

# Cabinet

Tuesday 15 September 2015

4.00 pm

Ground Floor Meeting Room GO2A, 160 Tooley Street, London  
SE1 2QH

## Supplemental Agenda No. 1

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Date: 11 September 2015

<b>Item No.</b> 20.	<b>Classification:</b> Open	<b>Date:</b> 15 September 2015	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Adult Social Care, Fairer Contributions Policy – Outcomes of Consultation Exercise and Implementation	
<b>Ward(s) or groups affected:</b>		All wards	
<b>Cabinet Member:</b>		Councillor Stephanie Cryan, Adult Care and Financial Inclusion	

### **FOREWORD – COUNCILLOR STEPHANIE CRYAN, CABINET MEMBER FOR ADULT CARE AND FINANCIAL INCLUSION**

The council's vision for adult social care underlines the importance of ensuring that there is good quality, co-ordinated care and support available to people in their own homes and in their local neighbourhoods. People are financially assessed to determine what amount they can afford to pay towards their service and the funding this raises is used to help provide and sustain current levels of care provision.

The existing charging policy has been in place since 2003 and with the introduction of the Care Act it is in need of reviewing. Local councils across the UK are facing increasingly challenging financial pressures and the way we fund existing services needs to be considered in the face of the financial restrictions being imposed upon us by the Government. We need to be realistic about our available resources and this includes looking at how people pay a contribution towards the cost of the care they receive.

We invited all of our service users to take part in a consultation which took the form of both a questionnaire and face to face events. There were six proposals contained within the outlines for a new policy which is being drafted and the aim is to introduce a modernised policy which takes due regards of the legislative requirements. I would like to thank everyone who participated in the consultation and who provided feedback to help us form the new policy. I believe it is important that we do consult people and that their views should be heard. I am therefore asking cabinet, after consideration of the officers' report set out in paragraph 1 onwards to approve the recommendations below.

### **RECOMMENDATIONS**

1. To note the responses to the consultation on the proposed changes to the Fairer Contributions Policy as set out within this report and in Appendix 2: "Fairer contributions policy consultation responses summary".
2. To note the equality and impact analyses set out in Appendix 1: "Equality and impact analysis – Fairer Contributions Policy".
3. To consider the information contained within this report and its appendices, and to agree to adopt the proposed changes to charging policy:

- To change the level of available income after financial assessment below which a service user will not be charged anything for their care from £2 to £3 a week.
  - To charge up to 100% of available income, after financial assessment, increasing this from up to 80%.
  - To ask all eligible service users, who are assessed as financially able to contribute, for a contribution toward their care costs.
  - To simplify charging, so that all services, including respite care, meals and telecare services currently charged at a flat rate, are included within a financial assessment so that service users will only pay what they can afford.
  - To assess and charge non-residential care services in the same way that we assess residential care, so that non-residential care service users with savings or capital above £23,250 no longer have their care subsidized by the Council.
  - To introduce a discount scheme for social care customers paying by direct debit.
4. To agree the proposed changes to be adopted in a new Fairer Contributions Policy to be applied from October 2015.

## **BACKGROUND INFORMATION**

5. The council's current approach to charging for social care was first developed in 2003, in accordance with contemporary guidance from the Department of Health, and is set out in Southwark's "Paying for your care assessments and contributions".
6. There have been significant changes in legislation since the current policy was created, with the introduction of the Care Act and the regulations and guidance issued under it. There is now a need to consider the implications of these changes and ensure our practice fits. This case is set out in the cabinet report "Adult Social Care, Fairer Contributions Policy – Consultation Exercise", dated 2 June 2015, where the cabinet agreed to formally consult on 6 proposed changes to the council's existing contributions policy. The cabinet paper set out six proposals that would amend the current contributions policy, to form the basis of a new fairer contributions policy.
7. The proposed Fairer Contributions Policy aims to ensure that a fair and consistent approach is applied to all service users. The proposals brought to cabinet in June for approval of the approach to consult were set out in line with statutory guidance on the development of charging policies. When developing the proposals, the council considered the issues raised therein on whether to impose a maximum charge, the council's position on the amount of income assessed as available for charging, and on addressing the needs of those in receipt of services to make savings provisions. The council considered that the national guidance on lower and upper limits for charging provide for individuals to maintain sufficient savings. The council will re-consider the imposition of a maximum charge as national policy and legislation develops further.

8. A 12 week consultation, “How do we fund Adult Social Care fairly?” started on 16 June 2015 and closed on 4 September 2015. The consultation approach included sending accessible letters and information posted to 2,236 individual service users, distributing newsletters and including information in community Action Southwark and community councils’ communications outputs. Online information and response forms were provided alongside access to telephone and email contact points for responders to ask questions and provide commentary for consideration. Invitations were sent to 43 local advocacy groups to invite them to take part in the consultation and meetings about the proposed changes. Two public meetings were held for individuals and advocacy groups to hear about the proposed changes and ask questions before completing the consultation document.
9. All responses to the consultation received via all channels have been entered into the council’s ‘My Southwark’ consultation tool, and the complete consultation results are set out in Appendix 2 to this report, “Fairer contributions policy consultation responses summary” and the key outcomes are included within this report.

## **KEY ISSUES FOR CONSIDERATION**

10. The proposed Fairer Contributions Policy aims to ensure that a fair and consistent approach to contributions to social care costs is applied to all service users.
11. If the recommended changes to the policy are adopted, some existing clients will be expected to contribute a higher amount of their available income towards their care costs. In addition, people currently excluded from the existing policy will be financially assessed and as a result, some will be expected to contribute towards services they at present receive free.
12. If the recommended changes to the policy are adopted, some existing clients will contribute less than they do now due to the higher £3 rule for non-contribution, from the inclusion of flat-fee services in assessed income and the introduction of a discount for payment via direct debit.
13. The impact of the proposed changes on particular groups are set out in this report and considered in detail in “Equality and impact analysis – Fairer Contributions Policy” appended to this report.
14. The consultation responses set out that 5 of the 6 proposed changes were supported by a majority of the responders. The consultation responses are considered in detail and set out in full in the “Fairer contributions policy consultation responses summary” at Appendix 2.
15. This policy would not include:
  - people who have Creutzfeldt-Jacob disease,
  - care services provided under section 117 of the Mental Health Act 1983,
  - re-ablement services up to six weeks,
  - aids and adaptations under the value of £1,000
  - services the NHS is under a duty to provide
  - services we are under a duty to provide under other legislation.

16. The council is not permitted to charge for the provision of these services.
17. The council would not apply the policy to carers or to ask them to pay for any support they receive.
18. Income received through the policy would be used to continue funding care services.

### **Policy implications**

19. The council has reviewed its current charging policy in light of legislative changes introduced by the Care Act. Cabinet agreed for the council to consult on proposed changes to the existing contributions policy.
20. The proposed changes are consistent with changes in the law introduced by the Care Act and the supporting secondary legislation and guidance issued by the Department of Health.
21. The council's intention is that these proposals lead to:
  - a more transparent system of charging;
  - a more sustainable and financially viable model (in order to meet the needs of the most vulnerable now, and into the future),
  - that the most vulnerable individuals are safeguarded against prohibitive costs; and,
  - that individuals can access the right services at the right time in order to maintain and/or improve their wellbeing.
22. These aims are consistent with the council's Fairer Future Values of 'being open, honest and accountable', 'Spending money as if it were from our own pocket', 'treating residents as if they were a valued member of our family', and 'working for everyone to realise their potential'.
23. The proposals are designed to modernise the policy and to offer a clearer, more understandable system for service users. The proposals are underpinned by the principle of introducing more equitable treatment of service user groups, and also ensuring that those on the lowest income do not have to contribute towards the costs of meeting their eligible needs.
24. The existing system, which makes separate charges for specific services such as meals at home, respite care and telecare would no longer operate. All components of individual (non-residential) care packages would be included, and the recipients' financial contribution would be assessed, resulting in one care charge per week against the personal budget amount.

### **Consultation**

25. The consultation received 124 responses. This represents a response level equivalent to 5.5% of the individual service users the council wrote to. This is in line with the historic levels of response to consultations.
26. Of the 6 proposals put forward, more consultation responders agreed than disagreed with 5 of the proposals.
27. Proposal 1, to make sure that those with the least money don't pay anything for

their care by introducing a 'no charge to the service user if the assessed contribution is less than £3 a week' rule had an approval rating of 76%.

28. Proposal 2, to charge the full amount of available income (after a financial assessment) , changing the charge rate for assessed available income from 80% up to 100%, had an approval rating of 57%.
29. Proposal 3, ensuring everyone who can afford to, pays a contribution towards their care, including mental health service users, by including all people who receive our services when assessing ability to pay a contribution had an approval rating of 54%.
30. Proposal 4, to simplify how respite care, meals and telecare are charged by including them in the financially assessed part of the policy, so that separate charges are unnecessary had an approval rating of 75%.
31. Proposal 6, to introduce a discount scheme for people who pay by Direct Debit had an approval rating of 76%.
32. More consultation responders disagreed than agreed with proposal 5, to charge the same for non-residential care as we do for residential care, meaning that if a person's savings or capital is above £23,250 their care is not subsidised by the council. 53% of respondents disagreed with this proposal.
33. Responders were most supportive of the changes which are anticipated to result in a saving to service users, proposals 1, 4 and 6. Responders showed lower support levels for proposals 2, 3 and 5 which are anticipated to result in an increased cost to some service users, although a majority of respondents still supported proposals 2 and 3.
34. Respondents to the consultation provided 94 comments that are included in full at appendix 2 – Fairer contributions policy consultation responses summary.
35. Responses to individual questions presented a spectrum of opinions. Views set therein included those who felt that it was fair to ask users who could afford to contribute, to do so, those who felt that service users from different groups should be treated equitably, support for supporting those on the lowest incomes, those who agreed with the proposals but wanted them to go further, and those who felt that we should look to the government or increased council tax to pay for care. A representative selection of comments is set out below. All comments collected are included in full in the consultation summary report.

*"We should all look after those who can't afford to look after themselves."*

*"Charges have allowed the poorest elderly people to keep £2 per week for more than ten years so that raising the level to £3 is doing little more than adjusting to the rise in prices during that period. Therefore, I think the minimum contribution should be raised to £5 per week."*

*"If they can afford to pay for it, they should."*

*"We should be moving towards paying for social care from taxation, not increasing the amounts individuals pay. Put up the council tax (preferably more for the higher band properties) and explain why - people who need care are the concern of all of us."*

*"It's not fair for those with physical health support needs to pay and not those with mental health support needs."*

*"This would be quite wrong. Mental illness is enough to cope with. Means testing mentally ill people is inhumane."*

*"If it's simpler it's better so long as no one is worse off."*

*"Makes the decision about going into residential care needs focused rather than financial."*

*"To encourage people to pay by direct debit the level of discount should be attractive and there will be less arrears."*

*"I think the council has come up with a great package of proposals - well done!"*

36. Specific practical concerns about the implementation of the proposals, rather than principles behind the policy, and counter proposals raised in the consultation responses are set out in the table below, alongside a brief response to each issue.

