

<b>Item No.</b> 16.	<b>Classification:</b> Open	<b>Date:</b> 12 September 2023	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Response to Health and Social Care Scrutiny Review: Care Contributions	
<b>Ward(s) or groups affected:</b>		All	
<b>Cabinet Member:</b>		Councillor Evelyn Akoto, Health and Wellbeing	

## **FOREWORD - COUNCILLOR EVELYN AKOTO, CABINET MEMBER FOR HEALTH AND WELLBEING**

The number of people requiring support to manage their social care needs is increasing year on year and the financial cost of meeting the social care needs of residents continues to rise.

The council spends close to £142m on adult social care. The council receives £9.4m in means-tested contributions from 35% of residents in receipt of care and support, who have been deemed liable for contributions under the council's Fairer Contributions policy. Whilst we wish adult social care was funded from general taxation, like the NHS, sadly it isn't, and the gap between what the council receives from Government and what it costs to provide safe, high quality care and support is significant.

This means the council has had to use adult social care precept powers and means-tested charging powers to cover the gap in Government grant. The fact that 65% of our residents in receipt of care and support pay NIL contributions towards their care demonstrates that we take means-testing seriously and are committed to ensuring residents have sufficient funds via Minimum Income Guarantee (MIG) and that disability related costs are disregarded as part of means-testing.

The 35% of residents in receipt of care and support who do make contributions towards their care costs have been means-tested and they have sufficient income, savings and assets to do so. The Government reforms which were due to be introduced in 2023 have been delayed, again, until 2025 and we await the detail from Government to fully understand what their reforms will mean for our residents. In the interim, we are committed to being ethical and fair in our approach, and to supporting our residents as best we can.

The responses to the five recommendations made by the Health and Social Care Scrutiny Commission to cabinet on 13 June 2023, are listed in paragraphs 17-29 of this report are consistent with Southwark Council's Fairer Contributions Policy.

## **RECOMMENDATION**

1. That the Cabinet note the response of the Lead Member to the recommendations of the Health and Social Care Scrutiny Commission cabinet report, 13 June 2023 in paragraphs 17-29 of this report.

## **BACKGROUND INFORMATION**

2. Local authorities provide and fund adult social care services under the Care Act 2014. Section 9 of the Care Act 2014 provides local authorities with a duty to complete an “assessment of an adult’s needs for care and support” and Section 14 of the Care Act gives local authorities a power “to make a charge for meeting needs”.
3. Southwark Council adopted a Fairer Contributions Policy in 2015, which outlines the way the Council uses the powers granted to local authorities under the Care Act 2014 to financially assess recipients of social care services. The Fairer Contributions Policy was further reviewed in 2021.
4. The principle of fairer contributions is that all services, with the exception of reablement services and services provided to people subject to Section 117 of the Mental Health Act 1983 or to people experiencing Creutzfeldt-Jakob disease (CJD), are included within a “personal budget” calculation. This means that previously ‘flat-rate’ charged services (such as a day centre, and respite care) are now included within the personal budget and not charged separately.
5. A financial assessment is undertaken to determine the ability of the client to contribute towards the cost. The financial assessment of a person’s circumstances review the income, capital and savings of those receiving support in the community and in care placements.
6. The Health and Social Care Scrutiny Commission is a sub-committee of the Overview and Scrutiny Committee. It was established in July 2021 to examine and monitor the performance of services provided by the council and other agencies in matters regarding health and social care. In addition to examining matters regarding the council, the Commission’s responsibilities include the local NHS and health provision in Southwark.
7. The Health and Social Care Scrutiny Commission undertook a review of the Council’s policies towards charging for services for people with disabilities and presented a report to Cabinet on 13 June 2023. The report’s recommendations were as follows:

**Recommendation 1**

“Raise the Minimum Income Guarantee by increasing the Government mandated buffer of 25% with an additional local buffer of 25%, to make a total of 50%. In addition it is recommended that officers produce an impact assessment to understand the cost to the council and benefit to disabled people and carers”.

