



**ANGUS HEALTH AND SOCIAL CARE
INTEGRATION JOINT BOARD – 27 JUNE 2018
FREE PERSONAL CARE FOR UNDER 65s
REPORT BY VICKY IRONS, CHIEF OFFICER**

ABSTRACT

This report outlines the national and local plans for the implementation of Free Personal Care for Under 65s, a new duty which comes into force on 1 April 2019. Legislation will extend the right to free personal care from over 65s only, to under 65s. This will have significant implications for the Angus Health & Social Care Partnership (AHSCP) in terms of demand for service provision, arrangements for delivery, and cost.

1. RECOMMENDATIONS

It is recommended that the Integration Joint Board:-

- (i) notes the contents of this report;
- (ii) seeks a progress report at the December 2018 IJB.

2. BACKGROUND

The Scottish Government announced in 2017 that it would extend the scope of free personal care (FPC) provision from over 65s, as currently, to under 65s from the beginning of April 2019. This will be achieved by a Scottish Statutory Instrument (SSI) being laid before Scottish Ministers for approval, the Health and Sport Committee taking evidence on the proposals, then the Scottish Parliament affirming the SSI by 28 June 2018. This, in essence, is an extension of current legislation rather than new legislation, but it places a new statutory duty on local authorities and Integration Partnerships.

A national implementation group has been meeting monthly in Edinburgh, chaired by the Scottish Government, and attended by finance and operational representatives of Integration Partnerships, COSLA, and the third and private sectors. Work has been ongoing on developing the 'Guidance on Free Personal and Nursing Care in Scotland for Adults'. The national group is attended by the Head of Community Health and Care Services (South).

The new duty has particular resonance for Angus. It is known colloquially as 'Frank's Law' following the public campaign conducted by Amanda Kopel, widow of Frank Kopel. Mr Kopel died of dementia before he was eligible to receive free personal care because he had not yet reached his 65th birthday.

3. CURRENT POSITION

The Head of Community Health and Care Services has convened a local implementation group on two occasions to date, and it will meet monthly until implementation. The main issues which the IJB should be alerted to are as follows:

1. 'Personal Care' will be defined as currently for over 65s. Personal care is distinct from 'support services' in definition (see Appendix 1) but this distinction becomes less clear when service users receive both and the services overlap.

2. FPC is an 'assessed for' service i.e. one must be assessed by the Partnership as being eligible before services can be provided. FPC can only be provided from the date of the concluded assessment; it cannot be backdated to, for example, the onset of a condition which led to the need for FPC. The service user must also request an assessment for FPC (although in most instances this may be self-evident).
3. The Provider is required to provide FPC free of charge, commensurate with assessed need and in order to meet that assessed need. Where service users seek a more sophisticated or elaborate means of meeting this assessed need, which is more costly, they will be required to meet the difference in cost.
4. There is a complicated interplay between FPC and housing benefit, and also between FPC and residential care costs. These areas of work are being considered in the national and local implementation groups.
5. Broadly speaking, there are three groups of service users who are likely to need FPC:
 - (i) existing under 65s who make a financial contribution to their current services; this contribution is removed from 1 April 2019.
 - (ii) existing service users who work in partnership with services to support their needs; many may now seek professional services to replace or reduce their own family's input, since it will be free.
 - (iii) an 'unknown' group of the public who care for family members without support because they have never been assessed, or because they have been assessed but have declined services, perhaps on the basis of cost; this group may now come forward seeking FPC.
6. It is anticipated that the service user groups most affected by the change will be people under 65 with disabilities or mental health problems, with a smaller uptake from substance misuse services. For comparison, at week ending 10 June 2018 there were 735 service users over age 65 receiving 5,085 hours of personal care per week; there were 259 service users under 65 receiving 2,244 hours of personal care, so the new eligible group is about a third of the size of the over 65s group but using proportionately more personal care per individual.
7. Procedures. It will be necessary for the AHSCP to produce operational procedures for staff which will cover assessment, eligibility and allocation of resources. There will need to be accompanying financial procedures which distinguish between 'charged for' support services and FPC, and which cover the interface with residential care and supported housing.

4. FINANCIAL IMPLICATIONS

FPC will remove the financial contribution currently made by adult service users who are under 65. The local implementation group is currently trying to estimate the loss of income from this group. It is also trying to put a cost against the increased potential demand in the group described at 5(ii) above. We cannot determine the cost in relation to group 5(iii), above, other than perhaps as a percentage of existing business.

The Scottish Government has indicated that some funding will be made available for transition and to address the increased costs, but as yet no figures are available. The national implementation group has appointed a sub group to consider the financial implications and its first meeting took place on 18 June 2018.

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List of Appendices:

Appendix 1 – Extract from National Guidance on Free Personal and Nursing Care in Scotland for Adults (Circular CCD5/2003)

**Extract from National Guidance on Free Personal and Nursing Care in Scotland for Adults
(Circular CCD5/2003)**

Community Care and Health (Scotland) Act 2002

Regulations as respects charging and not charging for social care

- a) Subject to subsection (2)(a) below, 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—
- b) personal care as defined in section 2(28) of the Regulation of Care (Scotland) Act 2001(asp 8) [*“personal care” means care which relates to the day to day physical tasks and needs of the person cared for (as for example, but without prejudice to that generality, to eating and washing) and to mental processes related to those tasks and needs (as for example, but without prejudice to that generality, to remembering to eat and wash)*];
- c) personal support as so defined [*“personal support” means counselling, or other help, provided as part of a planned programme of care*];
- d) whether or not such personal care or personal support, care of a kind for the time being mentioned in schedule 1 to this Act; or
- e) whether or not from a registered nurse, nursing care.

SCHEDULE 1

SOCIAL CARE NOT ORDINARILY CHARGED FOR

[Whether or not personal care (see section 1(1)(a) or personal support (see 1(1)(b))]

1. As regards the personal hygiene of the person cared for—
 - a) shaving;
 - b) cleaning teeth (whether or not they are artificial) by means of a brush or dental floss and (in the case of artificial teeth) by means of soaking;
 - c) providing assistance in rinsing the mouth;
 - d) keeping finger nails and toe nails trimmed;
 - e) assisting the person with going to the toilet or with using a bedpan or other receptacle;
 - f) where the person is fitted with a catheter or stoma, providing such assistance as is requisite to ensure cleanliness and that the skin is kept in a favourable hygienic condition;
 - g) where the person is incontinent—
 - I. the consequential making of the person’s bed and consequential changing and laundering of the person’s bedding and clothing; and
 - II. caring for the person’s skin to ensure that it is not adversely affected.
2. As regards the person’s eating requirements—
 - a) assisting with the preparation of food;
 - b) assisting in the fulfilment of special dietary needs.

[Eating and washing is explicitly included within the definition of personal care (see 1(1)(a))]
3. If the person is immobile or substantially immobile, dealing with the problems of that immobility.
4. If the person requires medical treatment, assisting with medication, as for example by—
 - a) applying creams or lotions;
 - b) administering eye drops;
 - c) applying dressings in cases where this can be done without the physical involvement of a registered nurse or of a medical practitioner;
 - d) assisting with the administration of oxygen as part of a course of therapy.

5. With regard to the person's general well-being—
- a) assisting with getting dressed;
 - b) assisting with surgical appliances, prosthesis and mechanical and manual equipment;
 - c) assisting with getting up and with going to bed;
 - d) the provision of devices to help memory and of safety devices;
 - e) behaviour management and psychological support.

[Counselling, or other help, provided as part of a planned programme of care is explicitly included within the definition of personal support (see 1(1)(b))]