

Decision Session – Executive Member for 25 July 2016 Adult Social Care and Health

Report of the Director of Public Health

Genito-Urinary Medicine (GUM) - Cross Charging Policy.

Summary

1. This report describes a policy which details how City of York Council will manage non-contracted sexual health out of area activity (City of York residents attending sexual health services commissioned by other local authorities in England) and provide clarity on the conditions and payment terms for cross charging. This is based on the agreed Yorkshire and Humber approach endorsed by the Regional Association of Directors of Public Health Network.
2. Under the terms of the policy the Council will only reimburse:
 - Invoices for Genito-Urinary Medicine (GUM) activity within the national tariff cost envelope (the tariff currently in force is the 2014/15 tariff)
3. Under the terms of the policy the Council will not:
 - Reimburse invoices for contraception activity
 - Pay charges for Market Forces Factor (MFF)
4. Before making payment, invoice supporting data will be reviewed and the data will clearly provide all the required information to ensure City of York Council are the responsible local authority.

Recommendations

5. That the out of area cross charging policy, which is based on the agreed approach endorsed by the Yorkshire and Humber Association of Directors of Public Health, be approved.

6. Reason: This approach reduces the risk of any legal challenge to City of York Council and applies a consistent and fair approach across the region whilst not exposing any one local authority.

Background

7. Since 1 April 2013, Local Authorities have been mandated to ensure that comprehensive, open access, confidential sexual health services are available to all people who are present in their area (whether resident in that area or not). The requirement for Genito-Urinary Medicine (GUM) and Contraception and Sexual Health (CaSH) services to be provided on an open access basis is stipulated in the *Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013* (“the Regulations”).
8. Re-charging by the provider of costs back to the area where the individual is normally resident is recommended for out-of-area use of services. These arrangements support open access integrated sexual health services and patient choice.
9. The Department of Health issued guidance on cross charging in August 2013 outlining principles for Local Authorities to make payment for residents accessing sexual health services outside the area.
10. The cross charging guidance suggests that it is for local determination how these arrangements work and solutions that meet the needs of local areas and local populations should be in place. The guidance was developed to encourage a consistent, equitable, fair and transparent approach to cross-charging and billing for out of area service users from both a commissioning and provider perspective.
11. The guidance suggests that it is for local determination how these arrangements work and solutions that meet the needs of local areas and local populations should be in place. The guidance was developed to encourage a consistent, equitable, fair and transparent approach to cross-charging and billing for out of area service users from both a commissioner and provider perspective.

12. Cross charging has been regularly debated across the Yorkshire and Humber region since the responsibility for sexual health was transferred to local authorities in April 2013. Local authorities had interpreted cross charging guidance differently and there were a number of approaches taken both within the region and further afield.
13. Members of the regional Yorkshire and Humber Sexual Health Commissioning Forum had contacted the Department of Health to request further clarity relating to cross charging. The Department of Health responded to say that they had no plans to issue further guidance and that local authorities should find local solutions.

Options and Analysis

14. There is really only one option to ensure consistency and transparency of cross-charging arrangements for GUM activity and that is to adopt the policy developed with the Yorkshire and Humber region.
15. A paper detailing cross charging options within the Yorkshire and Humber region was circulated to the Regional Directors of Public Health Network in June 2015 to agree a Yorkshire and Humber wide approach. The options were based on existing operational arrangements in the 15 local authorities within the region. Yorkshire and Humber Directors of Public Health recommended that all local authorities in the region adopt the following principles:
 - Authorities will only pay for invoices for Genito-Urinary Medicine activity within the national tariff cost envelope (the tariff currently in force is the 2014/15 tariff)
 - Authorities will not reimburse invoices for contraception activity
 - Authorities will not pay charges for market forces factor (MFF)
 - Before making payment invoices and supporting data will clearly provide all the required information
16. There are a number of benefits to aligning to this regional position but primarily this will help to provide clarity, equality of approach across the region, and make better, more efficient use of limited resources.

