

<b>Item No.</b> 14.	<b>Classification:</b> Open	<b>Date:</b> 24 March 2020	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Adult Social Care Fairer Contributions Policy	
<b>Ward(s) or groups affected:</b>		All wards	
<b>Cabinet Member:</b>		Councillor Jasmine Ali, Children, Schools and Adult Care	

## **FOREWORD - COUNCILLOR JASMINE ALI, CABINET MEMBER FOR CHILDREN, SCHOOLS AND ADULT SOCIAL CARE**

The Care Act 2014 and its associated statutory guidance grants local authorities a degree of discretion when it comes to charging for social care outside a care home.

Chapter 8 of the guidance states: “Local authorities should develop and maintain a policy on how they wish to apply this discretion locally. In designing this policy local authorities should consider the objectives of care and support charging”.

The Southwark Adult Social Care Fair Contributions Policy has been in place for three years. Last year we reviewed its implementation. There was a consultation with key stakeholders including of course service users and their families. The result is the attached schedule of reforms, designed to simplify the Fairer Contributions Policy document and make our approaches to residential and non-residential care much clearer.

There is a proposed change in minimum contribution towards social care costs from £3 to £5. There will be a standard charge of £200 to full cost service users for council arranged non-residential care services.

Unlike health, social care has always been a means-tested service: people are expected to contribute towards their care, or certain parts of it, if they can afford to do so. Fairer contribution is our framework for assessing what people should contribute towards the cost of their care, taking into account all their income and assets, as well as any expenses they have linked to their disabilities.

The attached financial plan must be seen in the context of the wider funding arrangements for adult social care, which as we know is less than satisfactory. I along with others in the council have written to the Government calling for adequate funding arrangements for adult social care. Southwark, along with other local authorities up and down the country, demand change to the finance of adult care and urge the Government to deliver the promised legislative reforms. We demand a Green Paper that can outline a comprehensive adequately funded way forward so that we can get on with delivering services to those that need them the most.

In the meantime, it is hoped that the attached proposals will improve the way that this policy is implemented.

## **RECOMMENDATIONS**

### **Recommendations for the Cabinet:**

1. That the Cabinet to note the information contained in this report and its appendices.
2. That the Cabinet agree to adopt the proposed changes to the council's charging policy which are as follows includes the following:
  - 2.1. Simplify the Fairer Contributions Policy document (FCP) to make our approaches to residential and non residential financial assessments clearer.
  - 2.2. Increase the minimum contribution towards social care costs from £3 to £5.
  - 2.3. Specify a charge of £200 for the council to arrange care for full cost service users assessed to require non-residential care excluding alarms.
  - 2.4. Use light touch assessments for those receiving alarm services only.
  - 2.5. Promote deferred payment agreements and charges on property as a way of paying for residential care.
  - 2.6. Implement a review trigger where allowances exceeding £20 per week on DRE (disability related expenditure) are claimed from April 2021.
3. That the Cabinet agree the proposed changes to be adopted as outlined in Appendix 1. The FCP to be applied from April 2020.
4. That the Cabinet note the responses to the consultation on the proposed changes to the FCP as set out within this report and in Appendix 2.
5. That the Cabinet note the equality and impact analysis set out in Appendix 3.

### **Recommendation for the Leader of the Council:**

6. To delegate the final decision on the future of the Direct Debit Discount Scheme to the cabinet member for children, schools and adult care following a further consultation on this process.

## **BACKGROUND INFORMATION**

7. The Care Act 2014 and statutory guidance allows local authorities to exercise a degree of discretion when it comes to charging for social care outside of a care home. Chapter 8 of the guidance states that: "Local authorities should develop and maintain a policy on how they wish to apply this discretion locally. In designing this policy local authorities should consider the objectives of care and support charging".
8. To exercise the council's discretionary powers, the Fairer Charging Policy (FCP) was implemented in April 2016 after a consultation in the summer of 2015, and a cabinet decision in October 2015.

