

Decision maker:	Cabinet member health and wellbeing
Decision date:	Friday 22 February 2019
Title of report:	Self-Funder Policy
Report by:	Senior commissioning officer

Classification

Open

Decision type

Key

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards affected

(All Wards);

Purpose and summary

To approve the Self-Funder Policy for people who use social care services, providers of social care services and social care professionals, aligned to the Adult and Communities directorate. The policy is compliant with the Care Act 2014 and its associated regulations and statutory guidance and seeks to provide clear information and available options in regard to the self-funder journey, to inform decision making.

Recommendation(s)

That:

- (a) **The Adult Social Care Self-Funder Policy, at appendix 1, is approved.**

Alternative options

1. No overarching policy is adopted in relation to Herefordshire Council's approach to Self-Funders of social care services. This is not recommended, as the addition of a Self-Funder Policy aligns to the councils "Meeting Your Social Care Needs" Policy and the "Charging, Deferred Payments and Top-Up" Policies into one document with a specific focus on the self-funder cohort, and also offers guidance and advice and signals responsibilities of all including providers and self-funders, as well as the council. In addition it provides specific guidance for practitioners in meeting the council's legal obligations under the Care Act 2014. In addition it sets out the expectations of care providers and the responsibilities of self-funders.

Key considerations

2. A self-funder is a person who pays for the full cost of the services they receive. If any of the following criteria are met then the definition of self-funder applies;-
 - i. The person in receipt of or soon to receive services has chosen not to approach the council for help;
 - ii. The person in receipt of or soon to receive services has chosen not to be financially assessed by the council;
 - iii. The person's care needs have been assessed and they are not currently eligible for adult social care services;
 - iv. The person's care needs have been assessed and they are eligible for social care support but savings or assets are above £23,250 or the weekly income exceeds the amount the council will fund.
3. The overarching principle of the self-funder policy is to assist people to make well informed decisions, in the knowledge of the impact of their decision on their future outcomes.
4. The policy reflects the legislative structure under the Care Act 2014, and explains the decision making processes that practitioners will need to adhere to and also evidence. The audit trail for these decisions is now present within the care management system, and as such protects the council by making consistent and proportionate judgements on legal foundations about care management, which impact on council funding commitments, and more importantly improve the experience of the individuals and families.
5. The policy will strengthen the intelligence of the council around self-funders, as it will be sighted on them and supporting and tracking them through their social care journey. The council has an obligation under the Statutory Guidance to the Care Act 2014 to engage with stakeholders to develop understanding of supply and demand and articulate likely trends that reflect people's evolving needs. Data is used to signal to the market the types of services needed now and in the future, to encourage innovation, investment and

continuous improvement. It also includes working to ensure that those who purchase their own services are empowered to be responsible consumers.

6. The Care Act 2014 brought duties to councils to offer additional support to self-funders to enable them “micro-commission” care, and ensure a supporting infrastructure is available. After determining eligibility for social care for those who will be funding their own care, the most critical factor is determining what services are needed. This can range from simple signposting and guidance through to financial and legal support services. To fulfil its duties, Herefordshire Council has introduced WISH a web-based system; e-marketplaces for people to search, which also offers information to support safeguarding and advice on costs and quality of services. The council still requires better quality information about the demographics of this self-funding market.
7. A House of Commons briefing paper in February 2018 quoted figure produced by Laing Buisson, Care of Older People: UK Market Report, that across the UK, 43.8% of social care customers are self-funders. This varies region to region and provider to provider but would reflect a local perspective.
8. The self-funding cohort can present as a hidden group, the council needs to be able to predict the volume and trends of this group in order to manage the market and help facilitate choice of care services in Herefordshire.
9. Work undertaken by the council’s intelligence team demonstrates that early intervention to support self-funders to make informed choices will have a positive impact on both the quality of the pathway and the costs of care to the council.
10. Self-funders are making huge financial decisions which require expert purchasing advice and support. The right guidance at this point prevents people spending their assets too quickly and falling back onto council funding.
11. Often self-funders can present their needs to the council late in their care journey, and at a time when they require financial support. By supporting earlier engagement with this cohort the council can provide information and advice which may enable self-funders to make more informed decisions about their care. This may impact on how long they can remain a self-funder, and provide them with all their choices at the start of their care journey.
12. When a self-funders capital falls below the threshold, the Care and Support and After-care (Choice of Accommodation) Regulations 2014, advise the council should only pay its standard rate following an assessment of need and; after applying the rule of proportionality which considers the impact of a move and the Human Rights Act (2008), and in particular Article 8 rights to respect for private and family life. Following the assessment process this could mean that the individual’s circumstances are such that they may need to move care home. The council recognises and promotes avoiding such upheaval, by providing information, advice and guidance to enable people to make informed decisions about care settings earlier in the care pathway.
13. The council can offer self-funders a financial assessment, this enables each individual to maximise their options and; depending on eligibility; benefit from additional claims which will extend their financial resources and therefore their time as a self-funder. This has the additional impact of deferring and minimising the financial support the council will need to make.
14. There are interdependencies between the rates the council pays for care and the self-funders rates the provider charges, which nationally is a higher rate. Laing Buisson notes

