

FAIR AND AFFORDABLE CARE POLICY

Report of the Head of Social Care Commissioning

Please note that the following recommendations are subject to consideration and determination by the Cabinet (and confirmation under the provisions of the Council's Constitution) before taking effect.

Recommendations:

- ***Cabinet agrees the refreshed and renamed “Fair and Affordable Care Policy”***
- ***Cabinet notes the removal of two exceptions contained within the existing “Upper cost parameters policy” detailed in section 3.1***

1. General progress update on Care Act

- 1.1 Plans have been implemented locally resulting in compliance with the duties and requirements set out in the Care Act as of April 2015. DCC's Care Act programme continues to progress across all workstreams building further on compliance by honing practice, principles and embedding culture. DCC is performing strongly locally, regionally and nationally.
- 1.2 DCC's Care Act programme is responding to Phase 2 of the Care Act and the further duties and responsibilities due for commencement in April 2016 as part of the funding reforms. Preparation for these changes continues including those relating to Care Accounts. With key decisions required locally pending final national regulation and guidance in autumn, work is underway across workstreams to ensure DCC's compliance to Care Act duties continues into 2016.
- 1.3 Feedback was received through the Peer Review that DCC is positively managing the implementation of the Care Act and we are on track to deliver in this area.

2. The fair and affordable care policy consultation

- 2.1 DCC has a responsibility to use its resources in a way that is fair for all of the people in Devon who require adult social care and to ensure that best value for DCC is achieved.
- 2.2 To ensure best value is achieved DCC uses a local policy to make sure that the money allocated to meet individuals assessed need is reasonable and the care received is personalised, safe and fair. This policy was called the 'Upper Cost Parameters Policy' and has been consulted on with key partners, users and carers.
- 2.3 The upper cost parameter is the maximum amount of money DCC will ordinarily pay for an individual to have their eligible care and support needs met. This amount is equal to the cost of having care and support needs met in a setting that DCC concludes would represent best value to DCC.

3. The existing upper costs parameters policy

3.1 The existing policy disregards two types of services when DCC is assessing the value of a support plan; these are called exceptions and are detailed below.

- Exception 1: If two care workers are required for community based care, only the cost of one care worker is considered in the cost of the support plan.
- Exception 2: Services provided primarily for carers are separately identified and the cost of these carer's services are not included in the calculation of the total support plan.

4. The proposed fair and affordable care policy

The proposed policy sets out three changes:

4.1 The policy is renamed the Fair and Affordable Care Policy, this to better reflect the outcome the policy seeks to achieve.

4.2 That exception 1 is removed on the grounds of fairness and in order to truly reflect the actual costs of the care that a person will require when the policy is applied and allow DCC to achieve best value when funding or meeting eligible care needs.

4.3 Exception 2 must be removed as it is no longer relevant. New Care Act legislation applicable from April 2015 means that the cost of replacement care must be included within the costs of the support plan of the person receiving the care rather than the carers.

5. Consultation

5.1 DCC consulted on the proposed policy for a four week period. Working with Healthwatch, views were proactively sought from an external audience including those who may be affected by the proposals.

5.2 DCC also held a consultation session with the Care Act User Group during the consultation period. This session included additional representation by those identified as having a particular interest in the policy or may be affected by it.

5.3 Internal engagement took place via the Staff Reference Group and the consultation documents were cascaded to key teams in Adult Social Care.

6. Response to the consultation

6.1 Responses received have been broadly focussed on two areas; the draft policy itself and secondly the consultation process and supporting documents. A number of comments received have referenced elements of pending national policy changes proposed in phase 2 of the Care Act such as the care cap and the extended means testing that do not impact on this policy. Some comments also seemed to be challenging the new legislation in regards to carers, put in place by national government that DCC must implement (see 4.3 above).

6.2 This has highlighted to DCC a need to continue to engage with services users and their carers to continue to provide accessible information and advice so individuals are as informed as possible.

7. Responses on the proposed policy

- 7.1 Support for the proposal to rename the policy has been unanimous. The clear message that has been received is that the proposed name change and the public facing statement, written in plain-English, has significantly aided understanding of the policy and what it seeks to achieve.
- 7.2 DCC was challenged that best value is being achieved as a priority over an individual's preference. DCC was challenged to consider whether additional weight should be given to the preference of an individual wanting to remain in their home, and that there is a risk the choice to do so would only be available to those who can afford to supplement their support plan to cater for their preferences.
- 7.3 This challenge was developed further by some who sought clarity on DCC's position and process when on application of the policy an individual would need to move settings in order for DCC to achieve best value and the individual is unwilling to move or unable to contribute financially in order to receive their preferred support plan.
- 7.4 The proposed policy is not a blanket policy; DCC will consider any exceptional circumstances and personal preferences an individual might have in how their eligible needs are met. DCC retain discretion to fund a support plan in excess of the best value support plan.
- 7.5 In the circumstances set out in paragraph 7.2, DCC will provide a direct payment to the individual at the cost of the best value support plan for that individual so they can make their own arrangements. They will be made aware of the risks to themselves of not having some of their eligible needs met.