9. The main changes introduced as part of the FCP in 2016 were:
  - i. To change the level of available income after financial assessment below which a client will not be charged anything for their care from £2 to £3 a week.
  - ii. To charge up to 100% of available income, after financial assessment, increasing this from up to 80%.
  - iii. To ask all eligible service users, who are assessed as financially able to contribute, for a contribution toward their care costs.
  - iv. 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.
  - v. 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 subsidised by the council.
  - vi. To introduce a discount scheme for social care customers paying by direct debit.
10. By introducing these proposals the council aimed to:
  - a. Have a more transparent system of charging.
  - b. Have a more sustainable and financially viable model (in order to meet the needs of the most vulnerable now and into the future).
  - c. Safeguard the most vulnerable individuals against prohibitive costs.
  - d. Ensure that individuals can access the right services at the right time to maintain and/or improve their wellbeing.
11. The policy has been in place for three years, and in reviewing its implementation there are a number of issues that decision makers need to be aware of.
12. The proposal to implement a £3 threshold received a lot of support in the consultation, resulting in those least able to contribute receiving fully funded care.
13. Asking all service users who are able to contribute towards their care was well supported and made the policy fair across those receiving residential and non residential care and across all client groups. This had the consequence of significantly increasing the number of service users within scope for a financial assessment.
14. The move to assess both non-residential and residential service users as full cost based on capital has been successful in making it more transparent for both service users and staff who interact with them.
15. The direct debit incentive scheme has not led to the increased take up of direct

debits that were expected. The mechanism of deducting 5% of the client contribution has significant consequences in terms of the transactions costs for the council.

16. There have been systems issues related to the management of direct debits which have had a significant impact on the council's ability to manage them effectively and maintain trust with service users and their families.
17. The communication and information available to service user's needs to improve and be clearer in terms of expectations on service users and the council.
18. Since April 2016 – 4,499 people have been assessed for their ability to contribute towards their adult social care. 53% (2374) of those have been assessed as liable to make a contribution, 47% (2120) of those have been assessed as nil charge. 5 people in total have been assessed to contribute less than £3.
19. When reviewed on the basis of age. 71% of those aged 18-25 are nil contribution, 61% of those aged 26 - 65 have nil contribution and for those 65 plus this falls to 44% due to the increased levels of state benefits.
20. Since the policy was introduced the turnaround time for financial assessments has steadily improved. The most recent figures indicate that 82% were completed within the ten day target.
21. Following a review of the success of the FCP, it was decided to consult on making changes for the benefits of all parties.
22. To support changes to the policy, a 12 week consultation, "Supporting sustainable social care" started on 25 October 2019 and closed on 17 January 2020. The consultation approach is detailed within the consultation section of this report.
23. Online information and response forms were provided alongside telephone and email contact points for responders to ask questions and provide commentary for consideration. Invitations were sent to more than 30 local advocacy groups and the Forum for Equalities and Human Rights and Communities Southwark to invite them to take part in the consultation. Meetings about the proposed changes were available on request and this offer was taken up by the Southwark Pensioners Action Group.
24. Responses to the consultation received via all channels have been entered into the council's consultation hub, and the complete consultation results are set out in Appendix 2 of this report. The outcomes are included as part of the key issues for consideration.

## **KEY ISSUES FOR CONSIDERATION**

25. The changes proposed to the FCP aim to continue to ensure that a fair and consistent approach to contributions to social care costs is applied to all service users.
26. The proposed changes to the charging policy, with an increased focus on proactive communications with all stakeholders should facilitate this change. Supported by enhancements to our IT systems covering the full assessment

process from initial contact with the social care staff to the collection of income and debt.

### **Proposed changes**

27. The proposed changes are set out in the table below:

<b>Simplify the FCP including better information about residential and non residential assessments</b>
--

- |  |
|--|
| <p>27.1. The focus of the current policies is on non-residential service users as the council is required to follow statutory guidelines for residential services. This is also a result of the changes in policy at the last review focusing on this group of service users.</p> <p>27.2. The proposed policy now clearly defines the difference between residential and non-residential charging which should provide greater clarity for service users and their families and their financial representatives.</p> <p>27.3. Those who responded to the consultation were in favour of this change, and organisations who responded were keen for additional resources to be provided to support them to explain the financial assessment process.</p> <p>27.4. An important area for development identified by service users within the consultation and through the council's ongoing work in this area is improved communications with service users. Targeted materials are being developed and will be tested and shared once the new policy has been implemented.</p> <p>27.5. People responding to the consultation told us that they found much of the information and the language around charging, the implications of the current policy and the proposed changes difficult to understand, and wanted things to be stated clearly and in "plain English".</p> <p>27.6. To support this we will be working with service users to develop user friendly communications materials explaining the implications of the new policy, and the roles and responsibilities of the service user and the council.</p> |
|--|