Issue/counter proposal	Response
<p>Proposal 3 – Including potential charges for social care support for mental health service users could incentivise healthcare professionals to use Mental Health Act 117, or discourage the uptake of services in vulnerable people.</p>	<p>Section 117 of the Mental Health Act imposes a duty on health and social services to provide aftercare services to certain patients who have been detained under the Act. This duty is not affected by the proposed changes in charging policy.</p> <p>The council will work with local health partners, and the Health and Wellbeing board, to ensure that health professionals continue to arrange aftercare under section 117 of the Mental Health Act only in appropriate cases, in line with legislation and guidance. The changes are not intended to, or anticipated to discourage the uptake of services.</p> <p>Southwark social care services maintain a presence in the South London and Maudsley. Social care also runs a hospital discharge service, community mental health services, supported housing schemes, and work closely with our mental health partners. These services enable us to identify individuals who would benefit from our services, and support them to engage in (and pay for, for example through benefit maximisation) services that they require.</p>
<p>Proposal 5 – Charging for non-residential services above the capital threshold will disadvantage disabled homeowners or disabled people</p>	<p>Although the council acknowledges the issue raised here, the council has a responsibility to generate income to ensure the availability of services to disabled and vulnerable individuals. We believe this contributions policy is the fairest</p>

Issue/counter proposal	Response
looking to access the housing market.	way of doing so.
Proposal 6 - Assistance should be offered to service users to understand how the direct debit would work and to set one up to access the discount.	The council is committed to working with the London Mutual Credit Union to explore options and increase access for people who have difficulty in accessing a bank account or credit. The council will also provide support and assistance for service users to understand the direct debit scheme and how to access it.
Proposal 6 – Discounts should also be made available to service users who pay by direct electronic transfer, as well as direct debit.	
How will the cost of broken equipment or new needs be taken into account?	Care plans are reviewed annually, and the financial assessment will be revisited as part of that process. Where needs or circumstances change significantly between review periods, we will conduct an early review of the care plan and financial assessment. The financial assessment process does take into account the cost of, or expected wear and tear for equipment. If an item has been replaced and a cost incurred, the finance team will allow for this as part of the financial assessment process.
Would the savings level (lower limit of £14,250), together with the proposed changes, discriminate against service users who work freelance and need to save capital to pay tax at the end of the year?	As part of the financial assessment process, the portion of the individual's assets that is being held in order to pay for tax at the end of the year would not be included in the assets considered as part of the individual's savings.

### Community impact statement

37. The public sector Equality Duty, at section 149 of the Equality Act, requires public bodies to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity, and foster good relations between different people when carrying out their activities. The council's Approach to Equality ("the approach") commits the council to ensuring that equality is an integral part of our day to day business.
38. The council has conducted a detailed equality and impact analysis with regard to the potential impact of the proposals, this is provided at Appendix 1: "Equality and impact analysis – Fairer Contributions Policy". The key findings of this are summarised in this community impact statement.
39. The service is accessible to all service users who Adult Social Care assesses as having eligible needs, and whose needs the council agrees to meet through the provision of care and support. The proposals will potentially impact on all Adult Social Care users in receipt of a personal budget, in particular:
  - those with sufficient weekly income to make a contribution following financial assessment;



- sufficient capital to make a contribution following financial assessment;
  - service users whose needs are being met outside a care home; and, mental health service users in receipt of non-residential care services other than services provided as aftercare under the Mental Health Act.
40. Each of the protected characteristics have been considered as part of the equality impact analysis.
  41. Considering age, the groups that will be most affected by the proposals are young people, and adults past the age of retirement. 62% of adults making a contribution to their care are over the age of 75. Over half of this figure are people over the age of 85.
  42. As the population increases, average life expectancy continues to rise, with people living for longer with eligible care needs, the ability to provide a sustainable model of care funding is vital. These proposals ultimately provide a more sustainable model, from which we can reinvest monies generated to allow us to continue to meet the needs of the community in the long term, especially those age groups most likely to access the service.
  43. However, we note the following negative impacts: young adults may pay more over the course of their lifetime than those accessing the service for the first time late on in their life; adults over the age of 75 are more likely to pay increased contributions; and, older adults are more likely to have eligible capital above the upper capital limit, rendering them responsible for meeting the entire costs of their care needs.
  44. There are mitigating safeguards built into the Care Act regulations and guidance, including the Minimum Income Guarantee plus a 25% buffer, nil charges where there is not sufficient income available, free re-ablement services, and the disregarding of certain income and capital.
  45. The proposal incentives help to balance some of the increased costs disproportionately more likely to affect an older cohort. The proposal incentives include the direct debit discount, the 'no charge' rule, and a shift from flat rate charges to assessed charges for services. Currently 63% of adults paying for meals on wheels only and 72% of adults paying for telecare only are over the age of 75. This suggests that over 75's will benefit from these proposals more than other age groups.
  46. Taken together with the fact that the income the council generates will disproportionately benefit people with long term conditions and disabilities, who will require good quality services we consider that the safeguards and incentives identified will sufficiently mitigate any adverse impact.
  47. The impact of these proposals may also negatively impact upon people with disabilities due to the nature of the service. Mental health service users will be particularly affected by the proposal to charge all groups (barring those receiving services under section 117 of the Mental Health Act, and service users with Creutzfeldt-Jacob). People with mental health needs, and people with disabilities in general, will be required to pay more towards meeting their care needs than under the current model.
  48. The council considers that the new approach provides a more sustainable model, from which we can reinvest monies generated to allow us to continue to

provide high quality support to individuals whose wellbeing is significantly impacted by a disability/illness, and this will benefit this group particularly.

49. The council considers that the proposal to start charging mental health service users is equitable, and that maintaining the current contributions model, of charging people with physical disabilities, but not service users with mental health needs, would be unfair.
50. Adults with sensory impairments and/or mental health or capacity concerns may be disadvantaged by their ability to understand the general information (including literature) provided and the assessment and payment processes. It is proposed that this risk be mitigated by ensuring that adequate advocacy is provided through the assessment process.
51. Analysis of adults currently in receipt of a personal budget reveals that over half, 54%, are White British (in the 2011 census, White British made up 40% of Southwark's population). White British service users comprise 66% of service users in receipt of meals on wheels only, and 65% of service users in receipt of telecare only. As the largest group of service users, White British service users will benefit disproportionately from proposals to move to an assessed rate for these services. Increased contributions by White British service users are partially mitigated by the proposal to move away from flat rate services which are likely to have a positive impact on service users. The Minimum Income Guarantee (MIG) will leave individuals with (at least) the equivalent of Income Support plus 25% to spend as they see fit. Such an approach leaves White British service users no more disadvantaged than their peers on similar benefits/income.
52. Although the majority of those affected by these proposals are likely to speak English as a first language, we must give due regard to the needs of those from other ethnic groups/cultures, with a limited grasp of the English language. Our translation and interpretation policy requires that we arrange for an interpretation/translation to assist service users during important/significant communications.
53. Analysis suggests that the group of adults that proposals will have the largest impact on are service users identifying themselves as belonging to a Christian denomination. 82% of adults currently in receipt of a personal budget, and making a contribution, identify themselves as belonging to a Christian denomination. 74% of service users paying for meals on wheels only and 89% of service users paying for telecare only identify themselves as belonging to a Christian denomination. The data illustrates that, while service users who identify themselves as belonging to a Christian denomination are more likely to be impacted by higher charges, they are also more likely to benefit from the phasing out of flat charge services such as meals on wheels and telecare.
54. Analysis of service users sets out that 60% of service users currently making a contribution, and the majority of service users paying for meals on wheels only (54%) and telecare only (79%) are women. The data sets out that while women are more likely to be impacted by higher charges, they are also more likely to benefit from the phasing out of flat charge services such as meals on wheels and telecare.
55. The analysis sets out that there would be no disproportionate negative impact on individuals due to their status as having undergone gender re-assignment, their marital or civil partnership status, pregnancy or maternity, sexual orientation.

56. There are no assessed adverse consequences that are incompatible with the articles set out in the Human Rights Act.
57. The equality and impact analysis sets out four recommendations relating to the proposals. Two are to ensure that information provided about the financial assessment and care costs are available in appropriate accessible formats and languages; one to ensure that advocacy is available to those undergoing financial assessments; and, the fourth to increase the proportion of service users for whom we have information available about each of the protected characteristics. The council proposes to adopt each of these recommendations and a timescale is set out for each of these in the equality and impact analysis report.
58. The report concludes that in so far as the proposals may give rise to negative effects in relation to some of the protected characteristics – namely age, sex, race, ethnicity and disability these can be mitigated. In light of these analyses, we do not assess that these proposals give rise to unlawful discrimination, harassment, victimization and/or fail to advance the equality of opportunity between those who share a protected characteristic and those who do not.

### Resource implications

59. Adoption of the proposed Fairer Contributions policy will create a potential increase in workload (case numbers) for staff undertaking financial assessments, invoicing and collection of payment. If proposal 6 is adopted as recommended, there will be some efficiency found by collecting payments via Direct Debit.
60. A more intensive re-organisation of departmental support staff is being progressed which will address this issue. For the scheme to be cost effective it will be necessary for the potential increase in income to the department to be far in excess of the costs of collection.
61. The level of income collected by Southwark from Adult Social Care, is compared in the table 1 below to CIFPA's statistically similar boroughs. Southwark income collection is below the average collection figure for the group.

<b>CIPFA Comparator Group Borough</b>	<b>Income from Adult Social Care</b>
Tower Hamlets	£2,842,000
Hackney	£5,740,000
Newham	£5,882,000
Hounslow	£6,355,000
Southwark	£6,851,000
Islington	£8,209,000
Waltham Forest	£8,695,000
Wandsworth	£8,801,000
Camden	£9,284,000
Brent	£9,756,000
Greenwich	£9,785,000
Lambeth	£10,134,000
Merton	£10,164,000
Lewisham	£10,376,000
Haringey	£10,610,000
Ealing	£11,462,000

Table 1: 2013-14 PSSEX1 – Adult Social Care Client Contribution Income

**SUPPLEMENTARY ADVICE FROM OTHER OFFICERS****Director of Legal Services**

62. This report asks cabinet to consider the outcome of the consultation on proposed changes to the council's approach to charging for social care set out in the draft 'Fairer Contributions Policy'. It further seeks the approval of cabinet for the proposed policy.
63. The background to this report is the decision of cabinet on 2 June 2015 as follows:
- a) That consultation on proposals for a 'Fairer Contributions Policy' be agreed.
  - b) That the consultation commence on 15 June 2015 to run for 12 weeks until 4 September 2015.
  - c) That the outcomes of the consultation be considered at the cabinet meeting scheduled for 15 September where implementation decisions will be made.

**Legislative Framework**

64. Section 14 of the Care Act 2014 (and similar provisions in the previous legislation) permit a local authority to make reasonable charges for social care services provided outside of a care home. The power is subject to regulations and statutory guidance that requires local authorities to assess what a person can afford to contribute towards their care costs. The guidance affords local authorities some flexibility to develop their own policies by choosing whether to disregard additional sources of income, set maximum charges or to charge a person a maximum percentage of their disposable income. The guidance also says that in designing their policy local authorities should consider the objectives of care and support charging and how it can:
- (i) ensure that people are not charge more than it is reasonable practicable for them to pay
  - (ii) be comprehensive and reduce variation in the way that people are charged
  - (iii) be clear and transparent so people will know what they will be charged
  - (iv) promote wellbeing, social inclusion and support the vision of personalisation
  - (v) support carers to look after their own health and wellbeing
  - (vi) be person focused and reflect the variety of care and caring journeys and the variety of options available to meet needs
  - (vii) apply the charging rules equally so that those with similar needs or services are treated the same and minimise anomalies between differed care settings
  - (viii) encourage and enable those who wish to stay in or take up employment, education or training or plan for the future costs of meeting their needs to do so
  - (ix) be sustainable for local authorities in the long term
  - (x) administer a policy for people who lack capacity or are loosing capacity in a way that considers what capacity remains and their rights.
65. Local authorities are required to follow the statutory guidance unless there are compelling reasons not to do so. There is a risk of legal challenge to any policy

adopted where consideration has not been given to these issues.

### **Consultation**

66. For effective consultation to take place there are 6 requirements:
- Consultation must be conducted when the proposals are at a formative stage
  - The decision maker must give sufficient reasons for its proposals to permit intelligent consideration and response
  - Adequate time must be given for consideration and response
  - The product of consultation must be conscientiously taken into account before making the relevant decision
  - Where, as here, a consultation is aimed at the general public it should explain its proposals in more detail than if it were aimed at a professional audience with relevant knowledge of the issues involved
  - The authority will be held to a higher standard of fairness where the proposal will take away a benefit or advantage which people already enjoy.
67. Following the recent case in the Supreme Court, the authority should heed the Supreme Court's warning that public bodies have a more stringent duty of fairness in cases where what is proposed is the removal of a benefit or advantage.
68. The report outlines at paragraphs 7 - 8 the means by which the council consulted on its proposals. The key outcomes of the consultation are recorded in the report with the complete results of the consultation set out in Appendix 2 for consideration prior to making any decision on the policy. The report records that the consultation lasted for twelve weeks starting on 16 June and closing on 4 September. Guidance indicates that a 12 week consultation period is generally good practice.