**Recommendation 2**

“To explore, as part of this year’s budget process, the removal of disabled adults from the assessment for Care Contributions”.

**Recommendation 3**

“Provide better information, advice and support to enable disabled people and carers to understand care contributions generally, and their right to have adequate Disability Related Expenditure taken into account in financial assessments. This ought to include a variety of engagement approaches including outreach, information on websites, and leaflets”.

**Recommendation 4**

“Take steps to reduce the adverse impact of Care Contributions on the incomes of people reaching pension age, both disabled people and their carers. In particular take action to mitigate the steep increases that can be incurred once a) a disabled person reaches pension age and their employment related pension becomes assessed b) carers facing reductions in income as they reach pension age and lose Care Allowances and income from paid work”.

**Recommendation 5**

“Cabinet revisit the Fairer Contributions Policy Cabinet agreed in 2015, and revised in 2020, and report back to the Commission on the outcome”.

8. At its meeting on 13 June 2023, Cabinet was resolved that:
  - I. *That the recommendations of the Health and Social Care Scrutiny Commission: care contributions scrutiny review report, Appendix A, as set out on Page 3 of the report be noted.*
  - II. *That the recommendations from the commission be considered and that the relevant cabinet member reports to cabinet on the recommendations, as set out in the report.*
  - III. *That it be noted that overview and scrutiny procedure rule 15.3 requires Cabinet to consider and provide a written response to the report within two months.*
  - IV. *That it be noted that it is for cabinet to decide whether or not to accept the Scrutiny Commission’s recommendation.*

## KEY ISSUES FOR CONSIDERATION

9. The number of people requiring support to manage their social care needs is increasing year on year. The financial cost for local authorities to meet the social care needs of their residents continues to increase. These cost increases locally have been exacerbated by the increase in the London Living Wage and the rate of inflation experienced in both 2022-23 and 2023-24.
10. Southwark council is proudly a member of the Ethical Care Charter and is committed to ensuring that carers are paid at least the London Living Wage.
11. The council spends close to £142m on adult social care and in 2022-23 raised £9.4m in client contributions income. Were the Council not to receive this income, it would have a direct impact on the affordability of services which have been assessed as necessary to meet need, and to ensure safe, high quality care and support for our most vulnerable residents. In 2021/2022, Southwark council raised 6.1% income from client contributions as a proportion of gross expenditure on Adult Social Care, in comparisons to 9.3% as the London average and 11.9% for the national average for England. (See Appendix 1)
12. In Southwark, 35% of people in receipt of statutory adult social care services have been assessed as liable for a contribution towards the cost of their care and support. The mean average charge for community care services is £16 per week, and the mean average charge for residential care services is £212 per week. The average cost of a residential placement for an older person is £960 per week.
13. To ensure that the council can meet the needs of adults who are eligible to receive statutory support, the Adult Social Care Directorate works with individuals to identify what their needs are, how they would like their needs met, and how much if anything, they can afford to contribute towards the costs their care. In order to determine whether the adult is able to make a contribution towards their care costs, a financial assessment is undertaken.
14. Following their financial assessment, the adult is left with sufficient funds (the Minimum Income Guarantee MIG) to meet their housing (rent, council tax etc.), and other basic needs, such as food, and utility costs. Minimum Income Guarantee (MIG) thresholds are set by Government but local authorities are able to set higher MIGs if they wish. The council reviews its MIG figure at least annually to ensure that any adjustments to the nationally set MIG are reflected in the Council's practices. The UK Government has raised the rates of the MIG in response to inflation for this financial year 2023 to 2024.
15. The council reviews the person's income and savings, but will also consider whether the person is encountering "Disability Related Expenditure (DRE)". The person's "Disability Related Expenditure" will be deducted from the person's maximum ability to pay and the Council must ensure that each

person has a Minimum Income Guarantee [MIG]. This ensures that the person has sufficient funds available to meet their daily needs.

