

# WEST DUNBARTONSHIRE COUNCIL

## Report by the Director of Community Health & Care Partnership

Community Health & Care Partnership Committee: 22<sup>nd</sup> August 2012

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### Subject: Updating WDC Charging Policy for Non-Residential Social Care

#### 1. Purpose

- 1.1 To present to the Committee proposed up-dates to WDC charging policy for non-residential services in response to COSLA National Strategy and Guidance for Charges Applying to Non-residential Social Care Services 2012/13.

#### 2. Recommendations

- 2.1 The Committee is asked to approve the revisions highlighted in this report; and that an updated charging policy is published at the earliest opportunity for implementation from 1<sup>st</sup> November 2012.

#### 3. Background

- 3.1 The current legislative framework for charging includes services provided under the *Social Work (Scotland) Act 1968*. In terms of the guidance on charging set out in the Scottish Office Circular SWSG1/1997 and with regard to subsequent development of this COSLA guidance, councils have the power to charge for a range of adult non-residential social care services (e.g. aids and adaptations). The legislation also sets out what services cannot be charged for, e.g. services for people who are subject to Compulsory Treatment Orders under the Mental Health (Care and Treatment) (Scotland) Act 2003 and Compulsion Orders under the Criminal Procedure (Scotland) Act 2003 ; Nursing Care and Personal Care for people aged over 65 years.
- 3.2 The COSLA Guidance covers charging for non-residential care services that enable people to remain in their own homes. It defines the set of principles that should underpin councils' charging policies for non-residential care services. It has been written in consultation with representatives of a range of organisations including Scottish Government, the Association of Directors of Social Work, Age Scotland, Coalition of Carers, Independent Living in Scotland, the Scottish Consortium for Learning Disability, Alzheimer's Scotland and Capability Scotland and it has been endorsed by the political leadership of COSLA.
- 3.3 At a special meeting on 14 October 2010, West Dunbartonshire Council, agreed to a revised charging policy compliant with the previous (2010) COSLA Guidance from implementation from 1<sup>st</sup> January 2011.
- 3.4 This new Guidance updates the document originally issued by COSLA in 2002; and subsequently amended in 2006, 2009 and 2010. It does not require

councils to charge, nor does it prevent them from adopting a more generous treatment of the supported person's circumstances than is recommended in this paper. It provides a framework that aims to maintain local accountability and discretion while encouraging councils to demonstrate that in deciding about charges they have followed best practice. It aims to create an enabling environment for local authorities to work together to achieve greater consistency across Scotland in the charges levied on people who use services.

#### **4. Main Issues**

**4.1** The revised COSLA Guidance for 2012/13 has a number of recommendations that reflect revisions to its previous 2010 Guidance in relation to the following areas. In most respects, the current WDC policy on charging is entirely compliant with the revised COSLA guidance; Set out below are the areas which require to be considered further.

**4.2** Many of these recommendations do not require specific changes to the local charging policy per se, as they either relate to broader policy agendas (e.g. co-production and Equalities Impact Assessment) that the CHCP has been progressing more generally; or local commitments that the CHCP has already applied to the on-going implementation of the existing policy (e.g. public information provision in line with accessible information principles). However, if Committee approves those changes that do require a revision within the current policy, then the opportunity would be taken to explicitly incorporate these other elements.

**4.3** The following are revisions stemming from the new COSLA Guidance that it is recommended the current WDC policy is up-dated to explicitly accommodate:

##### Self-Directed Support

**4.4** The Guidance describes how clients in receipt of Direct Payments should be charged for their contribution to their care. Direct Payments clients are essentially treated no differently to any other client in as much as their income and outgoings are subject to the same means testing as all other clients. Where they differ is how they then contribute the assessed charge.

**4.5** As a Direct Payment is being made to a client who has been assessed as having the means to contribute to the cost of their care, the CHCP's current practice is for clients to be paid an amount net of the value of their contribution and are expected to make the payment of their assessed contribution into their Direct Payment bank account.

