POLICY NOTE

THE NATIONAL ASSISTANCE (ASSESSMENT OF RESOURCES) AMENDMENT (SCOTLAND) REGULATIONS 2016

SSI 2016/25

The above instrument was made in exercise of the powers conferred by section 22(5) of the National Assistance Act 1948. The instrument is subject to negative resolution procedure and will come into force on 4 April 2016.

Legal Background

Under section 22 of the National Assistance Act 1948 ("the 1948 Act") (as applied by section 87(3) and (4) of the Social Work (Scotland) Act 1968), local authorities are required to charge residents in residential accommodation an appropriate contribution towards the cost of the residential accommodation (excluding any entitlement to free nursing and personal care under the Community Care and Health (Scotland) Act 2002 and associated regulations).

Section 22(5) of the 1948 Act provides that, in assessing a resident's ability to pay, the local authority shall apply regulations made by the Secretary of State. The applicable regulations are the National Assistance (Assessment of Resources) Regulations 1992 ("the 1992 Regulations"). By virtue of Section 53(1) of the Scotland Act 1998, the functions of making and amending the 1992 Regulations as regards Scotland are devolved to Scottish Ministers.

Policy Objectives

Capital Limits

Within the financial assessment for residential care, anyone with capital worth £26,250 or more, including property, must meet his or her remaining accommodation costs (over and above any entitlement to free personal care and nursing care) in full. Where the capital falls between £16,250 and £26,250, the local authority must assist the resident in meeting the cost of the accommodation. Capital of £16,250 or less is not taken into account in assessing a contribution.

Analytical Services Division colleagues have considered the impact of a change in capital limits in line with CPI (-0.1%) and advise that they have assumed that pensioners' assets and incomes would rise or fall in line with inflation. Increasing capital limits by inflation (when inflation is positive) would maintain the equilibrium and we would expect to see the same proportion of care home residents in each of the three capital bands. The impact on local authority revenue would therefore be neutral.

We are therefore recommending that given the CPI is negative (-0.1%), the capital limits remain at the 2015 limits of lower capital limit £16,250 and an upper capital limit of £26,250.

Savings Credit Disregard

The 1992 Regulations set out a number of different types of income that are to be disregarded when a local authority assesses a resident's income for the purpose of charging. Since the introduction of the State Pension Credit Act this has included a sum where a resident is in receipt of savings credit. These Regulations increase the maximum weekly savings credit disregard from £6.00 to £6.15 for single residents and from £9.00 to £9.25 for couples. These increases are in line with the increase in average earnings (2.9%).

Consultation

The Convention of Scottish Local Authorities and Social Work Scotland were consulted but have not yet responded to the proposed amendments.

Financial Implications

Uprating of the Savings Credit Disregards are balanced for local authorities by the increasing value of residents' capital resources and benefits income. 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
8 January 2016