16. Southwark council is a member of the National Association of Financial Assessment Officers and follows its national guidelines when it comes to the assessment and application of disability related expenditure. In doing so, the council considers a broad range of expenses in the context of disability related expenditure and are open to exploring expenses outside of national guidelines, which are unique to a person's needs and disabilities.
17. To view comparisons with other Local Authorities, Disability Related Expenditure (DRE), disregards, please see Appendix 2, which is an extract from analysis of Freedom of Information requests, undertaken by Inclusion London, referred to as the Barnet Analysis.
18. The UK Government's, Adult Social Care Charging Reforms scheduled for October 2023 have been delayed until 2025. Under the reforms many more residents will be eligible for council support towards the cost of their care, with the proposed upper limit in savings being lifted to £100k from £23k. These reforms will likely bring an increase in the number of residents who have previously, or would otherwise, meet the full cost of their care, seeking to have social care and associated financial assessments. This will further increase the council's spend on adult social care.

### **Response to recommendation 1**

19. Whilst the council recognises the financial pressures being faced by residents, means-tested contributions are a central part of the funding model for adult social care delivery in England so any increase in the MIG would lead to a reduction in the income received by the council to fund adult social care services. To increase the MIG by 50 per cent would result in an approximate reduction in the Adult Social Care Directorate's budget of £3 million. Given the budget impact, any change to the council's MIG would need to be considered through the council's Policy and Resources Strategy process, which is being developed for the next three years in the context of continuing pressures on council budgets.
20. The Adult Social Care Charging Reforms, which are now planned for 2025, will see an increase in the number of residents requesting contributions from the Council to adult social care services. Therefore, any proposed changes to the MIG, should be considered in the context of UK Government reforms, when the detail of these reforms become available and the impact can be fully assessed.
21. To support residents facing financial pressures, the council continues to support residents to maximise benefit income. The council's "Local Support" team provides support to residents with benefit applications, including benefits that are allocated to fund care and travel.

## **Response to recommendation 2**

22. The council provides social care services to adults with a range of needs, from mental health needs, adults with learning disabilities, adults with physical disabilities and to older adults.
23. The council assesses adults on the basis of their needs and aims to ensure equal access to council resources for all adult social care service users. Similarly, trained officers financially assess adults in a fair and transparent way by ensuring that all service users are assessed on their levels of income, savings and assets.
24. The impact of removing care contributions from disabled adults would not be fair, ethical or legal. The Council would be considered discriminatory if it prioritised financial support to one cohort of adult social care users over another and would be at risk of legal challenge.

## **Response to recommendation 3**

25. Yes, it is accepted that the communication with service users and families in regards to the financial assessments process has not been as clear as it might have been. This is in partly due to the complexity and changing eligibility criteria of the welfare benefits system. Adult social care has upgraded and improved the pages relating to financial assessments on the council's website and the Adult Social Care Directorate has updated information online and in print.
26. The council has produced refreshed guidance leaflets, explaining the financial assessment process and is providing in-person consultations to services users and their carers. Copies of Southwark's leaflets can be found in Appendices 3 to 5 of the report.
27. As part of this review, the council has introduced a new online financial assessment calculator and assessment form. The online financial assessment calculator enables service users and their carers to understand their possible care contributions based on their unique circumstances. <https://southwark.mycostofcare.com/OFA/>
28. The council is working with local voluntary and community sector organisations to help increase the understanding of adult social care contributions. For example, officers met with staff at Bede Café to provide information about the contributions process and has subsequently met with service users and family carers to provide advice and support with person-centered and accurate completion of financial assessments.
29. In-person support for financial assessments is now offered on a fortnightly basis at the council's offices at Queens Road, which once embedded, will be advertised widely. Since undertaking this work carers have reported feeling far more confident and reassured about the financial process.

#### **Response to recommendation 4**

30. The Government sets different rates of Minimum Income Guarantee (MIG), dependent on age, entitlements and calculated needs. Further details of how this is calculated can be found in Appendix 6 of the report.
31. The council considers it to be fair that if a service-users' income increases then they have their client contributions reassessed to ensure that those with higher incomes contribute more. This approach is also followed if a client's income decreases.
32. The Department of Work and Pensions varies benefit entitlement in the context that claimants will need to fund elements of their care. Therefore it is important that service users who are concerned that assessed contributions will place them in financial difficulty, are encouraged to contact the council so that they can be supported to obtain their maximum benefit entitlement.

