RECOMMENDATION

Note the proposed implementation of new Fairer Charging and Contribution policies which will be submitted to Cabinet for a final decision on implementation, following a 12 week period of consultation. The results of the consultation will be fed back to the Commission for comment.

Summary

As part of the development of Self Directed Support and under Department of Health guidance all Councils are required to Implement a “Fairer Contribution” Policy for care and support provided following a twelve-week consultation period. All contributions under the policy should be based on each Council’s existing “Fairer Charging Policy”. The Council’s existing “Fairer Charging” Policy has been amended slightly to meet the requirements of the proposed “Fairer Contribution” Policy and should form part of the consultation.

The significant issues in the report are:

- The Council must implement a Fairer Contribution and Fairer Charging Policy under statutory guidance from the DoH.
- The final policy will take account of the outcome of the consultation process.
- Service unit based charging is replaced by contributions towards the full cost of care and support.
• All service users will be eligible for payment of a contribution subject to financial assessment of ability to pay.

• Services and support which have been free will become chargeable.

• The proposals are unlikely to be universally popular.

• There is an imperative to raise additional income in the current economic climate to both preserve and develop services.

• Carers services will not be chargeable.

• Consultation will assist in defining the final shape of the policy.

Policy

1. The proposed Policies will replace the existing Health and Social Security “Fairer Charging” Policy.

Consultation

The executive Member for HSC agreed to the 12 week consultation process at the briefing on 22 June 2010. The consultation methodology was subject to a further Executive Member briefing on 6 July 2010.

Copies attached as Appendix D & E.

2. Internal

It is intended to fully consult with all internal people affected by the change. This will involve members, Officers and any other Directorates who may be affected by the changes.

3. External

Consultation will take place during the required twelve week period with all service user groups, their representatives, carers, representative and other interest groups. A full list is contained in Appendix E.

Context
4. The Council has to implement a Fairer Contribution Policy under statutory guidance from the Department of Health (DoH). The existing Fairer Charging Policy has to be amended to remain consistent with the new Contribution Policy.

5. The proposed policy is consistent with models being developed by other Authorities.

6. The proposal replaces a service unit based charging system, with a system based on a contribution towards the full cost of care and support packages.

7. Under the proposed policy all service users become eligible for payment of a contribution subject to financial assessment of ability to pay.

8. Under the proposed policy people will be charged for services and support which have previously been free of charge which was neither fair nor equitable. This situation has been used as a device, in some instances, to help people avoid the payment of charges.

9. The proposals are unlikely to be universally popular but there is a need to demonstrate fairness and equity in policies for all groups and also an imperative to raise additional income in the current economic climate to both preserve and develop services.

10. Carers have not been previously charged and this will continue. Some local authorities are considering introducing charges for carers.

11. Consultation will define the final shape of the policy and this is an obligatory requirement in the DoH guidance for a period of not less than twelve weeks in the public domain.

12. It is unlikely that any service users will be better off as a consequence of the proposed policy. Those already financially assessed will suffer no detriment although this will be reviewed at the next annual financial review they receive.

13. Full cost payers will potentially be worse off by £3.55 per hour the difference between the full rate and the current charge of £12.88 per hour for home care.

14. Some 629 Carers and Recipients of Community based services such as Day Care will be the worst affected group, as they do not pay charges at present. Again following consultation the question of transitional protection for these clients may need to be considered.
15. Statistics attached for current chargeable cases as Appendix A.

Proposal

16. Following the analysis of the consultation returns and feedback the Policies will be amended as necessary to reflect the outcomes. The Policies will then be submitted to Cabinet on 25 November 2010 for a decision.

Other Options Considered

17. The policies have been drafted taking account of work done and alternatives shared by other Local Authorities, the South West Region and various Working Groups established to determine best practice in relation to the development of systems for Self Directed Support. The Department of Health Guidance underpins the drafts and the membership of the National Association of Financial Assessment Officers has also provided considerable guidance on the best options.

Risk Assessment

18. The Authority is required to implement a Contribution Policy under Statutory Guidance provided by the Department of Health. Taking no action is not an option. A full risk and impact assessment will be developed as part of the consultation process for eventual submission to Cabinet.

Equalities Impact Assessment

19. A full equalities impact assessment will be undertaken as part of the consultation exercise, again for eventual submission to Cabinet. The Equalities Team and Legal Services will be fully engaged in this process.

Environmental checklist - see attached

Legal and Resource Implications

Legal

Section 17 Health and Social Services and Social Security Adjudications Act 1983(HASSASSA) gives local authorities the discretion to charge service users for non residential community care services. Charges must be at a rate that the authority considers reasonable and the authority must not require a service user to pay more than it appears reasonably practicable for them to pay. Section 17(3) gives service users the right to ask an authority for a review of an assessed charge if the service user considers that he/she has
insufficient means for it to be reasonably practicable to pay the assessed charge.

