POLICY NOTE

THE COMMUNITY CARE (PERSONAL CARE AND NURSING CARE) (SCOTLAND) AMENDMENT REGULATIONS 2019

SSI 2019/XXX

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 affirmative procedure. If approved by the Scottish Parliament, it will come into force on 1 April 2019.

Purpose of the instrument.

To increase the value of payments for free personal care and nursing care in line with the Gross Domestic Product (GDP) Deflator currently forecast at 1.57%.

Policy Objectives

The background is that 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 of the Public Services Reform (Scotland) Act 2010; personal care as so defined; care mentioned in schedule 1 of the 2002 Act or nursing care. That requirement may be qualified by regulations. Section 2 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. This power has been exercised with the effect that persons provided with accommodation 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. From 1 April 2019 the rules in relation to free personal care apply to all eligible adults regardless of age and there is no age limit in relation to free nursing care.

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. Previously the Concordat had specifically included the commitment to increase the payments in line with inflation in 2008-09, 2009-10 and 2010-11 and following agreement with COSLA a further inflationary increase was included as a specific commitment in the settlement agreement for 2011-12 and the increase applied from April 2011.

From 2011/12 to 2015/16 the payment rates were increased in line with inflation using the GDP Deflator. The following year 2016/17 was static due to forecasts of inflation rates being too high and Ministers agreed to keep to this rate for the year of 2017/18. For the year 20018/19 Ministers approved payment rates to be increased once again in line with inflation using the GDP Deflator.

These Regulations, if approved, will increase the sums to £177.00 for personal care and £80

for nursing care. These increases are again in line with inflation using the GDP Deflator, currently forecast at 1.57%.

Consultation

To comply with the requirements of section 1(2)(a), 2 and 23(4) of the Community Care and Health (Scotland) Act 2002, the Cabinet Secretary for Health and Sport and COSLA have both been consulted and have both agreed to this increase.

Impact Assessments

There are no impact issues. The following action is being taken as a result of the inflation shown by the GDP Deflator.

Financial Effects

The Cabinet Secretary for Health and Sport confirms that no BRIA is necessary as the instrument has no financial effects on local government or on business.

Scottish Government
Health and Social Care Integration
Care, Support and Rights Division

14 January 2019