### **Equalities Duties**

69. Finally in making its decision the cabinet must have due regard to its equalities duties as set out in the Equalities Act 2010 and specifically the need to:
- Eliminate discrimination, harassment, victimisation or other prohibited conduct
  - Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not. The protected characteristics covered by the equality duty are age, disability, gender reassignment, pregnancy and maternity, race, religion, sex and sexual orientation. The duty also includes marriage and civil partnerships in respect of eliminating unlawful discrimination.
  - Foster good relations between those who share a relevant characteristic and those who do not.
68. The report includes a community impact statement and records that it has conducted a detailed Equality and Impact Analysis of the proposals. The key points from this analysis are included in the report at paragraphs 34 to 55. This includes discussion of the impact of the proposals on the protected characteristics. The full analysis is appended to this report at Appendix 1 and the cabinet is advised to read this document before taking its decision.

### **Strategic Director of Finance and Corporate Services (FC15/001)**

70. The strategic director of finance and corporate services notes the recommendations in this report for implementation of a 'Fairer Contributions Policy'. Comparison data is provided within this report which indicates that the income generated under the current policy is in the lower quartile when compared to the council's statistical neighbours.

### REASONS FOR URGENCY

71. The proposals contained in this report are intended to modernise the council's approach to charging for social care and, in a time of financial austerity, to ensure its approach to charging for services is sustainable for the local authority in the long term. If the proposals are accepted income raised will be used to fund care services. Any delay in implementing the policy could adversely affect this income stream. If the income stream is affected then other services may suffer as the difference will need to be found.

### REASONS FOR LATENESS

72. It has not been possible to circulate this report five clear days in advance of the meeting because the consultation period did not end until 4 September 2015. Given the requirement that the products of the consultation be collated and considered it was not therefore possible to complete this report before the despatch of the main agenda on Monday 7 September. The key themes from the consultation have been collated and are presented in this report. In addition a detailed report on the outcome of the consultation has been prepared and is appended to this report.

### BACKGROUND PAPERS

Background Papers	Held At	Contact
"Paying for your care assessments and contributions" Current contributions policy	Finance and Corporate Services Southwark Council 160 Tooley Street London SE1 2QH	Kevin Almond, Charging and Debt Team Leader 020 7525 3555
<a href="http://www.southwark.gov.uk/info/200387/assessments_benefits_and_advice/2398/paying_for_your_care_assessments_and_contributions">http://www.southwark.gov.uk/info/200387/assessments_benefits_and_advice/2398/paying_for_your_care_assessments_and_contributions</a>		
"Adult Social Care, Fairer Contributions Policy – Consultation Exercise" Cabinet report 2 June 2015	Finance and Corporate Services Southwark Council 160 Tooley Street London SE1 2QH	Kevin Almond, Charging and Debt Team Leader 020 7525 3555
<a href="http://moderngov.southwark.gov.uk/documents/s53936/Report%20Adult%20Social%20Care%20Fairer%20Contributions%20Policy%20Consultation%20Exercise.pdf">http://moderngov.southwark.gov.uk/documents/s53936/Report%20Adult%20Social%20Care%20Fairer%20Contributions%20Policy%20Consultation%20Exercise.pdf</a>		
"How do we fund adult social care fairly?" Consultation document	Finance and Corporate Services Southwark Council 160 Tooley Street London SE1 2QH	Kevin Almond, Charging and Debt Team Leader 020 7525 3555
<a href="http://www.southwark.gov.uk/careact">http://www.southwark.gov.uk/careact</a>		

## APPENDICES

No.	Title
Appendix 1	Equality and impact analysis – Fairer Contributions Policy
Appendix 2	Fairer contributions policy consultation responses summary

## AUDIT TRAIL

Cabinet Member	Councillor Stephanie Cryan, Adult Care and Financial Inclusion		
Lead Officer	Jay Stickland, Director of Adults' Social Care		
Report Author	Kevin Almond, Charging and Debt Team Leader, Finance and Corporate Services		
Version	Final		
Dated	8 September 2015		
Key Decision?	Yes		
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER			
Officer Title	Comments sought	Comments included	
Director of Legal Services	Yes	Yes	
Strategic Director of Finance and Corporate Services	Yes	Yes	
Cabinet Member	Yes	Yes	
Date final report sent to Constitutional Team		8 September 2015	



## **Appendix 1 – Equality and impact analysis – Fairer Contributions Policy**



## Section 1: Equality analysis details

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<b>Proposed policy/decision/business plan to which this equality analysis relates</b>		Fairer Contributions Policy			
<b>Equality analysis author</b>		Dean Thomas			
<b>Strategic Director:</b>		David Quirke-Thornton			
<b>Department</b>		Strategy, Planning and Performance	<b>Division</b>	Children & Adult services	
<b>Period analysis undertaken</b>		August – September 2015			
<b>Date of review (if applicable)</b>		Should changes be adopted and implemented, recommended for review one year following the implementation.			
<b>Sign-off</b>	Jay Stickland	<b>Position</b>	Director of Adult Social Care	<b>Date</b>	04 September 2015

## Section 2: Brief description of policy/decision/business plan

### 1.1 Brief description of policy/decision/business plan

The following changes to our fairer contributions policy are proposed –

- We will not charge service users whose needs are being met outside of a care home if their assessed contribution is less than £3 per week.
- Service users whose needs are being met outside of a care home will need to contribute 100% (up from 80% previously) of their available income towards the cost of meeting their care needs.
- We will assess all Adult Social Care service users (barring service users with Creutzfeldt-Jacob disease and adults receiving services under section 117 of the Mental Health Act) with a view to charging them to meet the cost of their care needs. Previously we did not charge mental health for their non-residential care services.
- We will charge an assessed rate for services like respite care (instead of a flat rate).
- We will require that all service users with eligible capital in excess of the upper capital limit pay the full costs of meeting their care needs (not just service users in care homes).
- We will offer service users who pay their contribution by direct debit a discount.

We will use the income these proposals generate to provide sustainable, high quality Adult Social Care services to Southwark residents with eligible needs

### Section 3: Overview of service users and key stakeholders consulted

2. Service users and stakeholders																	
Key users of the department or service	<p>The service is accessible to all service users who Adult Social Care (ASC) assesses as having eligible needs, and whose needs we agree to meet through the provision of care and support.</p> <p>ASC determine whether an adult with care and support needs is eligible to receive ongoing support against the following criteria:</p> <ol style="list-style-type: none"><li>1. their needs arise from or are related to a physical/mental impairment or illness;</li><li>2. because of the physical/mental impairment or illness, two or more of the specified outcomes below are:<ul style="list-style-type: none"><li>▪ not possible for them to achieve at all without assistance;</li><li>▪ are possible for them to achieve, however doing so:<ul style="list-style-type: none"><li>□ causes significant pain, distress or anxiety;</li><li>□ endangers/is likely to endanger their health or safety (or that of others, for example members of their household);</li><li>□ takes significantly longer than would normally be expected.</li></ul></li></ul></li></ol>																
	<table><tr><th colspan="2">Specified outcomes</th></tr><tr><td>a) managing and maintaining nutrition</td><td>h) accessing and engaging in work, training, education or volunteering</td></tr><tr><td>b) maintaining personal hygiene</td><td>i) making use of facilities/services in the local community including public transport and recreational services/facilities</td></tr><tr><td>c) managing toilet needs</td><td>j) carrying out any caring responsibilities the individual has for a child</td></tr><tr><td>d) being appropriately clothed</td><td></td></tr><tr><td>e) maintaining a habitable home</td><td></td></tr><tr><td>f) being able to make use of their home safely</td><td></td></tr><tr><td>g) developing and maintaining family/ personal relationships</td><td></td></tr></table>	Specified outcomes		a) managing and maintaining nutrition	h) accessing and engaging in work, training, education or volunteering	b) maintaining personal hygiene	i) making use of facilities/services in the local community including public transport and recreational services/facilities	c) managing toilet needs	j) carrying out any caring responsibilities the individual has for a child	d) being appropriately clothed		e) maintaining a habitable home		f) being able to make use of their home safely		g) developing and maintaining family/ personal relationships	
	Specified outcomes																
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	b) maintaining personal hygiene	i) making use of facilities/services in the local community including public transport and recreational services/facilities															
c) managing toilet needs	j) carrying out any caring responsibilities the individual has for a child																
d) being appropriately clothed																	
e) maintaining a habitable home																	
f) being able to make use of their home safely																	
g) developing and maintaining family/ personal relationships																	
<ol style="list-style-type: none"><li>3. there is (or there is likely to be) a significant impact on their wellbeing as a result of the individual not being able to achieve 2 (or more) outcomes. We should consider whether their inability to achieve the outcomes significantly impacts–<ul style="list-style-type: none"><li>▪ on at least one area of their wellbeing (see section 6.3);</li><li>▪ their wellbeing overall due to its impact on a range of areas effecting their wellbeing (a cumulative effect).</li></ul></li></ol>																	
<p>There are also service users who currently receive a service who were assessed against Adult Social Care’s Fair Access to Care Services (FACS) criteria under the interim arrangements.</p> <p>The proposals will potentially impact on all ACS service users in receipt of a personal budget, in particular those –</p> <ul style="list-style-type: none"><li>▪ with sufficient weekly income to make a contribution following the financial assessment;</li><li>▪ Sufficient capital to make a contribution following financial assessment</li></ul>																	

	<ul style="list-style-type: none"> <li>▪ Service users whose needs are being met outside of a care home</li> <li>▪ mental health Service users in receipt of non-residential care services other than services provided as aftercare under the Mental Health Act.</li> </ul> <p>Please see <i>Appendix B</i> for a demographic breakdown of those affected by these proposals.</p>
<b>Key stakeholders were/ are involved in this policy/decision/ business plan</b>	<p>The proposals were promoted using a range of methods, including –</p> <ul style="list-style-type: none"> <li>▪ Letters</li> <li>▪ Newsletters</li> <li>▪ Community Action Southwark and the Community Council's communications</li> </ul> <p>Consultation took place over a 12 week period, during which service users were invited to provide feedback regarding the proposals –</p> <ul style="list-style-type: none"> <li>▪ In an online survey</li> <li>▪ Postal survey</li> <li>▪ by telephone</li> <li>▪ Consultation meetings</li> </ul> <p>We also held a consultation meeting with advocacy groups in order to gauge feedback from support groups who engage with service users who will be affected by the changes. The following advocacy organisations were in attendance –</p> <ul style="list-style-type: none"> <li>▪ Dulwich Helpline</li> <li>▪ Latin American Women's Group</li> <li>▪ Age UK - Landsend</li> <li>▪ Vietnamese Mental Health Services</li> <li>▪ Terrence Higgins Trust</li> </ul> <p>As of 4<sup>th</sup> September, 2015, we have gathered feedback from 122 stakeholders.</p>

## Section 4: Pre-implementation equality analysis

This section considers the potential impacts (positive and negative) on groups with 'protected characteristics', the equality information on which this analysis is based and any mitigating actions to be taken.

**Age** - Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).

### Potential impacts (positive and negative) of proposed policy/decision/business plan

**Group:** Young People, and adults past the age of retirement (62% of adults making a contribution are over the age of 75. Over half of this figure are over the age of 85) will be particularly impacted by the proposals

#### Impact:

##### Positive -

- As average life expectancy continues to rise, and people live for longer with eligible care needs, the ability to provide a sustainable model of care funding is vital. These proposals ultimately provide a more sustainable model, from which we can reinvest monies generated to allow us to continue to meet the needs of the community in the long term, especially those age groups most likely to access the service.
- The service will promote independence, and help reduce inequality between those with protected characteristics, and those without.

##### Negative -

- Young adults may pay more over the course of their lifetime than those accessing the service for the first time late on in their life.
- Adults over the age of 75 are more likely to pay increased contributions.
- Older adults are more likely to have eligible capital above the upper capital limit, rendering them responsible for meeting the entire costs of their care needs.

#### Analysis:

- There are mitigating safeguards inbuilt within the Care Act (for example the MIG + a 25% buffer, nil charges where there is not sufficient income available, free Reablement services, disregards of certain income and capital).
- The proposal incentives help balance some of the increased costs (for example the direct debit discount, the 'no charge' rule, and a shift from flat rate charges to assessed charges for services disproportionately more likely to affect an older cohort. Currently 63% of adults paying for meals on wheels only and 72% of adults paying for Telecare only are over the age of 75. These figures suggest that over 75's will benefit more than over age groups).
- The introduction of care caps by the government (possibly in 2020) will –
  - mitigate the overall impact of increased care costs by ensuring no individual has to contribute more than the care cap figure over the course of their lifetime;
  - introduce a zero cap for life for people who develop eligible care and support needs before they turn 25.