#### **Response to recommendation 5**

33. The council welcomes this recommendation and agrees to work with stakeholders, service users and carers on any future review of the Council's Fairer Contributions Policy. The council engages widely on policies in this area and will continue to do so.

#### **Policy framework implications**

34. Southwark Council adopted a Fairer Contributions Policy in 2015, which outlines the way the Council uses the powers granted to local authorities under the Care Act 2014 to financially assess recipients of social care services. The Fairer Contributions Policy was further reviewed in 2021.
35. The responses to the five recommendations made by the Health and Social Care Scrutiny Commission to Cabinet on 13 June 2023, are listed above and are consistent with Southwark Council's Fairer Contributions Policy.

#### **Community, equalities (including socio-economic) and health impacts**

##### **Community impact statement**

36. Section 149 of the Equalities Act 2010 lays out the Public Sector Equality Duty (PSED) which requires public bodies to consider all individuals when carry out their day to day work - shaping policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. The council's Approach to Equality commits the council to ensuring that equality is an integral part of our day to day business.

37. The Equalities Act 2010 defines the following as protective: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race religion or believe and sex and sexual orientation,
38. Adult Social Care works closely with all relevant stakeholders and partners across the sector and collectively are committed to upholding the responsibilities towards advocating the PSED and complying with the Equalities Act 2010.

#### **Equalities (including socio-economic) impact statement**

39. It is acknowledged that there is a disproportionate (unequal) impact on the health of those who have a lower socio-economic status and often for those who have a social care need. Through all of our work, we aim to achieve equality of outcomes for those supported by Adult Social Care.

#### **Health impact statement**

40. Adult Social Care works closely with the NHS and Public Health colleagues to roll out initiatives and campaigns that relate to vulnerable adults.

#### **Climate change implications**

41. There are no climate change implications for consideration.

#### **Resource implications**

42. The number of people requiring support for their social care needs is increasing year on year. The financial cost for Local Authorities to meet the social care needs of their residents continues to increase. These rising costs have been exacerbated locally by the increase in the London Living Wage and the rate of inflation in 2022-23 and 2023-24.

#### **Legal implications**

43. There are no legal implications for consideration.

#### **Financial implications**

44. There are no financial implications for consideration.

#### **Consultation**

45. There were no consultation matters for consideration.

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

46. No supplementary advice from other officers were required.



## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Cabinet Agenda and Minutes dated 13 June 2023 see Item 16 Report of the Health and Social Care Scrutiny - Care Contributions	Adult Social Care Directorate 4 <sup>th</sup> Floor 160 Tooley Street, London, SE1 2QH	Pauline O'Hare 020 7525 0582
<b>Link (copy and paste into browser):</b> <a href="https://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=7676&amp;Ver=4">https://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=7676&amp;Ver=4</a>		
Southwark's Health and Social Care Scrutiny Commission	Adult Social Care Directorate 4 <sup>th</sup> Floor 160 Tooley Street, London, SE1 2QH	Pauline O'Hare 020 7525 0582
<b>Link:</b> <a href="https://moderngov.southwark.gov.uk/mgCommitteeDetails.aspx?ID=519">https://moderngov.southwark.gov.uk/mgCommitteeDetails.aspx?ID=519</a>		
Care Act 2014	Adult Social Care Directorate 4 <sup>th</sup> Floor 160 Tooley Street, London, SE1 2QH	Pauline O'Hare 020 7525 0582
<b>Link:</b> <a href="https://www.legislation.gov.uk/ukpga/2014/23/contents/enacted">https://www.legislation.gov.uk/ukpga/2014/23/contents/enacted</a>		
Mental Health Act 1983	Adult Social Care Directorate 4 <sup>th</sup> Floor 160 Tooley Street, London, SE1 2QH	Pauline O'Hare 020 7525 0582
<b>Link:</b> <a href="https://www.legislation.gov.uk/ukpga/1983/20/contents">https://www.legislation.gov.uk/ukpga/1983/20/contents</a>		
Creutzfeldt-Jakob disease (CJD)	Adult Social Care Directorate 4 <sup>th</sup> Floor 160 Tooley Street, London, SE1 2QH	Pauline O'Hare 020 7525 0582
<b>Link:</b> <a href="https://www.nhs.uk/conditions/creutzfeldt-jakob-disease-cjd/">https://www.nhs.uk/conditions/creutzfeldt-jakob-disease-cjd/</a>		
Personal budget calculation	Adult Social Care Directorate 4 <sup>th</sup> Floor 160 Tooley Street, London, SE1 2QH	Pauline O'Hare 020 7525 0582