<b>Increase the minimum contribution from £3 to £5 – meaning anyone assessed to pay less than £5 will be considered nil charge.</b>
---

- |  |
|--|
| <p>27.7. This will support those on the lowest incomes by removing their need to contribute. The transactional costs of assessing, processing and collecting these contributions means that the benefits of collecting these low value contributions are minimal.</p> <p>27.8. This change will benefit those least able to contribute towards their care.</p> <p>27.9. The majority of those who responded to this question in the consultation agreed with this proposal.</p> <p>27.10. Some respondents to the consultation suggested increasing the minimum contribution to £10, and thought more services should be out of scope for charging, beyond the exemptions specified in the statutory guidance. This would have considerable financial implications, and this was understood by the attendees at the meeting.</p> |
|--|

### **Improve the direct debit discount scheme**

- 27.11. The consultation asked what would better incentivise people to pay via direct debit.
- 27.12. Those who responded to the consultation have not given a clear steer on what would incentivise people to pay by direct debit, with some supporting better information about accessing Direct Debits, some concerned about this method of payment and others wanting it to be easier to access. They have requested that the system be easier to use and more user friendly, and have expressed frustration with the current system and its lack of flexibility. This is also supported by feedback from service users and their families in the day to day operation of the business.
- 27.13. On further consideration, the council has decided not to proceed with its proposal to explore alternative incentives to take up direct debits. The council is currently considering a proposal to remove the discount on payments by direct debit and will be consulting on this. It is proposed in this report that a decision on this issue is delegated to the Cabinet Member for Children, Schools and Adult Social Care after consideration of the result of that consultation and issues raised.
- 27.14. People responding to the consultation expressed the concerns that they felt all payments were being “pushed online” making it difficult for those they represent to make payments. They also identified that they felt at greater risk of fraud if this were their only option.
- 27.15. Improving the current direct debit process, and making it fit for purpose will be the priority and it will be in place when the new policy goes live in April.

### **Specify a one off charge of £200 for the council to arrange care for full cost service users assessed for non-residential care excluding alarms**

- 27.16. The council’s intention to charge for arranging care is already stated in the FCP with no costs specified, and has therefore not been implemented. Benchmarking with other authorities has suggested that this is now common practice, with councils charging between £140 and £300 for this service.
- 27.17. The statutory guidance states that this charge must not be prohibitively expensive or more than it costs the council to arrange the services.
- 27.18. Consultation feedback suggests that support for this element was mixed, both in terms of support and the proposed level of the fee. The detailed responses also indicated that an annual fee seemed disproportionate.
- 27.19. Respondents felt that better information should be available for self funders to enable them to arrange their own care if the council wanted to charge them to do it for them. We will review this as part of our wider communications approach which is referenced above.
- 27.20. The council is reviewing the wider offer to support choice and control through direct payments, including the use of virtual wallets and e-market places which would be available to self funders. The development of the

adult social care hubs which will bring information, advice and support together also offers opportunity to increase face to face support for adult social care service users, including on finance and accessing care independently.

- 27.21. On this basis it is proposed that the fee is charged when a new package of care is set up, or where there is a significant change of circumstance such as a new care package needs to be commissioned. This means that existing full cost service users would not be charged unless their circumstances changed.

#### **Review the use of flat rate charges and the use of light touch assessments**

- 27.22. Light touch assessments are where the council the council uses information from the Department for Work and Pensions (DWP) to understand when service users are likely to need to contribute towards their care. Flat rate charges mean that the charges are universally applied outside of the financial assessment process.
- 27.23. If the council were to make the alarm service (which has a fixed and standard cost) chargeable without an assessment or via a light touch assessment this could have significant benefits. Alarm only service users account for 42% of those who currently receive a chargeable service from ASC.
- 27.24. Of those who have been financially assessed 60% have to pay in full. Removing this cohort from the assessment process unless they opt in would remove the need for an assessment for this large cohort but still provide for those with least resources to be assessed.
- 27.25. Consultation feedback agreed with the aim to reduce the burden of unnecessary financial assessments for service users, but found this question confusing.
- 27.26. The use of flat rate charges was considered for those with low cost services such as the alarm. This would have reduced unnecessary paper work for service users and the council. It has been decided not to include this option due to potentially negative impact for those with the lowest incomes and the least ability to pay.
- 27.27. Based on the feedback from the consultation it is proposed to use light touch assessments for those with alarm only services and for those who choose not engage with the financial assessment process.
- 27.28. Service users will retain the right to request a full financial assessment.
- 27.29. This will reduce unnecessary financial assessments, and will safeguard the finances of the least able to contribute towards their care.
- 27.30. Applying "full cost" charges for non engagement in the financial assessment process would remain an option of last resort.