Policy guidance entitled Fairer Charging Policies for Home Care and Other Non Residential Social Services (the Fairer Charging guidance) was issued in November 2001 with further guidance entitled Fairer Contributions Guidance issued in July 2009. Both sets of guidance were issued under section 7 of the Local Authority Social Services Act 1970 and therefore should be followed unless a local authority gives clear and adequate reasons for its decision not to. Any departure from the guidance must be as limited as possible.

A local authority must consult with service users before making substantial changes to its charging policy (R (on the application of Carton and Larrad) v Coventry City Council (2001). The Fairer Charging guidance provides that where charging policies would result in significant increases in charges for some users this should be specifically explained and considered as part of the consultation. The 2009 guidance requires consultation on amendments to the charging policy resulting from the new guidance.

Local authorities have a legal duty to have due regard to the need to:

- Eliminate unlawful gender and race discrimination and harassment
- Promote equality and opportunity between men and women and for persons of different races
- Promote good relations between racial groups

Section 49A Disability Discrimination Act 1995 requires that every public authority in carrying out all its functions must have *due regard* to:-

- the need to eliminate unlawful disability discrimination;
- the need to eliminate disability related harassment of disabled persons;
- the need to promote equality of opportunity for disabled people;
- the need to take steps to take account of disabled persons disabilities, even where that involves treating them more favourably;
- the need to promote positive attitudes towards disabled people; and
- the need to encourage participation by disabled people in public life.

Two recent cases have held that Councillors taking decisions must
have more than a general awareness of the duty, instead the duty must be “exercised in substance, with rigour and an open mind.”

The Fairer Contributions guidance draws council’s attention to their statutory duty to undertake and have due regard to an equality impact assessment and to involve disabled people in creating an accessible contributions assessment process.

The Fairer Contribution guidance requires local authorities to assess the potential implications for service users and carers to ensure that, where appropriate transitional measures can be put in place to mitigate the impact of any extreme changes.

Sarah Sharland, Senior Solicitor

Financial

(a) Revenue

- Current income from charges for home care is £3.8m.
- The medium term financial plan requires an additional £300k to be collected from a revised charging policy during 2010/11.
- The new charging and contribution policies are expected to bring an additional 1,000 service users into charging and may generate in the region of £1m in charge income.

(b) Capital

None

Land
None

Personnel
None

Appendices:

A. Current Charging Statistics
B. Department Of Health Guidance on fairer Contributions
C. Department of Health Guidance on Fairer Contributions (Easy Read)
LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
Background Papers:

- Charging for Residential Accommodation Guidance (updated annually)
- Fairer Charging Policies for Home Care and other Non Residential Services – Guidance for Councils with Social Services Responsibilities (September 2003)
- D oH Fairer Contributions Guidance (July 2009)
- Charging for Residential Accommodation Leaflet HSC 37 (April 2009)
- Charging for Non Residential Services Leaflet HSC 42 (April 2009)
- Section 22 – National Assistance Act 1948
- Section 17 Health and Social Services and Social Security Adjudications Act 1983.
### Analysis Relating to Proposed Charging Policy - June 2010.

<p>| | | | | | | | | | | | |</p>
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<thead>
<tr>
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<td>99.72</td>
<td>22</td>
<td>15</td>
<td>96</td>
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Notes:
- Assessed are clients who have received a financial assessment with a positive contribution outcome.
- Zero assessment are clients who have been financially assessed at a zero contribution because they only have low income, benefits only or disability related allowances.
- Full cost payers are required to pay the full cost of the services provided.
- Exemptions apply to Continuing Health Care, Section 117 Services and ILF Recipients.
- 67 Carers Assessments and 562 Community Support Services are not currently chargeable and will be brought into charging under the new policy.

It is unlikely that anybody will be better off under the new charging policy.

Financially Assessed and Zero assessed clients should suffer no detriment but Full Charge Payers will face small increases in their charges.

Carers and Community Support Recipients have not been charged previously and will be the worst off if the proposals are agreed. Using current profiles it is likely that the following will occur with the 629 Carers and Community Support recipients:

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<th>Amount</th>
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<td>Assessed</td>
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<td>46.20 per week</td>
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<td>As zero</td>
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<td>Exempt from charge</td>
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Fairer Contributions Guidance

Calculating an Individual’s Contribution to their Personal Budget
This document provides guidance for councils in England to use when determining what contribution, if any, a person receiving a personal budget should make towards it. It supplements the Fairer Charging Guidance issued in 2003.
Fairer Contributions Guidance

Calculating an Individual’s Contribution to their Personal Budget

Prepared by The Department of Health

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http://www.dh.gov.uk/publications
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Fairer Contributions Guidance
Calculating an Individual’s Contribution to their Personal Budget

Introduction

This guidance is issued under section 7 of the Local Authority Social Services Act 1970.

