

AG/JHP/613

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Dear Linda

REGULATION OF CARE: PROPOSALS FOR MAXIMUM FEES 2004-05

Many thanks for the invitation to comment on this new consultation. Our comments are as follows.

Delay in introducing fees based on full cost recovery

We are pleased to see that the Executive has decided to delay the introduction of 'full cost recovery' fees for services already registered. We note that this is because 'moving to full cost recovery next year may well be a step too far for many providers' (Appendix C, para 10). We are of course grateful that our concerns, and the concerns of our colleagues in other provider associations, have been taken into account. We would point out, though, that unless the appropriate resources are identified and distributed, a move to fees based on full cost recovery is likely to be 'a step too far' whether it happens now or in three years' time. Providers have indeed 'been aware of the policy for some time', but awareness of a policy and the financial capacity to comply with it are two very different things.

In order to sanction this delay, we imagine that the Executive must have made some kind of assessment of providers' ability or otherwise to meet the costs of full cost recovery in relation to services already registered. Has a similar assessment been made of their ability to meet the costs of those services new to registration, i.e. housing support and care at home? These fees represent very significant new financial burdens and may also prove 'a step too far' for many providers: we would be grateful for your advice on this matter.

Integrated fees.../cont.

Integrated fees

The table of proposed maximum fees continues to separate out services into specific registrable categories, each attracting a fee. We have, on a number of occasions, pointed out that many providers offer services which combine two or more categories (for example a day service or care home which also offers outreach services such as care at home or housing support) and that this approach to fee imposition does not take sufficient account of their situation.

We are aware that the Care Commission is introducing an integrated fee system in respect of services that combine elements of care at home and housing support; however there appears to be no attempt to devise integrated fees for these other services. If a single service has to register as a care home; and as a care at home service; and as a housing support service; and as a day service; then the resulting fees may mean that one or more of these service elements becomes unviable and will be forced to close.

During the development of policy on the new regulatory system CCPS expressed concern that over-rigid definitions or categories of registration would serve to stifle the more innovative and flexible services that are now increasingly a feature of the voluntary sector. The imposition of multiple category-based fees on such services is one way in which this is already starting to happen.

The concept of full cost recovery

At the risk of repeating ourselves we would want to state formally, for (I think) the fifth time, that we continue to oppose the policy of a Care Commission funded entirely by fees from providers on the basis that it represents an unacceptable 'recycling' of public money, as providers spend considerable time and effort attempting to secure the necessary resources from one public body in order to hand it straight over to another.

One of the key issues emerging in relation to this whole area is the apparent inability of some funding authorities to cover the costs of providers' registration fees. You and I have had some correspondence about this matter in the past, and your last letter on the subject (25 June 2003) gave us to understand that authorities have indeed been funded by the Executive for this purpose. As you know, the financial implications of meeting fee levels for many of our members run to tens of thousands of pounds per organisation, and if authorities are unable or unwilling to meet these costs, Executive guidance notwithstanding, then the consequences are likely to be serious indeed. CCPS is therefore now writing to all local authorities to determine their intentions in this regard and I shall let you know what the various responses are.

Finally, we note that the policy on full cost recovery is based on the contention that it will 'ensure that there is transparency in the costs of delivering [Care Commission] services' (para 7). We wonder why, if service cost transparency is such an important principle, providers are expected to 'absorb' (Appendix C, para 17) at least part of the increase in fees, given that these form part of the cost of a service. We would be interested to have your comments on this.

Unintended consequences.../cont.

Unintended consequences

We note with some considerable astonishment the statement in Appendix C (para 25) that as a result of the new fees, ‘it is possible that some smaller providers may have to close...it was always accepted that this might happen...’

I have gone through all the earlier impact assessments and related documents regarding registration fees and regulation more generally, and I cannot find a single reference to the possibility of service closures resulting from fee burdens, nor to the risk of such closures being ‘accepted’. Neither can I recall any public statement by Ministers or anyone else from the Executive to this effect. Indeed the impact assessment attached to last year’s consultation on fee increases made it clear that certain decisions were taken to keep fees as low as possible because otherwise, ‘some of the smaller services might have gone out of business.’ The preamble to the present consultation, referred to above, also states that introducing full cost recovery fees might be a ‘step too far’, and that is why they have been delayed. In the same document, then, we have statements to the effect that (a) providers must not be allowed to go under, (b) it is however inevitable that they will, and (c) that this is quite acceptable and indeed has been foreseen all along.

We contend that the potential for these ‘unintended consequences’ to come about is real; that it is not confined to ‘smaller providers’; and that whilst these consequences may be unintended, they are certainly not unavoidable: we would therefore urge the Executive once again to revise its position regarding its policy on full cost recovery, and to take steps to ensure that funding authorities possess – and understand clearly that they have been allocated – the necessary resources to meet providers’ fee costs.

We do not believe that it is in any way acceptable for services, however small, to close on account of an inability to pay unreasonably high registration fees; we also feel strongly that the acceptability of service closure is a reversal of previous policy in relation to the regulation of care and that therefore there ought to be a formal ministerial statement to this effect.

Yours sincerely

ANNIE GUNNER

Director

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