#### **Promote deferred payment agreements (arrangements for charges on property)**

- 27.31. The Care Act statutory guidance outlines the approach that councils should take to recovery of debt including the use of deferred payment agreements (DPAs) to help people plan for the costs related to their care.
- 27.32. The current policy makes reference to DPAs, but requires a more definitive statement on the action that the council will take, to make the process easier to implement and ensure that we are being open, honest and accountable.
- 27.33. Feedback from the consultation suggested that the council's current DPA offer was not user friendly enough and those that had tried to take up this offer were not able to use this facility, or that it was made more difficult than should be expected.
- 27.34. The council is currently refreshing their DPA processes and will provide new guidance and communication materials to promote the use of DPA's where appropriate. This will include a new procedure and communication materials for internal and external stakeholders, and we will involve service users in the development of materials.

#### **Standardise the assessment of disability related expenditure (DRE)**

- 27.35. When assessing how much a person should contribute towards their social care the local authority must take into account DRE required to meet needs not being met by the local authority.
- 27.36. Statutory guidance does not specify what this sum should be but provides information about what costs may be included within the DRE allowance although this information is not exhaustive. . This has led to significant variations in the way these assessments have been approached and led to variations that cannot obviously be justified by reference to need.
- 27.37. A number of local authorities cap or standardise the amount that can be claimed as part of DRE in order to manage this challenge.
- 27.38. Placing a standard value on DRE together with a robust appeals process would remove an area of contention from the current approach to charging and reduce the processing time for financial assessments.
- 27.39. Feedback from the consultation did not suggest an overall preference for this proposal, and it was felt that these assessments should still be considered on a case by case basis.
- 27.40. Those we spoke to asked for additional information about what constituted DRE and felt that the current information available was not sufficient to help those applying and those completing the forms to do so fairly. We have identified this as an area for development as part of our enhanced communication approach working with service users to ensure that this is accessible.
- 27.41. Other local authorities have used a staggered implementation for changes in this area to mitigate the potential impact on service users.
- 27.42. Based on feedback from the consultation and from other local authorities it is proposed that we undertake some targeted communication and

engagement work on eligibility for DRE and that the local authority works towards a process in which claims of DRE in excess of £20 trigger a more detailed review of the allowance claimed and that this process is applied for all those subject to financial assessment from April 2021 onwards.

- 27.43. Any service user affected by the change is entitled to ask the council to review their DRE in order to minimise any impact.

### **Policy implications**

28. The council has reviewed its current charging policy to ensure that it remains fit for purpose. The cabinet member for children, schools and adult care agreed for the council to consult on proposed changes to the existing contributions policy in October 2019.
29. The proposed changes are consistent with the requirements of the Care Act and the supporting secondary legislation and guidance issued by the Department of Health and Social Care.
30. The proposals are designed to modernise the policy and to offer a clear and understandable system for service users. The proposals are underpinned by the principle of equitable treatment across service user groups, and ensuring that those on the lowest incomes do not have to contribute towards the costs of meeting their eligible needs.
31. Fairly and consistently charging for ASC will support the Council Plan commitments to a Residential Care Charter and the building of two nursing homes, by ensuring that service users contribute what they are able.

### **Community impact statement**

32. Section 149 of the Equality Act, sets out the Public Sector Equality Duty (PSED) that 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.
33. The council has conducted an equality impact analysis with regard to the potential impact of the proposals; this is provided at Appendix 3: "Equality and impact analysis – FCP". The key findings of this are summarised in this community impact statement.
34. 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.
35. The proposals will potentially impact on all Adult Social Care users in receipt of services that are not statutorily exempted, those in receipt of care outside a care home in particular those who contribute towards or are assessed to pay for the full cost of their care and those in receipt of additional allowances for disability related expenditure.