that “private payers [self-funders] are vitally important to care home operators as sources of premium fee rates, especially in locations where care home margins are under pressure because of inadequate state paid fees” and, furthermore, “the stability of the UK care home sector for older people currently depends on the willingness of self-funders to pay premium prices” – known as “cross subsidisation”.

15. To support the implementation of the policy and embed the key messages, the council will introduce the new leaflet “*thinking about care*” which is aimed at new and existing people in receipt of care. This leaflet maps the steps and decisions required, with a focus on self-funders to explain the council offer and the options available before people make choices about funding and long term care options.
16. There is a project group monitoring information in regard to self-funders, and with the new baselines established; the impact of the policy will be able to be tested by running reports to demonstrate improved journeys for self-funders by minimising future moves and tracking timescales within the journey.

Community impact

17. The Corporate Plan 2016-20 sets out to “improve the provision of good information and signposting to enable people to support themselves and each other, getting the right help at the time as needs change.” By engaging self-funders early in their care pathway the council will facilitate the provision of information, advice and guidance to empower people to make informed decisions about their care and support; and enable clearer understanding of the implications of their decisions on their medium and longer term care provision.
18. The Adult Wellbeing Plan 2017-20 says that the council will “provide a clear and unambiguous offer that enables people to make informed decisions”. This policy will enable this to happen as well as setting out the obligations of the council and social care providers to meet this duty.

Equality duty

Under section 149 of the Equality Act 2010, the ‘general duty’ on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying ‘due regard’ in our decision making in the design of policies and in the delivery of services. We believe that it will have a positive impact on our equality duty, by

advancing the equality of opportunity for this cohort that share a protected characteristic. The council supports the equality duty through proactive development of this policy and a coordinated and planned approach to facilitate positive outcomes for this cohort.

Appendix 2 details an Equality Impact Assessment which highlights the positive impacts primarily for people with a disability and also the over 65 age group.

Resource implications

19. The direct impact of the self-funding policy to the council budget is nil, however with the implementation of the key messages and improved practices this will have a positive impact on the council's budget in terms of financial predications and delaying care costs.
20. A briefing sheet will be available to both staff and providers to ensure they are aware of the policy and the implications on practice.

Legal implications

21. The recommendations in the report and attached policy are in accordance with the council's statutory requirements under Care Act 2014.

Risk management

Risk / opportunity	Mitigation
Policy will not be embedded and embraced by providers.	Consultation has taken place with a proportion of the provider market who understand the rational for the policy and also would like to see the system more joined up and avoid any delays for the individuals.
Self-funders not wanting to engage with the council until their funds are below the capital threshold.	The council will continue to extend and improve its reach to self-funders by increased communications (leaflets) and co-opting others to promote the key messages (providers and professionals).
Providers not actively engaging with the policy.	At the point of view of contract to consider making the role of providers explicit within the specification and/or contract.
The cost of arranging care will be a deterrent to people seeking council support.	The take up will be monitored and reviewed.

22. The risks can be managed within the adult's wellbeing directorate, both within commissioning by ongoing market management, making the councils expectations known to providers and providing supporting information and tools. It is the role of the

hospital liaison team to support and signpost self-funders whom are patients in hospital. It is the combined role of the Advice and Referral Team (ART), WISH, Welfare and Financial Advice team (WFAT), and locality teams to support and signpost all other self-funders who present to the council. In addition the information and advice function of WISH will provide relevant and up to date local information which will assist and signpost self-funders.

Consultees

23. Providers-this resulted in some additional definitions listed in the policy.
24. Political Groups were consulted and no comments or objections were received.
25. Making It Real Board a reference group of carers and people who use services -changes have been made to the font size in the booklet following feedback from this group.

Appendices

Appendix 1 - Self-Funder Policy

Appendix 2 - EIA Self-funders

Background papers

None