

EXECUTIVE BOARD

DATE: 21ST MARCH, 2016

SOCIAL SERVICES AND WELL-BEING (WALES) ACT 2014 – POLICY AND PROCEDURE REVISIONS FOR CHARGING ADULTS FOR SERVICES

RECOMMENDATIONS/KEY DECISIONS REQUIRED:

1. Carmarthenshire will continue to charge for placements into a care home other than for those which are excluded by the Act. Carmarthenshire will charge for all placements into a care home from the first day of placement.
2. The charge will be based on recovering the cost of the placement in full subject to the resident being financially assessed in accordance with the legislation, regulations, code and local policy to pay less than the full cost, in which case the resident will be charged their assessed charge according to their means.
3. The charge per night for all short term placements (including respite care and flexi beds) will be based on recovering the cost of the placement in full. For placements into a Local Authority care home the charge will be the standard charge and for placements into an Independent Sector care home it will be the contracted amount. (Service users would pay a maximum charge of £60 per week with many paying far less or having the service free)
4. That the non-residential assessment rules be applied to stays which are assessed at the outset as not exceeding 8 weeks on any one occasion and does not apply to temporary placements and permanent placements.
5. That short term stays that extend beyond 8 weeks on any one occasion will be charged as though the resident is temporary or permanent (see Appendix 1) as appropriate from the first day of the 9th week and in line with definitions within the Act, Regulations and Code.
6. A period of transitional protection is implemented so that where a service user has respite care, he/she will not be asked to pay any more for an episode of respite care only, than they would otherwise have paid before 6th April 2016. This protection will last up until the service user has a review of their care package or until 31st March 2017 whichever is the sooner.
7. Carmarthenshire will apply its charges from the first day of service for all services with a charge. This will apply to non-residential services and placements into a care home.

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8. That choice of Accommodation offered to a service user is based on two care homes of the same type anywhere in the County and not restricted geographically unless there are specific geographical needs included in the Care and Support plan.
9. That where a service user, who is not assessed to pay the full cost of the placement, chooses accommodation which is more expensive than the options offered at the time of placement then the additional cost will be calculated from the mid-point of the rates charged by those two care homes offered.
10. That where a service user is able to pay for the full cost of their placement then in accordance with the legislation they can choose any care home and will be required to pay the full cost of their placement.
11. Carmarthenshire does not charge for assessed care and support to a service user where it is provided to the service user in an educational setting and whilst attending a recognised educational course.
12. That the new Act, Regulations and Code will be applied to existing service users from the 6th April 2016.
13. That the existing policies are retained except for those elements of the policies and practices which are changed as the result of decisions stemming from this report and those elements which are now not compliant with the new legislation.

Reasons:

The Social Services and Well-being (Wales) Act 2014 is supported by Regulations and Code of Practice which come into force on the 6th April 2016. There are policy and practice decisions which need to be made before the implementation date of the 6th April 2016 to ensure that the Local Authority policies for charging service users are compliant with the new legislation.

Relevant Scrutiny Committee to be consulted: YES – Social Care & Health –
29th February, 2016

Scrutiny Committee Recommendations/comments:

RESOLVED TO RECOMMEND TO THE EXECUTIVE BOARD that the Policy and Procedure Revisions for Charging Adults for Services, as detailed in the report, be endorsed.

Executive Board Decision Required
Council Decision Required

YES – 21st March, 2016
YES - 13th April, 2016

**EXECUTIVE BOARD MEMBER PORTFOLIO HOLDER:-
Cllr. J. Tremlett (Social Care & Health Portfolio Holder)**

**Directorate
Communities**

**Name of Head of
Service:
Rhian Dawson**

Avril Bracey

**Report Author:
Lyn Walters**

Designations:

Head of Integrated Services

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EXECUTIVE BOARD
DATE: 21ST MARCH, 2016

SUBJECT:

**SOCIAL SERVICES AND WELL-BEING (WALES) ACT 2014 –
POLICY AND PROCEDURE REVISIONS FOR CHARGING ADULTS
FOR SERVICES**

Members will be aware that the Social Services and Well-being (Wales) Act 2014 has been passed by The National Assembly for Wales and that different parts of the Act are now coming into force. The Act provides the statutory framework to deliver the Welsh Government's commitment to focus on well-being, rights and responsibilities. Part 5 of the Act specifically relates to charging service users for the services they receive and this part, together with other parts of the Act, comes into force on the 6th April 2016.

In November 2015 the National Assembly for Wales passed the regulations in respect of Part 5 of the Act and the Authority received both the regulations and the Code of Practice at the end of November 2015 therefore, there is very little time to implement the changes necessary to comply with the Act.

The attached report sets out the main areas, specifically relating to financial assessments and charging, which need to be considered at the outset and it is proposed that during the next financial year a new revised policy, bringing together elements of the existing policies that are currently in place together with any changes from this report, will be brought back to members for approval.

It is important that members appreciate that any delay in reaching a decision on issues raised in the attached report may mean that the Authority will not be able to charge some service users in care homes from 6th April 2016 and will no doubt invite challenges from service users, families and their representatives where charges are levied.

DETAILED REPORT ATTACHED?

YES

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: Rhian Dawson
Avril Bracey

Head of Integrated Services
Head of Mental Health & Learning Disabilities

| | | | | | | |
|---|------------|------------|-------------|------------------------|-----------------------|-----------------|
| Policy, Crime & Disorder and Equalities | Legal | Finance | ICT | Risk Management Issues | Staffing Implications | Physical Assets |
| YES | YES | YES | NONE | YES | YES | NONE |

1. Policy, Crime & Disorder and Equalities

The attached report sets out the policy and procedure changes which Elected Members need to consider in order for the Authority to comply with the Social Services and Well-being (Wales) Act 2014.

2. Legal

The 2014 Act requires the authority to make certain policy decisions regarding charging for certain services by the 6th April 2016. Failure to do so exposes the authority to the risk of legal challenge.

3. Finance

The implementation of the new Act has financial implications on income. The changes to short stay rules will mean that there will be a loss of income of up to £165k per annum to the Authority whilst the ability to apply a charge from the first day of service for those people receiving non residential services will increase income by approximately £65k per annum. Overall there is likely to be a reduction in income of approximately £100k per annum.

In addition the implementation of the Act will increase workloads for the Assessment Team and it is proposed to add 1 WTE post to the establishment costing £26,500.

5. Risk Management Issues

If the Authority fails to make a decision on the main areas of policy and practice then the Authority will have an inconsistent charging policy leading to a risk of legal challenge.

7. Staffing Implications

The changes resulting from the new Act will increase workloads for the Assessment Team and this is likely to result in the need for additional posts.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: Rhian Dawson
Avril Bracey

Head of Integrated Services
Head of Mental Health & Learning Disabilities

1. Scrutiny Committee

Social Care & Health Scrutiny Committee was consulted on 29th February, 2016.

2. Local Member(s) - N/A

3. Community / Town Council - N/A

4. Relevant Partners - N/A

5. Staff Side Representatives and other Organisations - N/A

Section 100D Local Government Act, 1972 – Access to Information

List of Background Papers used in the preparation of this report:

THESE ARE DETAILED BELOW

| Title of Document | File Ref No. | Locations that the papers are available for public inspection |
|---|--------------|---|
| Social Services and Well-being (Wales) Act 2014 | | http://www.legislation.gov.uk/anaw/2014/4/contents |
| Technical Briefings | | http://gov.wales/topics/health/socialcare/act/briefings/?lang=en |
| Code of Practice | | http://gov.wales/topics/health/socialcare/act/code-of-practice/?lang=en |