36. Each of the protected characteristics has been considered as part of the equality impact analysis. The characteristics are: age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, Pregnancy or Maternity, marriage and civil partnership.
37. People aged 65 or over account for 67% of the service users who have been financially assessed. Our analysis identifies that the changes proposed will affect service users in line with the demographic make up of adult social care users in relation to increases to minimum contributions, and charges to self funders.
38. The change proposed to DRE could have a negative impact on adults with disabilities, as generally, it is adults with the most need that have the highest disability expenditure. People with high levels of disability related expenditure should also be able to access additional "Personal Independence Payments", and income maximisation opportunities will be explored where it appears that additional benefits could be accessed.
39. As identified above, the council's approach will not be implemented until 2021 allowing people time to adjust to the change and the council will make allowances for claims over the trigger point where they can be evidenced and justified.
40. Our analysis does not indicate that the proposed changes disproportionately affect those who have undergone gender reassignment.
41. Our analysis does not indicate that the proposed changes disproportionately affect those who are married or in a civil partnership.
42. Our analysis does not indicate that the proposed changes disproportionately affect those who are pregnant or have given birth in the past 26 weeks.
43. Our analysis of race and ethnicity identifies that in most cases, the impact of the proposed changes are in line with the demographic characteristics of adult social care service users with two exceptions.
44. Those who identify as White are overly represented within those affected by changes to the direct debit discount scheme accounting for 61% of those affected as opposed to 52% of adult social care service users. This is a reflection of the higher proportion of older people affected by the policy.
45. Those who identify as White are over represented when it comes to implementing charges to self funders with 67% of those affected identifying as from this ethnic group. This is a reflection of the higher proportion of older people affected by the policy.
46. Our analysis does not indicate that the proposed changes disproportionately affect those due to their religion, however it is noted that those identifying as Muslim have specific guidelines around money lending in sharia law which may preclude entering into a Deferred Payment Agreement (DPA). DPAs are not mandatory and this will be mitigated by exploring other more suitable options.
47. Our analysis does not indicate that the proposed changes disproportionately affect people due to their sex. The changes that have been proposed are broadly in line with the wider adult social care service user population.

48. Our analysis does not indicate that the proposed changes disproportionately affect people as a result of their sexual orientation.
49. The introduction of light touch financial assessments is expected to lessen the burden on service users to complete a full financial assessment, and is expected to have a positive impact on all service users.
50. For all service users we are aiming to mitigate any impact through:
  - 50.1. Improvements in communications with service users, their representatives and the general public, particularly around the use of deferred payment agreements and financial assessment rules.
  - 50.2. Contacting service users who are negatively affected by the proposals to lessen any impact they may have.
  - 50.3. Providing for appeals and individual adjustments based on service users circumstances.
51. We conclude that although some service users with protected characteristic will be affected by the changes, the council have put in place mitigations which are both fair and proportionate. We do not assess that these proposals give rise to unlawful discrimination, harassment, victimisation and/or fail to advance the equality of opportunity between those who share a protected characteristic and those who do not.

### **Resource implications**

52. The changes that are proposed to the FCP aim to create efficiencies for both service users and the council by making it easier for service users to engage with the council's financial assessment, charging and collections processes.
53. Due to staggering the implementation and the review trigger on Disability Related Expenditure (DRE), it is difficult to quantify the impact of this change. The proposal to stagger the implementation of the changes to DRE within the financial assessment means that the impact of this cannot currently be quantified.
54. The general premise of this work of improving the communications with service users will have a benefit with the timeliness of collection of financial contributions.
55. A wider review of the effective resourcing of the financial assessment, charging and collections is being carried out and will be concluded in the later part of the new financial year, 2020/21. This will enable the council to provide a high quality and responsive service to those who need it.

### **Legal implications**

56. A legal concurrent has been provided by the Director of Law and Democracy.

### **Financial implications**

57. There are financial implications from the changes that are proposed, however

these are not significant.