We believe that the safeguards and incentives identified go some way to balancing the impact, and the income we generate will also disproportionately benefit those age groups. We do not believe that the proposals give rise to discrimination, harassment, victimisation and/or fail to advance equality of opportunity between those who share a protected characteristic and those who do not.

<b>Equality information on which above analysis is based</b>
Fairer Contributions. Demographic Analysis (Appendix B) The Care Act 2015 The Equality Act 2010
<b>Mitigating actions to be taken</b>
No mitigating actions are recommended.

**Disability** - A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

**Possible impacts (positive and negative) of proposed policy/decision/business plan**

**Group:** The impact of these proposals will disproportionately impact upon people with disabilities due to the nature of the service. Mental health service users will be particularly affected by the proposal to charge all groups (barring those under section 117 of the Mental Health Act, and service users with Creutzfeldt-Jacob).

**Impact:**

**Positive –**

- The new approach provides a more sustainable model, from which we can reinvest monies generated to allow us to continue providing high quality support to individuals whose wellbeing is significantly impacted by a disability/illness.
- The service will promote independence, and help reduce inequality between those with protected characteristics, and those without.
- Adults with disabilities may be in receipt of additional disability related income, some of which, in accordance with the Care Act, we will disregard for the purposes of the financial assessment (for example the mobility component of Disability Living Allowance; the mobility component of Personal Independence Payments; Disability Living Allowance (Mobility Component) and Mobility Supplement; Personal Independence Payment (Mobility Component) and Mobility Supplement; Personal injury trust, including those administered by a Court)

**Negative –**

- People with mental health needs, and people with disabilities in general, will be required to pay more towards meeting their care needs than under the current model.
- Adults with sensory impairments and/or mental capacity concerns may be disadvantaged by their ability to understand the general information (including literature) provided.

**Analysis:**

We believe the proposal to start charging mental health service users is the right thing to do. The current model of charging people with physical disabilities, but not service users with mental health needs is unfair.

The MIG plus 25% will leave individuals with (at least) the equivalent of Income Support to spend as they see fit. This approach leaves disabled services users with comparable levels of

disposable income when compared to their non-disabled peers on similar benefits/income.

In addition to the safeguards inbuilt in the Care Act, adults with disabilities may benefit from the following –

- We will use the financial assessment to maximise their benefit income to ensure they claim all the monies they are entitled to (some of which we may be required to disregard, allowing the individual to keep it)
- We propose not charging individuals if they have less than £3 available income
- If the individual opts to pay by direct debit, they will benefit from a 5% discount;
- The shift to assessed charges for services such as respite, meals and telecare.

Work is on-going elsewhere within the council (for example the Resilience and Prevention Board, Tobacco Alliance, Healthy Weight Network Children and Young People Board) to address the root causes of illnesses/disabilities to prevent, reduce and delay their onset (and so mitigate/limit the need for adults to access chargeable care and support services).

#### **Equality information on which above analysis is based**

Fairer Contributions. Demographic Analysis (Section 7)  
The Care Act 2015  
The Equality Act 2010

#### **Mitigating actions to be taken**

To ensure that these proposals do not give rise to discrimination, harassment, victimisation and/or fail to advance equality of opportunity between those who share a protected characteristic and those who do not, we propose the following actions:

- 1) Literature and information pertaining to the financial assessment and care costs are made available in a range of formats to meet the needs of people with disabilities (for example, people with learning difficulties, visual impairments etc).
- 2) We will consider extending the offer to involve an independent advocate to financial assessments. We will also communicate with the individual's advocate/deputy/ appropriate adult to ensure they are appropriately involved in the process, and supported.

**Gender reassignment** - The process of transitioning from one gender to another.

#### **Possible impacts (positive and negative) of proposed policy/decision/business plan**

**Group:** None. These measures do not disproportionality effect those who have undergone gender reassignment.

The service will promote independence, and help reduce inequality between those with protected characteristics, and those without. We do not believe that these proposals give rise to discrimination, harassment, victimisation and/or fail to advance equality of opportunity between those who share a protected characteristic and those who do not.

#### **Equality information on which above analysis is based.**

Fairer Contributions. Demographic Analysis (Appendix B)  
The Care Act 2015  
The Equality Act 2010

**Mitigating actions to be taken**

No mitigating actions are recommended

**Marriage and civil partnership** - Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters. **(Only to be considered in respect to the need to eliminate discrimination.**

**Possible impacts (positive and negative) of proposed policy/decision/business plan**

**Group:** None

**Analysis:** In conforming with the Care Act, the draft policy requires that during the financial assessment we:

- give due consideration to the impact of charging on the adult and their partner;
- do not assess couples or civil partners according to their joint incomes;
- consider the joint ownership of capital, and value the adult's share accordingly;
- apply appropriate disregards with regards income/capital and a spouse/partner (for example disregarding the value of the primary home if the adult with care needs no longer lives there, but their partner does).

The above steps ensure that we do not require a contribution based on the joint income of the couple, and we do not leave the adult with less money than we would have if they were not married/in a civil partnership.

**Equality information on which above analysis is based**

Fairer Contributions. Demographic Analysis (Appendix B)  
The Care Act 2015  
The Equality Act 2010

**Mitigating actions to be taken**

We do not believe that this approach disadvantages individuals who are married or in a civil partnership. However we do not hold marital status data on a significant percentage of service users (for example, we only hold this data for 6% of service users currently making a contribution). The following is recommended –

3. A plan of action is agreed and implemented to increase the % of demographic data we hold on service users (in particular for areas where we hold a low % of data)

**Pregnancy and maternity** - Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.



Possible impacts (positive and negative) of proposed policy/decision/business plan
<p><b>Group:</b> Adults with infants (new borns)</p> <p><b>Impact:</b>  <b>Positive</b> - In accordance with the Care Act, the following income will be disregarded during the financial assessment –</p> <ul style="list-style-type: none"> <li>▪ Child Support Maintenance Payments and Child Benefit</li> <li>▪ Child Tax Credit</li> <li>▪ Act 1968 to a person to meet childcare costs where he or she is undertaking instruction connected with the health service by virtue of arrangements made under that section;</li> <li>▪ Any payment made in accordance with regulations under Section 14F of the Children Act 1989 to a resident who is a prospective special guardian or special guardian, whether income or capital.</li> <li>▪ Any payment made by a local authority under the Adoption and Children Act 2002 (under section 2(b)(b) or 3 of the Care Act);</li> </ul> <p><b>Analysis:</b> The above disregards ensure that an adult with an infant is left with sufficient funds (in addition to the MIG) to safeguard the wellbeing of their infant, and are left no worse off than their peers who are not pregnant/looking after a young infant.</p> <p>We do not believe that these proposals give rise to discrimination, harassment, victimisation and/or fail to advance equality of opportunity between those who share a protected characteristic and those who do not.</p>
Equality information on which above analysis is based
<p>Fairer Contributions. Demographic Analysis (Appendix B)  The Care Act 2015  The Equality Act 2010</p>
Mitigating actions to be taken
<p>No mitigating actions are recommended</p>
<p><b>Race</b> - Refers to the protected characteristic of Race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.</p>
Possible impacts (positive and negative) of proposed policy/decision/business plan
<p><b>Group:</b> Analysis of adults currently in receipt of a personal budget reveals that over half (54%) are White British (in the 2011 Census, White British made up 40% of Southwark's population). Proposals could also have a significant effect on service users whose grasp of the English language is limited.</p> <p><b>Impact</b>  <b>Positive</b> – White British service users comprise 66% of service users in receipt of meals on Wheels only, and 65% of service users in receipt of Telecare only. As the largest group of service users, White British service users will benefit disproportionately from proposals to move to an assessed rate for these services.</p>

**Negative –**

- White British service users will be disproportionately impacted by increased charges. Service users.
- Service users whose grasp of English is limited may suffer as a result of their ability to understand the process, and support and advice on offer.

**Analysis:**

Though the majority of those affected by these proposals are likely to speak English as a first language, we must give due regard to the needs of those from other ethnic groups/cultures, with a limited grasp of the English language. Our Translation and Interpretation policy requires that we arrange for an interpretation/ translation to assist service users during important/significant communications.

Increased contributions by White British service users are partially mitigated by the proposal to move away from flat rate services which are likely to have a positive impact on service users.

The Minimum Income Guarantee (MIG) will leave individuals with (at least) the equivalent of Income Support plus 25% to spend as they see fit. Such an approach leaves White British service users no more disadvantaged than their peers on similar benefits/income.

Regardless of race, adults with care needs may benefit from the following –

- We will use the financial assessment to maximise their benefit income to ensure they claim all the monies they are entitled to (some of which may we may be required to disregard, allowing the individual to keep it)
- We propose not charging individuals if they have less than £3 available income
- If the individual opts to pay by direct debit, they will benefit from a 5% discount

**Equality information on which above analysis is based**

Fairer Contributions. Demographic Analysis (Appendix B)  
The Care Act 2015  
The Equality Act 2010

**Mitigating actions to be taken**

To ensure that these proposals do not give rise to discrimination, harassment, victimisation and/or fail to advance equality of opportunity between those who share a protected characteristic and those who do not, we propose the following actions:

- 4) Literature and information pertaining to the financial assessment and care costs are made available in a range of common community languages to mitigate risks posed to those from other ethnicities/cultures with a limited grasp of the English language.

**Religion and belief** - Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

**Possible impacts (positive and negative) of proposed policy/decision/business plan**

**Group:** Analysis of adults currently in receipt of a personal budget reveals that -

- the majority of service users (82%) currently making a contribution identify themselves

- as belonging to a Christian denomination (based on a reduced sample of 51%)
- the majority of service users paying for meals on wheels only (74%), and Telecare only (89%) identify themselves as belonging to a Christian denomination (based on a reduced sample of 34% and 37% respectively)

**Impact:** The data illustrates that while service users who identify themselves as belonging to a Christian denomination are more likely to be impacted by higher charges, they are also more likely to benefit from the phasing out of flat charge services such as Meals on Wheels and Telecare.

We do not believe that these proposals give rise to discrimination, harassment, victimisation and/or fail to advance equality of opportunity between those who share a protected characteristic and those who do not.

#### **Equality information on which above analysis is based**

Fairer Contributions. Demographic Analysis (Appendix B)  
The Care Act 2015  
The Equality Act 2010

#### **Mitigating actions to be taken**

No mitigating actions are recommended

**Sex** - A man or a woman.

#### **Possible impacts (positive and negative) of proposed policy/decision/business plan**

- Group:** Analysis of adults currently in receipt of a personal budget reveals that -
- 60% of current service users making a contribution are female
  - The majority of service users paying for meals on wheels only (54%), and Telecare only (79%) are women

#### **Impact:**

The data illustrates that while women are more likely to be impacted by higher charges, they are also more likely to benefit from the phasing out of flat charge services such as Meals on Wheels and Telecare.

The service will promote independence, and help reduce inequality between those with protected characteristics, and those without. We do not believe that these proposals give rise to discrimination, harassment, victimisation and/or fail to advance equality of opportunity between those who share a protected characteristic and those who do not.

#### **Equality information on which above analysis is based**

Fairer Contributions. Demographic Analysis (Appendix B)  
The Care Act 2015  
The Equality Act 2010

**Mitigating actions to be taken**

No mitigating actions are recommended.

**Sexual orientation** - Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes

**Possible impacts (positive and negative) of proposed policy/decision/business plan**

There is no sexuality based eligibility criteria. The proposals ensure a transparent approach with limited variation, to be applied to all adults whom we are considering charging for their care and support services, regardless of their sexuality.

Based on information we hold on individual's sexual orientation (there are significant gaps in the data), the majority of service users are heterosexual.

We do not believe that these proposals give rise to discrimination, harassment, victimisation and/or fail to advance equality of opportunity between those who share a protected characteristic and those who do not.