**4.6** Scottish Government advice recommends that Direct Payments are made at gross value and the client's contribution is then recovered by the council, presumably by invoicing. COSLA is advocating that the choice of whether to receive payment at gross or net value be left to the individual client. COSLA believes it is reasonable for the council to provide Direct Payments net of

contribution provided the client is first offered a choice and unless the client specifies a preference for payment on a gross basis.

- 4.7** The CHCP currently already operates an invoicing process for other clients and so could accommodate this revised approach to direct payments. However while the spirit of this recommendation is laudable in theory, it would arguably convolute the relatively straightforward process that the CHCP has been operating for the clients in question in practice. In some cases, rather than empower the client it may actually contribute to a degree of anxiety and confusion (e.g. upon receipt of an invoice).
- 4.8** For that reason, it is recommended to adopt the COSLA recommendation in relation to providing a choice but that the default position is for payment on a net payment basis unless the client requests otherwise.

#### Portability of Care

- 4.9** The Guidance recommends that where a client is considering moving to a different area in Scotland, covered by a different council, that the client should be able to enquire what charges might apply to them. This is not currently incorporated into the CHCP's policy.
- 4.10** It is recommended that the local policy is updated to explicitly include a statement to the effect that the CHCP would be provide such information on request, provided details of the client's income, expenditure and care needs were made available.

#### Charging Thresholds

- 4.11** A charging threshold is the set level of personal income below which a person can receive community care service(s) without needing to pay a contribution or charge toward the cost of the service(s) they receive. At the moment (and in the absence of any other suitable national index) the charging threshold is linked to three rates set by the UK Government Department for Work & Pensions (DWP). These are rates of benefit which provide a top-up of weekly income to a guaranteed minimum amount. The Guidance advises on revised charging thresholds.
- 4.12** It is recommended that the local policy be updated in line with these revised charging thresholds which would only apply as and when either new clients are being assessed or existing clients are being re-assessed which should happen at least once per year. Due to the threshold being linked to DWP rates, this is unlikely to impact to upon anticipated income to the Council.

#### Charging for Special Needs Equipment

- 4.13** Having taken the opportunity to reflect on the existing local policy as a whole within the context of the new Guidance particular attention has been given to the current charging arrangements for special needs equipment.

- 4.14** The current charging policy has a flat rate charge of between £20 and £75 for aids and special needs equipment provided. The budgeted expected income from charging for special needs equipment in 2012/13 is £63,950.
- 4.15** However, it has been identified that the charges for these items have not generated the levels of income anticipated when they were introduced. For example, while the budgeted expected income in 2011/12 was £61,485, the actual income received was £41,646. Moreover, the process of administering and collecting these charges has placed an administrative burden on staff disproportionate to the income received.
- 4.16** Consequently, it is recommended that the local policy be updated such that charging for special needs equipment is withdrawn.

## **5. People Implications**

- 5.1** There are no direct people implications which as a result of these proposed revisions which cannot be absorbed within existing resources

## **6. Financial Implications**

- 6.1** The current value of income from charging for non-residential social care services varies depending on the level of service provided and the level of income which each service user has. This will vary over time as the service user base changes.
- 6.2** The recommendation to withdraw charges for special needs equipment will represent a gap in the assumptions on income levels from charges. The reduced income from this policy change will be covered from existing budgets in 2012/13 and taken into the budget preparation process for 2013/14.

## **7. Risk Analysis**

- 7.1** The main risk is in relation to the ability of the CHCP to recover the income from charges described in the policy to the level assumed for budgets. This risk is in relation to the issues highlighted within the Financial Implications section above.

## **8 Equalities, Health & Human Rights Impact Assessment (EIA)**

- 8.1** The COSLA Guidance has been subject to an EIA prior to its publication.

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**Appendices:** None.

**Background Papers:** COSLA National Strategy and Guidance for  
Charges Applying to Non-residential Social Care Services  
2012/13

[http://www.cosla.gov.uk/sites/default/files/documents/cosla\\_charging\\_guidance\\_2012-13\\_6.doc](http://www.cosla.gov.uk/sites/default/files/documents/cosla_charging_guidance_2012-13_6.doc)

**Wards Affected:** All.