Background Papers	Held At	Contact
<b>Link (copy and paste into browser):</b> <a href="https://www.nhs.uk/conditions/social-care-and-support-guide/money-work-and-benefits/personal-budgets/">https://www.nhs.uk/conditions/social-care-and-support-guide/money-work-and-benefits/personal-budgets/</a>		
Financial Assessment (means tested) for social care	Adult Social Care Directorate 4 <sup>th</sup> Floor 160 Tooley Street, London, SE1 2QH	Pauline O'Hare 020 7525 0582
<b>Link (copy and paste into browser):</b> <a href="https://www.nhs.uk/conditions/social-care-and-support-guide/help-from-social-services-and-charities/financial-assessment-means-test/">https://www.nhs.uk/conditions/social-care-and-support-guide/help-from-social-services-and-charities/financial-assessment-means-test/</a>		
London Living Wage	Adult Social Care Directorate 4 <sup>th</sup> Floor 160 Tooley Street, London, SE1 2QH	Pauline O'Hare 020 7525 0582
<b>Link:</b> <a href="https://www.gov.uk/national-minimum-wage-rates">https://www.gov.uk/national-minimum-wage-rates</a>		
Southwark's Ethical Care Charter	Adult Social Care Directorate 4 <sup>th</sup> Floor 160 Tooley Street, London, SE1 2QH	Pauline O'Hare 020 7525 0582
<b>Link (copy and paste into browser):</b> <a href="https://moderngov.southwark.gov.uk/documents/s52528/Appendix%201%20Southwark%20Ethical%20Care%20Charter.pdf">https://moderngov.southwark.gov.uk/documents/s52528/Appendix%201%20Southwark%20Ethical%20Care%20Charter.pdf</a>		
Disability Rated Expenditure (DRE)	Adult Social Care Directorate 4 <sup>th</sup> Floor 160 Tooley Street, London, SE1 2QH	Pauline O'Hare 020 7525 0582
<b>Link:</b> <a href="https://www.gov.uk/financial-help-disabled">https://www.gov.uk/financial-help-disabled</a>		
National Association of Financial Assessment Officers	Adult Social Care Directorate 4 <sup>th</sup> Floor 160 Tooley Street, London, SE1 2QH	Pauline O'Hare 020 7525 0582
<b>Link:</b> <a href="https://www.nafao.org.uk/">https://www.nafao.org.uk/</a>		