**Equality information on which above analysis is based**

Fairer Contributions. Demographic Analysis (Appendix B)  
The Care Act 2015  
The Equality Act 2010

**Mitigating actions to be taken**

This approach does not disadvantage individuals because of their sexuality. No mitigating actions are recommended

**Human Rights**

There are 16 rights in the Human Rights Act. Each one is called an Article. They are all taken from the European Convention on Human Rights. The Articles are The right to life, Freedom from torture, inhuman and degrading treatment, Freedom from forced labour, Right to Liberty, Fair trial, Retrospective penalties, Privacy, Freedom of conscience, Freedom of expression, Freedom of assembly, Marriage and family, Freedom from discrimination and the First Protocol

**Possible impacts (positive and negative) of proposed policy/decision/business plan**

There are no adverse consequences that are incompatible with the articles set out in the Human Rights Act.

Our approach to charging adults for their care services is compatible with UK law, and demonstrably provides positive outcomes for those in need of adult social care brokered services, by for example –

- Improving/maintaining the quality of life of the individual;

- Supporting individual choice;
- Fostering independence;
- Safeguarding adults from abuse;
- Supporting individuals to carry out every-day-tasks

In moving to a system of charging all service users not prohibited by law, we have created a non-discriminatory approach. While well intentioned, our previous approach of not charging service users in receipt of non-residential care services if they had mental health issues unfairly safeguarded the income of people with mental health issues, while people with physical disabilities were required to contribute up to 80% of their protected income.

**Information on which above analysis is based**

The Human Rights Act 1998  
 The Care Act 2015  
 The Equalities Act 2010

**Mitigating actions to be taken**

None

## Section 5: Further actions and objectives

5. Further actions			
Based on the initial analysis above, please detail the key mitigating actions or the areas identified as requiring more detailed analysis.			
Number	Description of issue	Action	Timeframe
1	The adult's disability impacts on their ability to understand the financial assessment process, be involved in the process, and to make informed decisions.	Literature and information pertaining to the financial assessment and care costs are made available in a range of formats to meet the needs of people with disabilities (for example, people with learning difficulties, visual impairments).	At implementation of any changes.
2	The adult's disability impacts on their ability to understand the financial assessment process, be involved in the process, and to make informed decisions.	We consider extending the offer to involve an independent advocate to financial assessments. This could allay concerns about significant difficulty involving the adult in the assessment, and to enable them to make informed decisions.  We will also communicate with the individual's advocate/deputy/appropriate adult to ensure they are appropriately involved in the process, and supported.	At implementation of any changes.
3	Analysis revealed that we do not hold data certain demographic data (for example marital status, sexuality, religion) on a significant % of service users. This may inhibit our ability to understand and map the needs of service users.	A plan of action is agreed and implemented to increase the % of demographic data we hold on service users (in particular for areas where we hold a low % of data.	6 months to action plan, to implement within 1 year.
4	The adult's grasp of English impacts on their ability to understand the financial assessment process, be involved in the process, and to make informed decisions	Literature and information pertaining to the financial assessment and care costs are made available in a range of common community languages.	At implementation of any changes.

5. Equality objectives (for business plans)				
Based on the initial analysis above, please detail any equality objectives that you will set for your division/department/service. Under the objective and measure column please state whether this objective is an existing objective or a suggested addition to the Council Plan.				
Objective and measure	Lead officer	Current performance (baseline)	Targets	
			2015/16	2016/17
None				

## Section 6: Impact analysis of the Fairer Contributions Policy proposals – financial analysis

This section will set out the financial impact implications of each of the specific proposals.

### Proposal 1

**We will not charge service users whose needs are being met outside of a care home if their assessed contribution is less than £3 per week.**

#### Impacts

The intention of this proposal is to provide a further safeguard to people on the lowest levels of income. This proposal offers clear benefits to those on the lowest income, with potential savings of up to £155 over a 52 week period.

An unintended consequence of this approach is that people who have available income in excess of £3 available above the Minimum Income Guarantee per week become worse off than their peers with less than £3 available above the Minimum Income Guarantee per week. The below table illustrates that over the course of a year - of adults in the same age group - an adult with £2.99 available income ends up saving £155 in charges, compared to someone with available income that exceeds £3:

	Age group	Gov recommended income	Available income post financial assessment	Saving per 4 week period	saving per 52 week period
Person A	18-24	£133.00	£1.00	£4.00	£52.00
Person B	18-24	£133.00	£1.50	£6.00	£78.00
Person C	18-24	£133.00	£2.99	£11.96	£155.48
Person D	18-24	£133.00	£6.00	Nil	Nil

The potential risks of this approach are that it –

- disadvantages services users with available income in excess of £3 per week relative to service users under the £3 limit; and,
- could provide additional incentive to people undergoing an assessment to not fully disclose their levels of income and capital.

#### Assessment:

While acknowledging the above concerns, it is assessed that the proposed approach will allow the Council to better focus its resources by freeing time that otherwise would have been spent pursuing and collecting relatively insignificant debts. The Council can use these time savings and resources to provide a better service to all service users subject to financial assessment and charging for care services.

This approach extends the Council's current approach (the threshold is currently £2), and was favoured by a majority of consultation respondents. (See Appendix 2: Fairer Contributions Policy Consultation Responses Summary.)

Under the new proposals, adults who make a contribution and pay by direct debit will benefit from a 5% discount, which will offset some of the relative difference between contributions.

The proposed increase in the flat rate from £2 of £3 would not result in any service users' assessed contributions being greater under the proposed approach than they are under the

current charging policy.

### Proposal 2

**Service users whose needs are being met outside of a care home will need to contribute 100% (up from 80% previously) of their available income towards the cost of meeting their care needs.**

#### Impact:

There are approximately 1000 service users who receive non-residential services, but do not contribute towards costs because they have insufficient funds. This proposal would not affect this cohort.

The table below demonstrates the impact of this proposal on current service users who are eligible to contribute towards their care.

Weekly charge	Number of people based on 80% contribution	Number of people based on 100% contribution
£2.00 - £3.00	13	0
£3.01 - £5.00	20	9
£5.01 - £10.00	73	40
£10.01 - £30.00	174	181
£30.01 - £50.00	137	109
£50.01 - £70.00	84	99
£70.01 - £90.00	22	63
£90.01 +	31	42

11 service users whose assessed available income would be affected, and imply a higher charge, would not pay anything additional under this proposal as they would benefit from the '£3 rule' set out in proposal 1.

The approximately 530 remaining service users would face an increase to their weekly contribution.

#### Assessment:

This proposal is consistent with Care Act charging regulations, and ensures that -

- we only ask service users to contribute what they can afford (as set by the government);
- all service users still have the protection of the government's minimum income guarantee; and,
- those on the lowest income do not have to contribute towards the costs of meeting their eligible needs.

### Proposal 3

**We will assess all Adult Social Care service users with a view to charging them to meet the cost of their care needs.**

#### Impact:

Under the current approach the Council does not charge mental health service users for their non-residential care services. Currently people with physical disabilities do have to pay towards the costs of meeting their care needs. This proposal addresses concerns that we may be



discriminating against those with physical disabilities.

This proposal will lead to increased costs for people with mental health needs. Initial estimates suggest that this could result in approximately 100 existing mental health service users making contributions towards their care provision.

**Assessment:**

This approach is consistent with charging regulations.

We will only ask service users to contribute what they can afford (as set in government guidance), and we will not require contributions from those on prohibitively low incomes.

We cannot, and will not, charge service users;

- with Creutzfeldt-Jacob disease, or
- receiving services under section 117 of the Mental Health Act.

**Proposal 4**

**We will introduce an assessed rate for services like respite care (instead of a flat rate).**

**Impact:**

Currently, where a service user receives both home care and a meals service, we financially assess them for their ability to contribute towards the provision of the home care, and charge a flat-rate charge for meals delivered.

This proposal represents an improvement for most services users. By financially assessing service users and charging an assessed rate for all services, we ensure that they are not asked to pay more than they can contribute. As detailed in the Equality Analysis, there are clear benefits for service users who benefit from services like respite, meals on wheels and telecare.

Individuals who only receive a flat-rate meals service will be required to submit financial details to enable an assessment.

This proposal simplifies the financial assessment and charging process overall, which is clearly beneficial to service users.

**Assessment:**

This proposal is consistent with Care Act charging regulations, and ensures that -

- we only ask service users to contribute what they can afford (as set by the government);
- all service users still have the protection of the government's minimum income guarantee; and,
- those on the lowest income do not have to contribute towards the costs of meeting their eligible needs.

**Proposal 5**

**We will require that all service users with eligible capital in excess of the upper capital limit £23,250 pay the full costs of meeting their care needs**

Under the current charging regime service users receiving residential care cover the entire costs of their care needs if they have capital in excess of the upper capital limit (£23,250) as dictated by law. Service users pay a £1 income tariff for every £250 held between the lower (£14,250) and upper (£23,250) capital limits.

Under the current charging regime service users receiving non-residential care services pay a £1 income tariff for every £250 held above the lower capital limit (£14,250). No upper limit is applied.

Under this proposal we will ask both residential and non-residential care service users to cover the entire costs of their care needs if they own capital in excess of the upper capital limit (until the value of their capital reduces to a sum worth less than the upper capital threshold).

This approach offers a number of benefits:

- it simplifies our processes, making it easier for service users to understand;
- it fosters better relationships between groups by treating them the same;
- it generates income which we can use towards the provision of care and support across Southwark.

While this proposal may lead to significant costs for people receiving non residential care, insofar that it introduces a threshold at which the individual must cover their entire costs, it is not dissimilar from other services that people who do not require care access (for example housing and other mean tested benefits).

£23,250 represents a significant capital holding, and is sufficient for the holder to plan for and respond to significant life events and contribute to education, training and development, so we do not foresee that extending the upper capital limit to non-residential social care users will unfairly disadvantage or discriminate against services users who require non-residential care.

**Assessment:**

This proposal is consistent with Care Act charging regulations, and ensures that -

- we only ask service users to contribute what they can afford (as set by the government);
- all service users still have the protection of the government's minimum income guarantee; and,
- those on the lowest income do not have to contribute towards the costs of meeting their eligible needs.

**Proposal 6**

**We will offer service users who pay their contribution by direct debit a 5% discount.**

**Impact:**

All service users who make care contributions will be able to access this discount. This proposal will be a net benefit to service users opting to pay by direct debit, available to these service users because of the lower costs associated with direct debit payments.

**Assessment:**

This proposal is consistent with Care Act charging regulations.

This proposal allows the Council to pass onto service users the lower costs to the Council of processing social care payments by direct debit.

## Section 7: Impact analysis of the Fairer Contributions Policy proposals – demographic analysis

This section will set out the demographic analysis for the Fairer Contributions Policy.

### 1. Breakdown by protected characteristics: Adults paying a contribution

As of 26<sup>th</sup> July, 2015, 615 adults were making a contribution towards the cost of their care and support

Sex (98% of sample available for analysis)	
Male	40%
Female	60%
Age group (98% of sample available for analysis)	
Under 65	27%
65 - 75	11%
75 - 85	28%
85+	34%
Marital status (6% of sample available for analysis)	
Divorced/dissolved	3%
Married/civil partnership	27%
Separated	5%
Single	22%
Widowed/surviving civil partner	43%
Religion (51% of sample available for analysis)	
Baptist	4%
Jehovah's Witness	3%
Christian	20%
Church of England	37%
Greek Orthodox	43%
Methodist	1%
Muslim	8%
None	5%

Other	1%
Pentecostal	2%
Protestant	1%
Roman Catholic	15%
Seventh Day Adventist	1%
Sikh	1%
<b>Ethnicity (94% of sample available for analysis)</b>	
Any other Asian background	1%
Any other Black / African / Caribbean background	7%
Any other ethnic group	2%
Any other White background	5%
Asian - Bangladeshi	1%
Asian - Chinese	1%
Black African	10%
Black Caribbean	15%
White & Black Caribbean	1%
White British	54%
White Irish	3%
<b>Primary support reason (92% of sample available for analysis)</b>	
Access and Mobility Only	2%
Learning Disability Support	16%
Mental Health Support	2%
No Relevant Long Term Support Reason	1%
Personal Care Support	45%
Physical Support: Access & mobility only	2%
Physical Support: Personal care support	23%
Support for Social Isolation or Other Support	3%
Support with Memory and Cognition	5%

## 2. Breakdown by protected characteristics: Adults paying for Meals on Wheels only

As of 26<sup>th</sup> July, 2015, 158 adults were paying for Meals on Wheels only.