Response on the consultation process

- 7.6 In relation to the consultation process and supporting documents, DCC was challenged on the appropriateness of the length of the consultation period given the complexity of the subject matter and the time required to understand implications and formulate a response.
- 7.7 Working with Healthwatch and Living Options Devon, DCC ran the session set out in paragraph 5.2 in order to target engagement with individuals that might be affected by the proposals. This session was purposely arranged to give service users and carers the opportunity to engage in conversation with DCC on the proposals and ask questions to aid their understanding. This session was well attended and both the proposals and the engagement process were positively received.
- 7.8 DCC received challenge that the two examples of how the proposals might work simplified the process and did not highlight the considerable work undertaken by DCC to look at other ways to make the available funding meet eligible needs.

7 Summary/Conclusions/Reasons for Recommendations

- 7.1 A consultation process provides a broad consensus on approach. An impact assessment has been completed and the proposed policy provides for discretion in exceptional cases to mitigate potential adverse consequences.

Tim Golby

Electoral Divisions: ALL

Local Government Act 1972: List of Background Papers

Impact Assessment – Adult Social care upper costs parameters policy – ensuring Devon County Council achieves best value when arranging care.

Who to contact for enquiries:

Name: James Martin

Contact: 01392 38 3000 james.martin@devon.gov.uk

Cabinet Member: Councillor Stuart Barker

Fair and affordable care policy

1. Policy statements

- 1.1 We have a duty to assess and then ensure all eligible needs arising from that assessment are met. We will help people to consider their own strengths and capabilities, and what support might be available from their wider support network or within the community.
- 1.2 We will make every effort to ensure people are receiving the support they are entitled to. The identification of eligible need will be based upon the National Eligibility Criteria.
- 1.3 Once we have identified that a person has a need for care and support, we must bear in mind Care and Support Statutory Guidance which states that local authorities:
 - May take into reasonable consideration its own finances and budgetary position
 - Must ensure that the funding available to the local authority is sufficient to meet the needs of the entire local population.
 - May take decisions on a case-by-case basis which weigh up the costs of different potential care and support plans to ensure best value is achieved.
- 1.4 The Policy describes the ways in which we will arrange care in a manner that reflects the choice and preferences of individuals but balances the need for us to arrange care that is sufficient to meet eligible needs whilst always looking to make best value of the finite resources available to us.
- 1.5 If the gross cost of an individual's preferred support plan cannot be met in a way that represents best value to Devon County Council, then we will, in the majority of cases, fund up to the cost of the best value support option.
- 1.6 Should you indicate a wish to have care provided in a method or setting that is more expensive than that identified by Devon County Council, it may be that Devon County Council would agree to provide a sum equivalent to the cost of the best value option. A person could then make a financial top-up using their own money in order to receive their preferred care and support arrangement.
- 1.7 We operate a framework and arranging care process that allows us to identify the best value support plan that can be delivered to meet an individual's eligible needs.
- 1.8 Each person's circumstances will be considered individually and without reliance upon any form of blanket policy. In applying this policy we will act reasonably and proportionately in ensuring that any care arranged will meet your eligible needs.
- 1.5 There may be circumstances where exceptional circumstances mean that DCC would be prepared to exercise its discretion around the exercise of this policy. However, such exceptional circumstances will be rare.
- 1.6 We wish to make it clear that this policy will be invoked particularly where an option is available that represents better value to DCC than providing you with the necessary level of care in your own home.

2 Who this policy applies to

- 2.1 This policy applies to all individuals who have eligible needs and are entitled to receive adult social care support funded by Devon County Council.
- 2.2 This policy will apply in all circumstances where we are considering what support is needed to meet an individual's eligible needs.
- 2.3 This policy will apply to both new assessments of need and reviews of need (where support is already in place - including situations where support is currently delivered via Direct Payments).
- 2.5 This policy will need to be considered when individuals are moving from Children's to Adult Services.
- 2.6 This policy does not apply to individuals who are eligible for or receiving NHS Continuing Healthcare.