Councils offering personal budgets are expected to implement this guidance at the latest by March 2010.

The introduction of personal budgets is an integral part of the transformation of adult social care systems.

A personal budget is an upfront allocation of social care resources to a person who is eligible for support. Following an assessment of their need for non-residential social services (“needs assessment”), a person who the council consider eligible for support will be allocated an amount of money necessary to meet their needs.

Following the needs assessment and calculation of how much the personal budget might be (the indicative amount), the council will undertake an assessment of the person’s financial circumstances in accordance with the guidance on Fairer Charging Policies for Home Care and other non-residential Social Services (the Fairer Charging Guidance) issued in 2003. The council will also work out what the person’s maximum contribution would be in accordance with the Fairer Contributions guidance. If the financial assessment shows that the person has enough income or savings to contribute to their personal budget, the council will tell them what the actual contribution might be, which will be the lower of the maximum contribution and the available income based on the financial assessment.

A care plan or support plan will then be prepared, setting out how the person wants their needs to be met using their personal budget. They may ask the council to arrange all the care and support they need to meet their needs or they may ask the council to let them have the whole amount of the personal budget paid to them as a direct payment. Alternatively, they might decide to have a mixture of the two with some services arranged by the council and some of the personal budget paid as a direct payment. Once the support plan has been completed the
council will confirm the amount of any actual contribution that the budget holder may be required to make.

This guidance sets out how a person’s contribution, if any, to their personal budget might be calculated.

Councils may wish to continue to require people who have savings above the Charging for Residential Accommodation Guidance (CRAG) higher threshold to pay the full cost of any services they receive. Councils are reminded that people who can fund their own care are still entitled to an assessment of their needs. These people who are eligible for social services and who as a result of the financial assessment will meet the full costs of their care, are still entitled to help in making appropriate care arrangements. People who do not meet the eligibility criteria should expect appropriate signposting to alternative sources of support. Where councils do not offer direct help following assessment, they should be prepared to provide individuals with useful information and advice about other sources of support, including universal and open-access services, where appropriate.

1. Background

1.1 The Fairer Charging guidance was designed for an era of traditional local authority social care provision where people received services arranged by a local authority. However, with increasing numbers of people receiving direct payments and the introduction of personal budgets to support greater choice and control comes the need to consider how an individual’s contribution, if any, towards the cost of non-residential services might be worked out in the context of personal budgets. This Fairer Contributions guidance sits alongside the Fairer Charging guidance which, along with its underlying ethos and principles, is still valid, and the Charging for Residential Accommodation Guidance (CRAG) to which the Fairer Charging guidance refers. In the case of any uncertainty as to the matters covered by the Fairer Charging guidance councils should refer back to these original documents.

1.2 To date, a service user's charge for non-residential services has typically been based on the number of units of different types of services they have received. In the case of direct payments, financial contributions towards the cost of services have been calculated on a comparable basis. In the same way, people will have the option to take a personal budget as
commissioned services or as statutory direct payments or a mixture of both. With those personal budgets that are taken as direct payments rather than commissioned services, the individual may purchase different types of non-residential social services such as community care services as defined in section 46(3) of the NHS and Community Care Act 1990, including those listed in section 2 of the Chronically Sick and Disabled Persons Act 1970, from week to week, and these services may not correspond with the typical service classifications used by councils. We anticipate that individuals will increasingly choose varied forms of care or support which are designed to meet their specific agreed outcomes, as defined in their support plan.

1.3 Currently, the cost of service for charging purposes is calculated depending on the composition of an individual’s care package and according to the policy of the local council regarding charges for homecare, daycare, meals, transport and other services. This cost of service is then compared with the individual’s available income, determined by a financial assessment in accordance with the Fairer Charging guidance, and the individual is charged no more than the lower of these two amounts.

1.4 This document provides guidance on how both the chargeable amount of a personal budget, and the actual contribution made by the personal budget holder, might be calculated. The chargeable amount is the maximum possible contribution a person can be asked to make to their personal budget, subject to their available income and savings. The calculation of the actual amount to be paid begins with a means test which determines the income and savings available to make a contribution. This part of the process is covered in the original Fairer Charging guidance and remains unchanged. Thus this guidance does not introduce any changes to the way councils undertake financial assessments, or how they treat the income or savings of personal budget holders.

1.5 The person’s actual contribution is the lower of the maximum possible contribution and the individual’s available income.