58. Increasing the no charge rule to £5 will reduce the council's income by circa £8k per year.

### **Consultation**

59. Appendix 2 outlines the methodology and responses to the consultation on the proposed changes. This aimed to target those who could be most affected, those with most interest but also raise general awareness of the changes.
60. The council set out seven proposals for changes to the existing charging policy for adult social care in a consultation document.
61. This was shared through a number of channels which was proportionate to the limited scale of the changes proposed. These channels were:
- i. An online consultation via the council's consultation hub.
  - ii. Invitations to 30 community organisations and advocacy groups to engage.
  - iii. Call to action via Communities Southwark and the Forum for Equalities and Human Rights.
  - iv. Paper questionnaires sent out to community organisations on request.
  - v. An article in Southwark Life, posted to every household in the borough.
  - vi. An open invitation to engage in person or the phone with any interested parties.
  - vii. A public meeting with the Southwark Pensioners Action Group.
  - viii. Letters to service users who would be most directly affected by the changes.
  - ix. Drop in sessions for service users and carers at local day centres.
62. Due to the more limited scope of the new changes, the council did not propose public meetings. After a request from the Southwark Pensioners Action Group a meeting was held with their service users and staff. This meeting was held on Friday 10 January 2020.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

#### **Head of Procurement**

63. Not applicable.

#### **Director of Law and Democracy**

64. 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 'Fairer Contributions Policy' and to delegate a decision concerning the future of the direct debit discount scheme to the cabinet member for children, school

and adult care following a further consultation exercise.

65. The background to this report is a 12 week consultation on 'Supporting Sustainable Social Care' between 25 October 2019 and 17 January 2020.

### **Legislative Framework**

66. Section 14 of the Care Act 2014 permits a local authority to make reasonable charges for social care services. The power to charge 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 in relation to charging for services provided outside of a care home 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 te 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 losing capacity in a way that considers what capacity remains and their rights.
- b) 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**

67. For effective consultation to take place there are six requirements:
- i. Consultation must be conducted when the proposals are at a formative

stage.

- ii. The decision maker must give sufficient reasons for its proposals to permit intelligent consideration and response.
  - iii. Adequate time must be given for consideration and response.
  - iv. The product of consultation must be conscientiously taken into account before making the relevant decision.
  - v. 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.
  - vi. 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.
68. 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.
69. The report outlines at paragraphs 59 – 62 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 25 October 2019 and closing on 17 January 2020. Guidance indicates that a 12 week consultation period is generally good practice.

### **Equalities Duties**

70. 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:
- i. Eliminate discrimination, harassment, victimisation or other prohibited conduct.
  - ii. 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.
  - iii. Foster good relations between those who share a relevant characteristic and those who do not.
71. 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 32 to 51. 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 Governance [68DK2019-20]

72. The strategic director notes the contents of this report and in particular the comments in paragraphs 61 to 63 (Financial implications). In short the financial implications are an estimate, but expected to be very small.

### Other officers

73. Not applicable.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Care Act 2014 Statutory guidance	Children's and Adult's Services, Adult social Care, 160 Tooley Street SE1 2QH	George Roscoe 020 7525 3552
<b>Link:</b> <a href="https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance">https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance</a>		
Adult Social Care, Fairer Contributions Policy – Outcomes of Consultation Exercise and Implementation	Children's and Adult's Services, Adult social Care, 160 Tooley Street SE1 2QH	George Roscoe 020 7525 3552
<b>Link (please copy and paste into your browser):</b> <a href="http://moderngov.southwark.gov.uk/documents/s56556/Report%20Fairer%20Contributions%20Policy.pdf">http://moderngov.southwark.gov.uk/documents/s56556/Report%20Fairer%20Contributions%20Policy.pdf</a>		
Adult Social Care, Fairer Contributions Policy	Children's and Adult's Services, Adult social Care, 160 Tooley Street SE1 2QH	George Roscoe 020 7525 3552

## APPENDICES

No.	Title
Appendix 1	Proposed FCP
Appendix 2	Consultation report
Appendix 3	Equalities Impact Analysis

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Jasmine Ali, Children, Schools and Adult Care	
<b>Lead Officer</b>	David Quirke-Thornton, Strategic Director for Children's and Adults' Services	
<b>Report Author</b>	George Roscoe, Service Manager, Adult Social Care Directorate	
<b>Version</b>	Final	
<b>Dated</b>	11 March 2020	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>		11 March 2020