of their available income over and above their charging threshold/minimum income guarantee plus a buffer of 25% set out in the guidance. This supports the principles of the CoSLA Guidance and is consistent with the terms of the guidance.

d) Risk Implications and Mitigation

None identified, there are no significant financial changes (i.e. to service users contributions) as a result of the updated policy. Most changes are either the slight changes (i.e. annual increase in the service user's charging threshold) referred to in the CoSLA Guidance for 2021/22 or the administrative changes referred to in this report and highlighted in the Policy. These are efficiency changes that should also bring more clarity for service users, particularly, no longer seeking contributions after support has ended.

e) Staffing Implications

No direct staffing implications. However, as described in this paper, there are efficiency measures relating to the administration of social care payments by HSCM to the service user (or their authorised representative), contributions, individual budgets and direct payments (option 1 of SDS). All of these administrative changes and efficiency measures have been identified by and supported by both the Self-directed Support Team and Community Care Finance Team. All these measures are in line with national guidance on charging/contributions and Self-directed Support.

f) Property

None arising directly from this report.

g) Equalities/Socio Economic Impact

An equalities impact assessment has been completed (attached at **APPENDIX 2**). This policy should positively support eligible service users by maintaining a balance between the principles of the guidance (including protection of the service user's minimum income guarantee/charging threshold) and HSCM's requirement to raise income to support/maintain quality services/support, with those principles (and impact on service users) always remaining at the forefront of thinking before any future changes are made.

Socio economic impact: not relevant for this policy – in terms of financial impact on HSCM and impact on eligible service users please note;

- The principles of the guidance, maximising independence and dignity for service users and protecting their minimum income guarantee, balanced against raising income that allows continuation of sustainable/quality services for the eligible local population
- All changes to the Policy are in line with charging/contributions and Self-directed Support guidance (and HSCM's discretion within the boundaries of that guidance).

h) Consultations

The Chief Social Work Officer and Head of Adult Social Care Services, the Support Manager within the Community Care Finance Team, the SDS Team Manager, the Commissioning and Performance Officer (author of draft Contributions Policy), the IJB Chief Financial Officer and Tracey Sutherland, Committee Services Officer have been consulted and their comments have been incorporated within this report.

7. CONCLUSION

7.1 It is submitted that adopting the proposed updated policy will bring it in line with recent, relevant legislation, make it more coherent and transparent and provide clarity to service users, their carers and families, care managers and other staff involved in the provision of social care services

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Background Papers: Held by the Community Care Finance Team and Commissioning and Performance Officer (Policies and Procedures)

Ref: SPMAN-1108985784-673
SPMAN-1108985784-674 (Appendix 1)
SPMAN-1108985784-675 (Appendix 2)