Sex (89% of sample available for analysis)	
Male	46%
Female	54%
Age group (89% of sample available for analysis)	
Under 65	19%
65 - 75	19%
75 - 85	31%
85+	32%
Marital status (3% of sample available for analysis)	
Divorced/dissolved	0%
Married/civil partnership	60%
Separated	20%
Single	0%
Widowed/surviving civil partner	20%
Religion (34% of sample available for analysis)	
Baptist	2%
Hindu	2%
Christian	19%
Church of England	30%
Muslim	8%
None	9%
Other	6%
Pentecostal	0
Protestant	2%
Roman Catholic	21%
Seventh Day Adventist	2%

<b>Sikh</b>	0
<b>Ethnicity (77% of sample available for analysis)</b>	
<b>Any other Asian background</b>	2%
<b>Any other Black / African / Caribbean background</b>	2%
<b>Any other ethnic group</b>	3%
<b>Any other White background</b>	6%
<b>Asian - Indian</b>	2%
<b>Asian - Chinese</b>	1%
<b>Black African</b>	2%
<b>Black Caribbean</b>	10%
<b>White &amp; Black Caribbean</b>	0
<b>White British</b>	66%
<b>White Irish</b>	6%
<b>Primary support reason (34% of sample available for analysis)</b>	
<b>Access and Mobility Only</b>	2%
<b>Mental Health Support</b>	6%
<b>No Relevant Long Term Support Reason</b>	27%
<b>No Relevant Short Term Support Reason</b>	2%
<b>Personal Care Support</b>	42%
<b>Physical Support: Access &amp; mobility only</b>	8%
<b>Physical Support: Personal care support</b>	13%
<b>Support for Social Isolation or Other Support</b>	9%

### 3. Breakdown by protected characteristics: Adults paying for Telecare only

As of 26<sup>th</sup> July, 2015, 368 adults were paying for telecare only

Sex (99% of sample available for analysis)	
Male	21%
Female	79%
Age group (99% of sample available for analysis)	
Under 65	14%
65 - 75	14%
75 - 85	26%
85+	46%
Marital status (2% of sample available for analysis)	
Divorced/dissolved	0%
Married/civil partnership	33%
Separated	0%
Single	33%
Widowed/surviving civil partner	33%
Religion (37% of sample available for analysis)	
Baptist	2%
Jewish	1%
Christian	16%
Buddhist	1%
Hindu	1%
Presbyterian	1%
Church of England	44%
Greek Orthodox	1%
Methodist	1%
Muslim	2%
None	5%



Other	1%
Pentecostal	1%
Protestant	1%
Roman Catholic	21%
<b>Ethnicity (89% of sample available for analysis)</b>	
Any other Asian background	1%
Any other Black / African / Caribbean background	3%
Any other ethnic group	2%
Any other White background	2%
Asian - Indian	1%
Asian - Chinese	1%
Black African	6%
Black Caribbean	13%
White & Black Caribbean	1%
White British	65%
White Irish	6%
White English	1%
<b>Primary support reason (% of sample available for analysis)</b>	
Access and Mobility Only	5%
Mental Health Support	6%
No Relevant Long Term Support Reason	27%
No Relevant Short Term Support Reason	3%
Personal Care Support	46%
Physical Support: Access & mobility only	3%
Physical Support: Personal care support	2%
Support with Memory and Cognition	8%

## Appendix 2 - Fairer contributions policy consultation responses summary

[www.southwark.gov.uk](http://www.southwark.gov.uk)

The Council consulted on proposed changes to the existing charging policy for care and support between 16 June and 4 September 2015. Responses to the consultation are summarised in this document.

### Consultation approach

The Council set out six proposals for changes to the existing charging policy for non-residential care and support in a consultation document.

The consultation approach included:

- accessible letters and information to respond posted to 2,236 individual service users;
- an online information and response form;
- invitations to 43 local advocacy groups to take part in the consultation;
- a public meeting for individuals and advocacy groups to attend and hear about the proposed changes before completing the consultation document; and,
- on-line information and access to telephone and email contact points for responders to ask questions and provide commentary for consideration as part of the consultation.

The Council agreed the approach and timeline for the consultation at the cabinet meeting on 2 June 2015.

## Responses

The Council received 124 completed responses to the consultation on the proposals. Approximately 1 completed response to the consultation was received for every 20 service users we wrote to. The responses are set out below, by proposal. This indicates the number of respondents who agreed with, disagreed with, or did not comment on the proposal. We have also set out the 95 anonymised detailed comments received as part of the consultation response. The lowest number of responses was received for proposal 5, with a sample size of 105; the highest number of responses was for proposal 2, with a sample size of 118.

Proposal	Yes, I agree	No, I disagree	Not answered	Number of responses
<b>1 – To make sure that those with the least money don't pay anything for their care</b> Introducing a 'no charge to the service user if the assessed contribution is less than £3 a week' rule	89	28	7	117
<b>2 – To charge the full amount of what we consider people's available income (after a financial assessment)</b> Changing the charge rate for assessed available income from 80% up to 100%	67	51	6	118
<b>3 – Everyone who can afford to, pays a contribution towards their care, including mental health service users</b> Including all people who receive our services when assessing ability to pay a contribution.	60	52	12	112
<b>4 – To simplify how respite care, meals and telecare are charged</b> Including further services in the policy so that separate charges are unnecessary	85	28	11	103
<b>5 – Charge the same for non-residential care as we do for residential care, meaning that if a person's savings or capital are above £23,250 their care is not subsidised by the council</b> Change the way we include savings above £23,250 in assessments	49	56	19	105
<b>6 – To introduce a discount scheme for people who pay by Direct Debit</b> This is seeking views on the viability of offering an incentive to encourage people to pay by direct debit in recognition that this is the most efficient way of collecting income.	85	27	12	102

## Proposal 1

### To make sure that those with the least money don't pay anything for their care

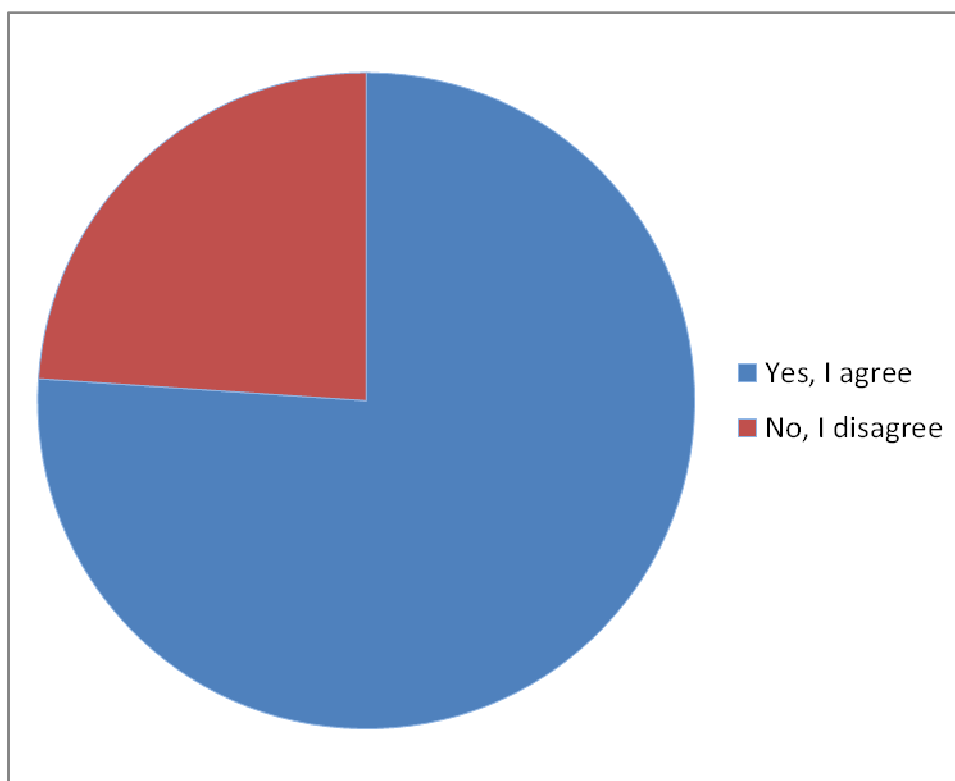
#### What we do now

At present, we ask service users to contribute if they have more than £2 per week available income after they have had a financial assessment. This means that those service users who can afford to contribute are charged at least £2 per week.

#### What we are proposing to change

We would like to introduce a further safeguard for people on the lowest incomes by making sure that if the result of the financial assessment shows that the service user has less than £3 per week income available to contribute to their care, they will not be charged.

Of the 124 total consultation responses, 117 people answered this question.



	Yes, I agree	No, I disagree
Total responses (number)	89	28
Percentage	76%	24%

## 15 comments were received

"We should all look after those who can't afford to look after themselves."

"Because it would be more effective."

"As fair."

"For the reasons you mention: - cost of collecting small amounts of money - quality of life for individual."

"The explanation is reasonable, whether it is going to be the same in practice is another question."

"Because I believe that people that people on low incomes should not pay for their care. Because the rationale outlined in the proposal document relating to the administration time and cost of collating small amounts of money makes sense to me. And that because the costs of livings can vary for disabled people week to week there needs to be some leeway to stop people falling into crisis."

"That those with no savings or income from any source and an illness, disability, condition and therefore vulnerability be targeted for primary attention."

"Charges have allowed the poorest elderly people to keep £2 per week for more than ten years so that raising the level to £3 is doing little more than adjusting to the rise in prices during that period. Therefore, I think the minimum contribution should be raised to £5 per week."

"Suggest a £20 minimum in line with the weekly earnings disregard for means tested benefits."

"If they can afford to pay for it, they should."

"To be fair, I think if the government should have a cap on what people can pay and if I have money and want better care then I can top up with my money."

"Having the extra money does not mean that service users are able to contribute. Financial assessment, I believe do not do much especially when it comes to having a disabled person where anything can happen."

"It's not fair."

"Raising the threshold by £1 will not benefit many people but cause a lot of expensive administration to reassess those affected."

"It should be left as it is. I don't pay."

## Proposal 2

### To charge the full amount of what we consider people's available income (after a financial assessment)

#### What we do now

When we assess people to see what they must pay towards the cost of services they receive, we take into account their income and their expenditure and therefore how much they can afford.

Currently we take into account savings above £14,250, pensions and state benefits (apart from DLA mobility component, the highest level of DLA care component and the highest level of Attendance Allowance). From this amount we take off housing costs, and disability related expenditure. The government says that we must leave people with a certain amount (the 'living expenses') and this amount must be 25% higher than the minimum income guarantee (or equivalent).

The government recommended amounts, including the 25% are;

Age 18-24 £133.00 per week

Age 25-59 £151.38 per week

Age 60+ £189.00 per week

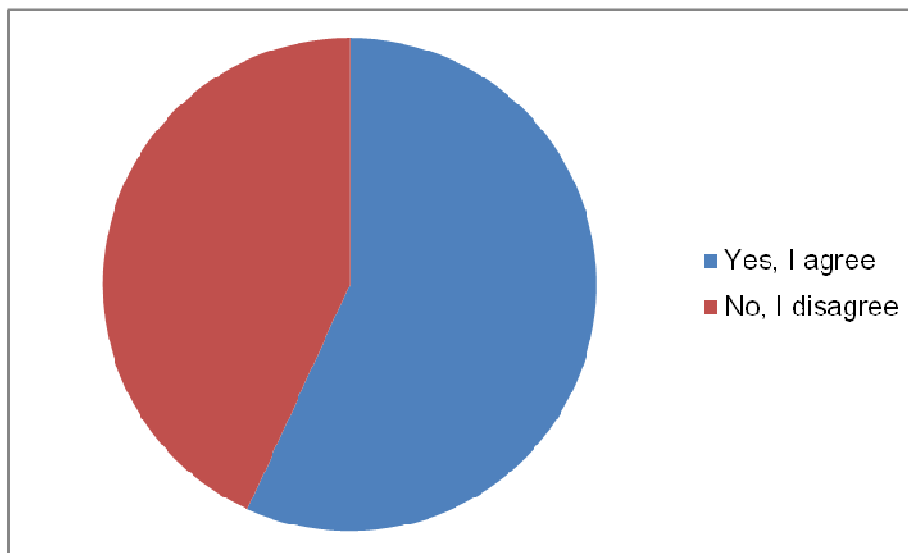
So we then deduct this value as well as the housing costs and disability related expenses and look how much money a person has over and above the government recommended amount. This final value is called 'available income'.