Consultation

17. This information was posted for circulation on the HIV and Sexual Health Commissioners Group for England national forum alongside a request for commissioners to share this information with their commissioned services.
18. The Yorkshire and Humber Association of Directors of Public Health will keep the policy under review, taking account of feedback from stakeholders

Council Plan

19. The Council Plan 2015-19 sets out three overall aims and the decisions outlined in the paper reflects these aims in the following ways:
 - **A prosperous City for all** – all projects are assessed in a robust and evidenced based way, when making tough decisions on finance we do so in an open and transparent way so all partners are clear about the financial challenges we face.
 - **A focus on frontline services** – engagement with residents, partners encourages views to be listened to and opinions considered; we ensure access opportunities are equal regardless of background, and residents are supported to live healthily. We work to reduce the gap between those who are the highest achievers and the most vulnerable, by targeting services to those most in need.
 - **A council that listens to residents** – the use of evidence based decision making underpins all the decisions made and a commitment to public engagement ensure that view and opinions are listened to.

Specialist Implications

Financial

20. In adopting this policy, City of York Council will reimburse against GUM activity up to national tariff (the tariff currently in force is the 2014/15 tariff). Tariff prices are reviewed annually by the Department of Health. The current published tariff gives a maximum value of £140 for a first appointment and £105 for a follow up. In some instances, this would mean a saving to the Council.

21. CYC has an assigned budget allocation from the Public Health Grant of £30,000 in 2016/17 to cover the cost of these treatments.
22. The majority of cross-charging happens within the region; therefore agreeing the same payment terms and conditions and adopting this policy will provide a fair and transparent payment system which would also assist the Council to manage the budget within a decreasing budget envelope.

Human Resources (HR)

23. No known implications

Equalities

24. In making this decision, all local authorities across the region will maintain confidential, open access services and ensure that local residents can attend a sexual health service of their choice without geographical boundaries.
25. There are a number of benefits to aligning to this regional position but primarily this will help to provide clarity, equality of approach across the region and make most efficient use of limited resources for the benefit of York residents.

Legal

26. Hull City Council has been leading this piece of work on behalf of the region and has sought legal advice through their town clerk who recommended that each local authority prepares a decision record setting out their policy.
27. The national document is guidance and not set in statute. CYC does not hold a contract with any of the out of area providers and the Council has been open and transparent about our regional approach.
28. Bringing an action in contract law would be challenging for the challenger. Essentially, albeit that there is no national tariff, DH / PHE have indicated what the national tariff would be if there was one. Making a policy decision that we will pay this rate (GUM Non Mandatory Tariff) is defensible and more likely to involve DH / PHE in any legal challenge if there was one.

29. Advice has been sought from the CYC legal department who support this policy.

Crime and Disorder

30. No known implications.

Information Technology (IT)

31. No known implications

Risk Management

32. There are a number of challenges across the region relating to this approach, primarily relating to not honouring the Market Forces Factor (MFF) payments. At the time of writing, no legal challenges have been made to CYC.

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**Report
Approved**



Date

14/07/16

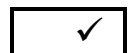
Specialist Implications Officer(s)

Financial: Patrick Looker, Finance Manager

Legal: Ruth Barton, Senior Solicitor

Wards Affected:

All



For further information please contact the author of the report.

Background Papers:

The following papers are available from Democratic Services:

Sexual Health: Key Principles for Cross Charging. Department of Health, August 2013.

Yorkshire and Humber Cross Charging Position letter. Sent to all providers of SH who invoiced CYC from September 2015.

Glossary of abbreviations used in the report:

CaSH	Contraception and Sexual Health Services (formally known as Family Planning)
CYC	City of York Council
DH	Department of Health
GUM	Genito-urinary Medicine, treatment and management of sexually Transmitted infections.
MFF	Market Forces Factor -The Market Forces Factor (MFF) is an estimate of unavoidable cost. It includes differences between health care providers, based on their geographical location. The MFF is used to adjust resource allocations in the NHS. As CYC is not a NHS organisation this does not apply.
PHE	Public Health England