Background Papers	Held At	Contact
Adult Social Care Charging Reforms	Adult Social Care Directorate 4 <sup>th</sup> Floor 160 Tooley Street, London, SE1 2QH	Pauline O'Hare 020 7525 0582
<b>Link (copy and paste into browser):</b> <a href="https://www.gov.uk/government/consultations/adult-social-care-charging-reform-distribution-of-funding-2023-to-2024">https://www.gov.uk/government/consultations/adult-social-care-charging-reform-distribution-of-funding-2023-to-2024</a>		
Southwark's Policy and Resources Strategy	Adult Social Care Directorate 4 <sup>th</sup> Floor 160 Tooley Street, London, SE1 2QH	Pauline O'Hare 020 7525 0582
<b>Link (copy and paste into browser):</b> <a href="https://moderngov.southwark.gov.uk/mgDelegatedDecisions.aspx?XXR=0&amp;&amp;DR=22%2f08%2f2008-22%2f08%2f2023&amp;ACT=Find&amp;RP=0&amp;K=0&amp;V=0&amp;DM=0&amp;HD=0&amp;DS=0&amp;Next=true&amp;T=9227822&amp;NOW=22082023112937&amp;META=mgdelegateddecisions">https://moderngov.southwark.gov.uk/mgDelegatedDecisions.aspx?XXR=0&amp;&amp;DR=22%2f08%2f2008-22%2f08%2f2023&amp;ACT=Find&amp;RP=0&amp;K=0&amp;V=0&amp;DM=0&amp;HD=0&amp;DS=0&amp;Next=true&amp;T=9227822&amp;NOW=22082023112937&amp;META=mgdelegateddecisions</a>		
Southwark's Local Support	Adult Social Care Directorate 4 <sup>th</sup> Floor 160 Tooley Street, London, SE1 2QH	Pauline O'Hare 020 7525 0582
<b>Link:</b> <a href="https://myforms.southwark.gov.uk/localsupport/launch">https://myforms.southwark.gov.uk/localsupport/launch</a>		
See For Yourself - Contribution Calculator	Adult Social Care Directorate 4 <sup>th</sup> Floor 160 Tooley Street, London, SE1 2QH	Pauline O'Hare 020 7525 0582
<b>Link:</b> <a href="https://southwark.mycostofcare.com/OFA/">https://southwark.mycostofcare.com/OFA/</a>		
Bede Café	Adult Social Care Directorate 4 <sup>th</sup> Floor 160 Tooley Street, London, SE1 2QH	Pauline O'Hare 020 7525 0582
<b>Link:</b> <a href="https://bedehouse.org.uk/programmes/learning-disabilities/">https://bedehouse.org.uk/programmes/learning-disabilities/</a>		
Department of Work and Pensions	Adult Social Care Directorate 4 <sup>th</sup> Floor	Pauline O'Hare 020 7525 0582

Background Papers	Held At	Contact
	160 Tooley Street, London, SE1 2QH	
<b>Link:</b> <a href="https://www.gov.uk/government/organisations/department-for-work-pensions">https://www.gov.uk/government/organisations/department-for-work-pensions</a>		
Equalities Act 2010	Adult Social Care Directorate 4 <sup>th</sup> Floor 160 Tooley Street, London, SE1 2QH	Pauline O'Hare 020 7525 0582
<b>Link:</b> <a href="https://www.legislation.gov.uk/ukpga/2010/15/contents">https://www.legislation.gov.uk/ukpga/2010/15/contents</a>		
Public Sector Equality Duty	Adult Social Care Directorate 4 <sup>th</sup> Floor 160 Tooley Street, London, SE1 2QH	Pauline O'Hare 020 7525 0582
<b>Link (copy and paste into browser):</b> <a href="https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty">https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty</a>		

## APPENDICES

No.	Title
Appendix 1	Care contributions as a percentage of gross expenditure – Greater London ADASS comparison
Appendix 2	Local Authorities which allow Disability Related Expenditure (DRE) Disregards (Barnet Analysis)
Appendix 3	Charging and paying for your social care – Non-Residential Care
Appendix 4	Charging and paying for your social Care – Residential Care
Appendix 5	Paying for your care and support (Easy Read)
Appendix 6	Minimum Income Guarantee

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Evelyn Akoto, Health and Wellbeing	
<b>Lead Officer</b>	David Quirke-Thornton, Strategic Director of Children and Adult Services	
<b>Report Author</b>	Pauline O'Hare, Director of Adult Social Care	
<b>Version</b>	Final	
<b>Dated</b>	31 August 2023	
<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>
Assistant Chief Executive – Governance and Assurance	No	No
Strategic Director of Finance	No	No
List other officers here	N/a	N/a
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>		31 August 2023