Currently we only charge 80% of this available income.

#### What we are proposing to change

We will continue to look at income and expenses in the same way, but propose to charge 100% of the available income.

**Of the 124 total responses, 118 people answered this question.**



	Yes, I agree	No, I disagree
Total responses (number)	67	51
Percentage	57%	43%

**12 comments were received**

"If they can afford to pay for it, they should."

"It's sensible!"

"As those who can pay more should."

"That of course, available income is considered before charge and that due to side effects, and inconvenience brought by disability or illness, the necessity for help in mobility and care is a cost I would be willing to share to assure my neighbours comfort. 80% is also well reasoned."

"Care will be unaffordable."

"Income to date is limited due to very low inflationary rises and every single £ counts. Every single free £1 that I have I need to hang on to."

"I disagree with a number of elements of this and have some questions.

1) I am concerned that the savings level - £14,250 has the potential to discriminate against people who work on a freelance basis and therefore need to save a proportion of their income on an on-going basis to pay tax at the end of financial year. What steps will be taken to protect people who put money aside to pay tax at a later point. Similarly some disabled people are not able to take out certain types of insurance such as mortgage protection insurance, a resolution to this is to save in order to cover mortgage costs in the event of the loss of their job or income. People in this situation will be at a substantial disadvantage compared to disabled or non-disabled people who are able to take out this type of insurance.

2) In relation to the inclusion of all of the highest rate of DLA care component for people who have overnight care on the grounds that this is awarded due to overnight care needs. This level of DLA is also for daytime care needs. To take it all to cover night costs would be very unfair comparability to as people on middle rate care would not have any of their DLA included. If higher rate DLA care is to be included this should only be the difference between middle and higher rate care.

3) Taking 100% of the assessed income allows no room for changes in needs or disability related expenditure for example broken equipment or new needs. This allows no room for people to save leaving them financially vulnerable. This would particularly disadvantage younger disabled people compared to there non-disabled peers."

"No in principle."

"The contribution should remain at the 80% or be scrapped; the 100% contribution assessment would be too draconian and unfair."

"Why should you be penalised for working?"

"We should be moving towards paying for social care from taxation not increasing the amounts individuals pay. Put up the council tax (preferably more for the higher band properties) and explain why - people who need care are the concern of all of us."

"20% increase in contribution cost is significant and much higher than inflation which is not fair for people on pensions or state benefits which are pegged to inflation."

### Proposal 3

#### Everyone who can afford to, pays a contribution towards their care, including mental health service users

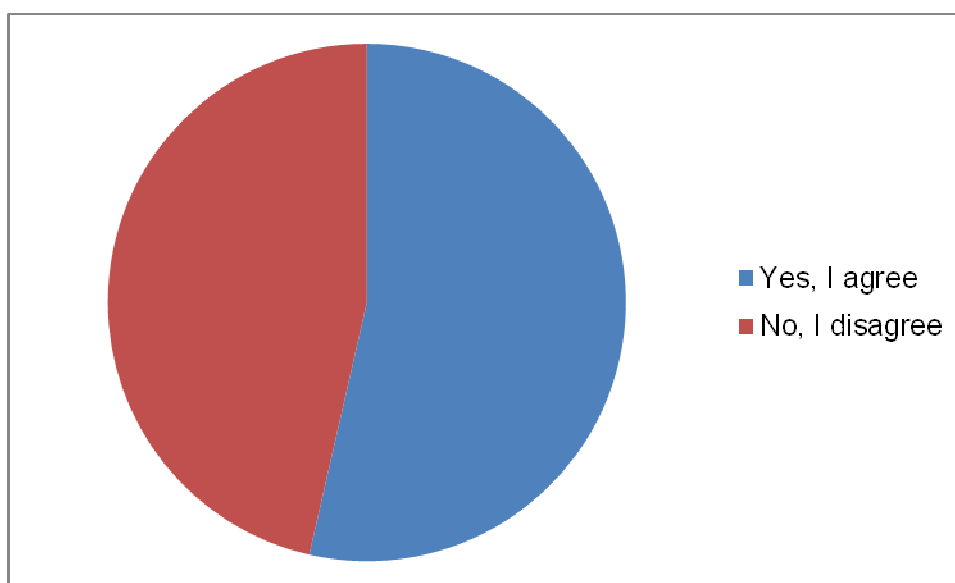
##### What we do now

Under the current policy we do not charge any mental health service users for their non-residential care services. Legally we cannot charge people if they are receiving their care as part of an aftercare package under Section 117 of the Mental Health Act.

##### What we are proposing to change

We think it would be fairer to all to ask everyone to contribute towards their care if they can afford to, including mental health service users (if they are not receiving their care under Section 117). In this way, almost everyone receiving care would be assessed to see if they can make a contribution towards the cost of the care they receive. We will not be financially assessing Section 117 people as this would not be within the current law.

Of the 124 total consultation responses, 112 people answered this question.



	Yes, I agree	No, I disagree
Total responses (number)	60	52
Percentage	54%	46%



**14 comments were received**

"As everyone needs to be treated the same."

"If they can afford to pay for it, they should."

"It's not fair for those with physical health support needs to pay and not those with mental health support needs."

"If it can be shown that income is regular and continuous for the individual and long term payment will not led to debt."

"Equality and fairness."

"Equity is the right way."

"To bring current Southwark policy in line with other councils."

"I do not think there will be anyone who can afford to pay. With a disability there is always money needed even if they have been assessed."

"I do not have personal experience in this area but I have a number of concern including:

1) The risk that this would negatively impact on the uptake and utilization of support services by people with mental health conditions not covered by the Mental Health Act, leading to more series crisis further down the line.

2) The potential for this to incentivize the use of the Mental Health Act section 117 amongst healthcare professionals."

"I think the administration of collecting charges from adult users of mental health services may be nearly as much as the money raised. Residents of Southwark with long-term mental health issues are likely to be on low incomes and dependent on benefits. One group who may have higher incomes and carers who can provide financial information are older people who have developed Alzheimer's disease or other forms of dementia. Perhaps, there is no reason why they should be treated differently from older people with chronic conditions or physical disabilities."

"Again don't agree - if people are paying contributions why should it be the same for those who have never worked? There should be an incentive that if you have worked for a certain number of years you are entitled to x amount of care except if you have a disability because it is not something you have chosen. Mental health su should not pay anything towards their care."

"Not fair."

"Because you are going to be making savings by cutting administration in proposal 1 which will save money. Secondly for the same reasons as before, beauracracy reigns. Persons of disability do not cope well with assessments. therefore I disagree because it would more unnecessarily burden both the person in receipt of disability payment."

"This would be quite wrong. Mental illness is enough to cope with. Means testing mentally ill people is inhumane."

## Proposal 4

### To simplify how respite care, meals and telecare are charged

#### What we do now

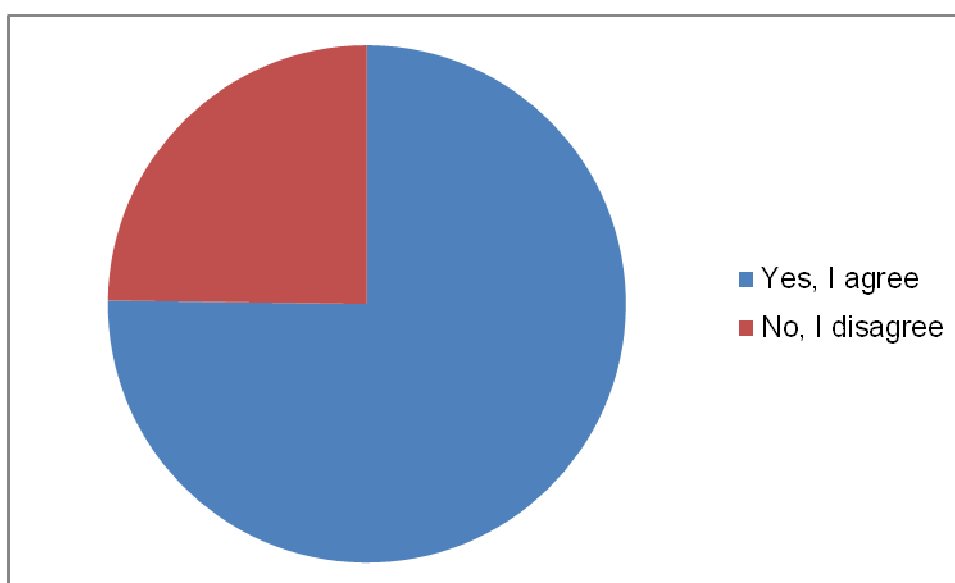
When people have residential respite, we make a 'flat rate' weekly charge, meaning everyone pays the same, set fee. The fee is the same as the higher rate of Attendance Allowance. If they have meals at home or at a day centre, we charge a set amount per meal. Some people pay a set charge for their personal alarm, regardless of their financial circumstances. The fee is the same no matter what the person's income is, even if they may not be able to afford it.

#### What we are proposing to change

We believe it will be fairer if, like with other services, people are only asked to contribute towards what they can afford.

Instead of paying separate charges for different services, the person will be financially assessed to see what they can afford to contribute so that they are charged only once per week.

Of the 124 total consultation responses, 113 people answered this question.



	Yes, I agree	No, I disagree
Total responses (number)	85	28
Percentage	75%	25%

**12 comments were received**

"Simplification and clarity of charges grouped together in order for care package be operational is essential."

"I agree with this based on the information provided here."

"As makes sense to only pay once."

"Easier system and fairer."

"If it's simpler it's better so long as no one is worse off."

"In principle, it sounds fairer to charge people what they can afford but it is introducing yet another means test and I think the Council will end up with an army of financial assessors who will cost as much as what is collected."

"The simplified rules will be easier for people to understand & probably easier for the council to administer, leading to fewer mistakes and the need for debt chasing / refunds. It also seems fairer that that same calculation is used for all support needs. The only part I'd question is the meals charge being incorporated into the others - my reasoning is that everyone needs to eat, so why should some people get theirs' free?"

"I agree with proposal four and hereby state that service users who require respite care and support, meals and telecare when assessed financially should only be charged for what they can only afford. This will only be fair as those in class one are getting their own care and support free and some in class two and three. From the examples given Mr G only pays £15 weekly when he goes into respite care even though his care costs £82.30 as this is the amount he can only afford to pay and for Mrs H she also will only pay what she can afford. She has been paying £2 weekly and under the new proposal it will increase to £26.25 which includes her home care and her meals service instead of paying for the meals service separately."

"Because asking them to pay what they cannot afford will lead to withdrawal of services and no alarm when very necessary or no food or the cutting back and budgeting on something else, which is perhaps necessary for those who will not even complain and that cannot lead to a positive outcome."

"Because people should not be charged more because they have higher disability related needs."

"Only pay what is affordable."

"Confusing."

