POLICY NOTE

THE COMMUNITY CARE (PERSONAL CARE AND NURSING CARE) (SCOTLAND) AMENDMENT REGULATIONS 2013

SSI 2013/

The above instrument will be made in exercise of the powers conferred by section 1(2)(a), 2 and 23(4) of the Community Care and Health (Scotland) Act 2002. The instrument is subject to the affirmative resolution procedure. If approved by the Scottish Parliament, it will come into force on 1 April 2013.

Legal Background

Section 1(1) of the Community Care and Health (Scotland) Act 2002 ("the 2002 Act") provides that a local authority are not to charge for social care provided by them (or the provision of which is secured by them) if that social care is personal care as defined in paragraph 20 of schedule 12 to the Public Services Reform (Scotland) Act 2010; personal support as so defined; care mentioned in schedule 1 to the 2002 Act or nursing care. That principal may be qualified by regulations. Section 2 then gives the Scottish Ministers the power to make regulations to determine what is to be regarded as accommodation provided by local authorities under social work and mental health legislation. Those powers have been exercised with the effect that people whose accommodation is provided by a local authority under the Social Work (Scotland) Act 1968 or section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 are not charged in respect of personal and nursing care up to set figures. (The rules in relation to free personal care apply to people aged 65 or over. There is no age limit in relation to free nursing care.)

Policy Objectives

Payments for personal and nursing care to self funders in care homes remained static at £145 per week for personal care and £65 per week for nursing care between 2002 and 2007.

From 2008 to date, the payments were increased in line with inflation using the GDP Deflator at the time of negotiation with the Convention of Scottish Local Authorities. This mirrors the inflation assumption used in setting the local government settlement allocations for the 2008-11 settlement.

These Regulations, if approved, will increase the sums to £166 for personal care and £75 for nursing care. These increases are again in line with inflation using the GDP Deflator, currently forecast at 2.0%.

Consultation

The Convention of Scottish Local Authorities and Association of Directors of Social Work (ADSW) have been consulted on and agreed the proposed amendments.

Financial Implications

Increasing these payments from £163 for personal care and £74 for nursing care to £166 and £75 respectively per week will cost approximately £2 million for 2013 – 14. These are routine annual increases, which have been considered as part of the current spending review period up to 2014 -15 with an additional amount of £1.5 million for these payments. A Business and Regulatory Impact Assessment has not been prepared as these changes have no impact on the costs of business.

Integration and Reshaping Care Division
5 February 2013