



REPORT TO: MORAY INTEGRATION JOINT BOARD ON 25 NOVEMBER 2021

SUBJECT: CONTRIBUTIONS POLICY (NON-RESIDENTIAL CARE) UPDATE

BY: JANE MACKIE, CHIEF SOCIAL WORK OFFICER (HEALTH & SOCIAL CARE MORAY)

1. REASON FOR REPORT

1.1 To inform the Board that Moray Council, on 10 November 2021, approved the updated Health and Social Care Moray (HSCM) Contributions Policy for 2021/22 (**APPENDIX 1**) in relation to charges applying to non-residential social care services.

2. RECOMMENDATION

2.1 It is recommended that the Moray Integration Joint Board (MIJB):

- i) notes the adoption of the updated Contributions Policy by Moray Council on 10 November 2021; and**
- ii) notes the main changes, including administrative/efficiency changes (requested and agreed by the Self-Directed Support and Community Care Finance Teams and supported by the relevant guidance). These relate to the way the Local Authority contributes to, administers and monitors payments for care & support through service user's Individual Budgets and Direct Payments (Option 1 under Self-Directed Support).**

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. The local authority has a certain 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.

- 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. There is a separate report being submitted to the Integrated Joint Board in relation to flat-rate charges. As part of the contributions work we are advising both ongoing review of flat-rate charges as well as caution when introducing any additional flat-rate charges, or increasing 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 the Chief Social Work Officer, in line with the discretion afforded by the CoSLA Guidance (particularly to the Chief Social Work Officer), 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 (plus the buffer of 25% above the minimum income guarantee). This 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). Local Authorities vary in the amount of taper they apply to available income, ranging predominantly from 50% to 100%. The 2021/22 Taper percentage in Moray 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 the Self-directed Support and Community Care Finance Teams (who requested and agreed the changes) and increased clarity for service users. That includes changing back to a weekly individual budget from an annual individual budget for service users. This will end the confusing process whereby a service user whose support ends during the annual cycle of their individual budget, having to, in some cases, 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 (but we will consider requests to pay the gross amount with the service user then reimbursing the local authority with their assessed contribution which is consistent with guidance). Also highlighted is the introduction of prepayment cards for some service users with a direct payment (option 1 of SDS) which will increase oversight and enable payment/funding issues to be identified at an early stage.

- 4.4. The policy is reviewed regularly (at least annually in line with updates to CoSLA Guidance) through the SDS Steering Group to ensure that it remains consistent with legislative requirements, national developments and local policy. The policy will be made available to the public on Moray Council's and 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 Integrated Joint Board (in legal terms the Integrated Joint Board has no locus with regard to the Contributions Policy). The same section also makes provisions about contributions and also falls within the remit of the Council. It is noted however that the Integrated Joint Board has a role in recommending charges to the Council.

5. OTHER KEY MATTERS RELEVANT TO THE RECOMMENDATIONS

- 5.1. The review of the policy has included input from the Chief Social Work Officer, Community Care Finance Team and Self-directed Support Team. At all times striking a balance between the principles of the guidance and ensuring sufficient income is raised to maintain provision of quality HSCM services to support 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 weekly 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 Plan “Moray Partners in Care 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:-

[Charges Applying to Social Care Support at Home](#)

The Policy update also takes into account 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 (for example, 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 uplift in the service user's charging threshold/minimum income guarantee) referred to in the CoSLA Guidance for 2021/22 or the administrative (non-contribution) 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, there are efficiency measures relating to the administration and monitoring of payments for care and support, 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 (**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 charging threshold/minimum income guarantee) and HSCM's requirement to raise income to support/maintain quality services, 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, dignity and economic participation in the community for service users and protecting their charging threshold/minimum income guarantee, balanced against the local authority 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 & Head of Adult Social Care Services, the Support Manager within the Community Care Finance Team and the SDS Team Manager have been consulted and their comments have been incorporated within the policy and the report.

7. CONCLUSION

- 7.1 It is submitted that the updated Contributions Policy will bring it in line with recent, relevant legislation, make it more coherent and transparent and provide clarity to service users, their unpaid carers, families, care managers, social workers & social work support staff involved in the provision of social care services.**

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