## Proposal 5

**Charge the same for non-residential care as we do for residential care, meaning that if a person's savings or capital are above £23,250 their care is not subsidised by the council**

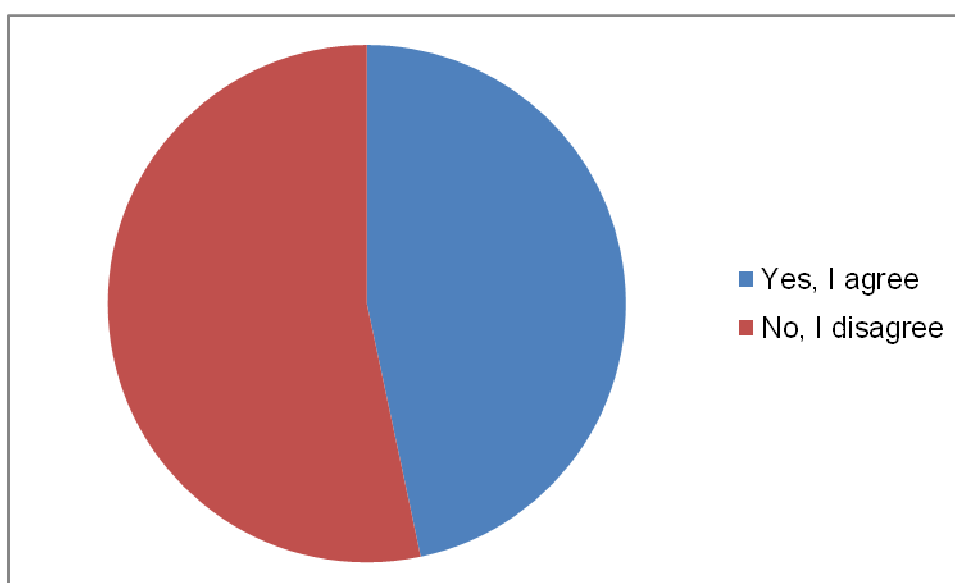
### What we do now

At the moment, when we see how much someone can afford to contribute towards their care, people who have care at home and people living in a care home are charged in different ways. For people who live at home, we include their savings or capital when it is above £14,250 (this level is set by government) when we see how much they can afford to pay for care. For every £250 of savings above £14,250 they have, we add £1 per week to how much they are assessed as having available income. There is no 'cut-off' point or maximum saving to this system, for people receiving care in their own home. However, if someone lives in a care home, and they have more than £23,250 in savings, they automatically have to pay the full cost of their care until their capital is reduced to less than this amount.

### What we are proposing to change

We would like to ask people living at home with a certain amount of savings to pay the cost of their care, in the same way that people in care homes do. The savings amount at which the full cost of care is paid for, known as the upper threshold amount, is currently £23,250 (this level is set by government).

**Of the 124 total responses, 105 people answered this question.**



	Yes, I agree	No, I disagree
Total responses (number)	49	56
Percentage	47%	53%

## 12 comments were received

“Care will be unaffordable.”

“This encourages people to dispose their savings or capital before the need arise. People make savings to have a better life when they retire - why should they be penalised for this? Every person should be encouraged to work in order to qualify for care unless if you have a disability.”

“Some of my concerns regarding this proposal relate to the reasons outlined in proposal 2. In addition:

1) I am concerned that people living at home are likely to have greater on-going and capital expenses that require savings for example large capital expenditure - major works etc.

2) I feel that younger disabled people will be particularly adversely effected by this as they will not be able to save income in the same way as there non-disabled peers. This means they would not have access to things like the housing market in the same way as non-disabled people or be able to save for their children's futures or education.

3) There is no information as to how savings would be judged or how much working disabled people would be able to have in their current accounts before this was judged as savings. My explanations are based on the understanding that earned income would not be included in the calculation as is currently the situation.

4) Would a person with over £23,250 of savings be responsible for the full cost of their care up until it went below the £23,250 threshold or until all their savings were gone? How often would this be reviewed?”

“The charges should be equalised in the other direction.”

“This proposal has the biggest potential to increase the contribution from people who have care at home and be a major threat to their savings resulting in a great deal of worry for vulnerable people.”

“A sliding scale of the ratio of savings against total cost, instead of an upper threshold triggering a 100% payment seems fairer.”

“I want the 2 systems to exist separately. the needs of both are entirely different. Assessment targets assume rates of income or money saved which I feel are adequate to each case.”

“If they can afford to pay for it, they should.”

“I agree with proposal five and say that it is understandable to take the service users savings into account for home care as well as care and support in the residential setting. As for home care it has been stipulated above £14,250 by the government and for every saving over £250 £1 will be added every week when assessed to determine their available income and for those who are in residential setting the savings amount is fixed at more than £23,250 also set by the government. From the examples given as for Mr J who has £60,000 savings and his care package is £145 weekly and currently pays £39, under the new proposal he will have to pay the whole £145 until when his savings reduces to below £23,250 and for Mrs K who has £45,000 and her total care package is £265 she will not have to pay more until when her capital is reduced and then she will be financially assessed again.”

“Yes. As if you can pay it yourself then you should.”

“Fairness, clarity and simplicity.”

“Makes the decision about going into residential care needs focussed rather than financial.”

## Proposal 6

### To introduce a discount scheme for people who pay by Direct Debit

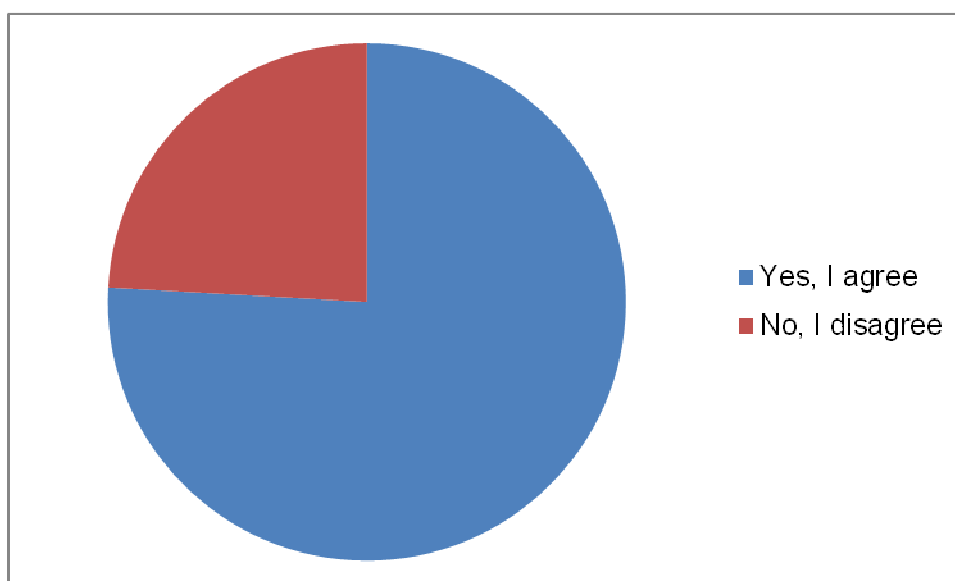
#### What we do now

At the moment we send statements of account and invoices regularly. We also send reminders and follow up when the charges are not paid.

#### What we are proposing to change

We would like more people to pay by Direct Debit because it is the most economic way of collecting income, so we can spend more on the care itself rather than administration costs. It is also usually the most convenient payment method for people. We are proposing to offer a discount to people paying by direct debit which would reduce their weekly contribution.

Of the 124 total responses, 112 people answered this question.



	Yes, I agree	No, I disagree
Total responses (number)	85	27
Percentage	76%	24%

<b>17 comments were received</b>
"Will make the system safer."
"As it's easier to pay and better for the council."
"Assistance should be offered."
"I think the idea of giving discount to those should be encouraged, but made aware initially that giving banks such freedom to withdraw funding can be problematic."
"A discount must be reasonable to serve as incentive."
"I agree with incentivising payment by direct debit to streamline the process but that this should not be at a level that negatively disadvantages people not in a position to pay in this way."
"To encourage people to pay by direct debit the level of discount should be attractive and there will be less arrears."
"There should be a small discount, but it shouldn't be huge (similar to the £1 per quarter discount you might get from a utility firm)."
"I think 1% is too low to make it worthwhile and 5% will be easier to understand the calculation than 3%. It is a good idea to reward those who are paying by direct debit but it may militate against the very elderly who have never used modern banking methods."
"I agree with proposal six that service users who pay by direct debit should be given some form of discount on their care package. This will reduce administrative costs spent on sending out invoices and the the difference can be used on the care provided rather than the paper work. I suggest 1% weekly. From the examples given Mr L pays £25 weekly for his care package and has requested for discount for paying by direct debit if given 1% weekly that will be $0.25 \times 4 = £1$ so he will be paying £24 instead of £25 and for Miss M who still wants to receive invoices will not get any discount and she must continue to pay the stipulated amount within the specified time."
"You should make the case for dd to individuals. If they don't agree they should not be penalised. Many people don't feel in control of their finances if they have direct debits."
"Please ignore the 1% above!! A discount makes perfect sense as it will encourage paperless billing / payment. It's similar to the way fuel billing works, so people should understand it. As more people become IT literate the proportion of those taking up this option should increase. On the level of discount: I can't comment - it has to be sufficient to incentivise people, but should be less than the council saves on this payment method."
"Loss of control and also less savvy will end up paying more."
"My Council is not trying to encourage the sale of utilities but the serious business of care for those who need it. Banks offer debit as a service, but if the person receiving care is paying in the way that they wish and do not trust such services, they will effectively be subsidising those with a DD, what if they wish to pay by direct electronic transfer as I do online with Council Rent? Online Banking has been here a long time."
"What a ridiculous idea."
"People who need carers are not always able to instruct their bank to pay DD and find it difficult to track their payment if they do, so cannot check if there are any mistakes."
"Paying by direct debit is a very convenient way of paying for charges you can trust are being raised correctly. This is not the case. We believe we have been overcharged by about £3,000. The statements we receive are not produced on a regular basis and more often than not prove to be inaccurate. We have been charged for services we have not received and double charged in some cases."

## Additional comments

Respondents were given the opportunity to provide any additional comments for the Council to consider. The comments received are set out below.

### 13 comments were received

"On a general theme, proposal 1 is a good idea. Other proposals will be perceived by most cases as overly intrusive. The idea concerning DD payment should be encouraged but also clear warnings must also be given especially to those persons whose finances have been assessed as the low income."

"My key concerns about these proposals are: The implication for younger disabled people on their life chances and ability to save The increased likelihood of people refusing services on the grounds of cost - particularly mental health service users."

"As is usual with Southwark Council's so called consultations, the examples you use are all very biased to get the vote you want...totally misleading and devious."

"Not increasing council tax is cheap tabloid politics; the responsible policy would be to increase Council Tax by 50p per week which would raise over £3M thus reducing the financial burden of meeting disabled people's needs."

"I would like to express myself as a lone parent of a young man who is currently on the transition team. It is at the best of times challenging coping with the demands of caring for my son who has complex health and additional needs. How are we supposed to fare well or even encourage our children to do their best, with the constant brutal onslaught from government regarding cuts which seem totally to target those of us who carry heavy burdens of responsibility? Worded as "proposals", I feel certainly cuts will be made that will not take what we do as parents into any type of consideration. How many of us will be able to cope? How many more casualties do you need? For myself, I fear that with these new "proposals", I do not stand a chance raising my son even though I want to. It seems more likely, that financially I will be defeated so where do I turn? The care system? Surely that is going to cost local authorities more than the proposed cuts ? I live in trepidation every single day for loving and caring for my son."

"I think the council has come up with a great package of proposals - well done!"

"We should all help as much as we can, in times of austerity we should help for the future of our children."

"As a disabled person, I can ask how much emphasis is put upon consultation with the actual people this effects directly. Obviously some will not be able to answer and so are represented by family carers for opinion?"

"I think it is very unfair that self-funders are charged considerably higher fees to live in residential care and nursing homes than elderly people who are placed by local authorities. I would like the Council to provide an advisory and review service to Southwark self-funders to ensure there is some overview of their care and they are receiving benefits to which they are entitled e.g. could they be eligible for higher rate Attendance Allowance or Continuing Care."

"Social care is the most important local service after children's services. Why aren't councils campaigning effectively for social care reform and integration with health services?"

"I must mention that the six proposed changes from my own point of view seem to be fair and hope that after being deliberated upon would be accepted by the service users seeking social care services in Southwark as they are the only Borough that has been offering 80% compared to other Boroughs who have receiving 100%. Also Social Care is subject to review therefore this Social Care Act 2014 is part of



Professional Legislation and must be adhered too. I hope that all Social Care professionals and the service users in Southwark will accept these proposed changes willingly and enhance our career and promote the lives of our services users giving them person centred care tailored to their individual needs taking into consideration their choice, respect and dignity and promote their independence and ensure their safety at all times.”

“People should be treated fairly except for people with disabilities because it is not something they have chosen and there should be an incentive for those who have worked for a number of years to get better care and not to be penalised that they have a certain amount of savings or capital. This encourages people to dispose their funds and make themselves destitute in order to qualify for the so called care.”

“I believe there needs to be a stronger contract monitoring process put in place in regard to services provided by London care as we had to complain on a number of occasions about carers not turning up or turning up very late.”

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