2. Calculation of chargeable amount

2.1 The way a chargeable amount is calculated will depend on each council’s charging policy.
2.2 Section 17 of the Health and Social Services and Social Security Adjudications Act 1983 (HASSASSA) allows Councils to make a reasonable charge for non-residential services they provide. So there are two aspects to discretion:

- whether or not to charge for a service
- where a service is charged for, what is a reasonable charge

Where a direct payment is to be made, regulation 5(2) of the Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2003 provides for the responsible authority to determine, having regard to the prescribed person's means, the amount (if any) it is reasonably practicable for them to pay towards securing the provision of the relevant service. According to the guidance on direct payments the relevant guidance is the Fairer Charging guidance. In accordance with the Fairer Charging guidance, councils should treat people receiving direct payments as they would have treated them under the council's charging policy, if those people were receiving the equivalent services.

**Where councils provide no free or subsidised services**

2.3 The method outlined in the following section applies where councils do not provide any free or subsidised social services, or where they have decided to no longer provide such free or subsidised services. It is applicable whether a person uses his or her personal budget on council commissioned services or receives it as a direct payment, or a mixture of both. (See Example 1 in Appendix 2).

2.4 Councils should calculate a percentage up to 100% to be applied to all personal budgets, across all client groups except where specifically excluded from charging in accordance with the Fairer Charging Guidance to determine the proportion of a person’s personal budget that will be subject to a service user contribution. Applying this percentage to a person’s personal budget will produce the council’s maximum possible charge to that person for its service(s) or the person’s maximum possible contribution towards their direct payment, depending on how the personal budget is deployed. This figure will then be compared against the person’s available means as calculated in accordance with the Fairer Charging Guidance and the person’s actual contribution will be no more than the lower of the two figures.
2.5 Where a personal budget is taken as a direct payment, this final figure will be the person’s contribution or reimbursement towards the direct payment and where a personal budget is taken as a traditional service the final figure will be the amount the council recovers for the service. Where a council was previously providing free or subsidised services but has decided to no longer do so, particular care will be needed in calculating the percentage to be applied to personal budgets to ensure that individuals are not expected to make unreasonable contributions or contributions which are not reasonably practicable for them to pay. The Fairer Charging Guidance gives further guidance on setting the level of charges. Paragraph 3 of the Introduction states that councils need to ensure that their charging policies are demonstrably fair as between different service users.

2.6 As set out in the Fairer Charging guidance, ability to pay should not be assessed and charges should not be levied for any one service in isolation. The impact of charges for one of these services on the user’s income should be taken into account in assessing whether charges should be levied for another service. The same charge assessment should normally be applied in assessing charges for these services. Councils should take account of no more than the full cost of providing the service, excluding costs associated with the purchasing function and the costs of operating the charging system. It is a matter for councils to decide whether to levy a contribution to costs or to seek to recover full costs, where possible.

2.7 Councils will need to consider inter alia whether to use the levels of charge to target subsidy at priority users or services and whether charging full costs for some users will create perverse financial incentives for them to enter residential care. Charges which reflect the costs of services provided to users and are based on hours of service provided are generally preferable to charges based on broad ‘usage’ bands, which can create perverse incentives and spread subsidy unfairly. Councils will need to consider how to set the level of charges in relation to the costs of the services provided to users.

2.8 Councils should be able to show that the charge or contribution is first and foremost reasonable in accordance with section 17 of HASSASSA or with the Community Care, Services for Carers and Children’s Services (Direct Payments) (England) Regulations 2003, as the case may be.
2.9 The resulting contribution should also be no more than is reasonably practicable for the person to pay towards the service.

**Where councils provide free and/or subsidised services**

2.10 Councils have the discretion not to charge for services at all or to charge for services selectively if they so wish. The Fairer Charging guidance gives guidance about exempting from charges specific customer groups and councils should act in accordance with this.

2.11 The method outlined in the following section applies where councils provide free or subsidised social services and decide to continue to do so. It is applicable whether or not the person receives a direct payment as part of their personal budget. Examples 2 and 3 in Appendix 2 illustrate the method.

2.12 Where councils wish to continue providing free or subsidised services and a portion of the personal budget is going to be deployed on such services from the council or on their equivalent services via direct payments it would be fair to exclude their value from any portion of the personal budget to which a percentage is applied. In certain cases it will be mandatory to exclude services from charging, for example community equipment and minor adaptations (see para 7.1 below).

2.13 At first sight it might appear complicated to exclude the value of free or subsidised services before applying the percentage to the balance of the personal budget. However, if a blanket percentage charge were to be applied to a personal budget by a council that provided free or subsidised services, and the personal budget holder decided that they wanted to receive a direct payment rather than council services, the outcome is likely to be that that person would be required to contribute more than a personal budget holder who decided to use the services provided by the council.

2.14 In determining the chargeable amount, councils should separately calculate:

1) any chargeable amount for that part of the personal budget which is to be spent on services which, or the equivalent of which, are not subsidised when provided by the council, ensuring that non-personal budget holders are not treated less favourably than the budget holder and
2) any chargeable amount for that part of the personal budget which is to be spent on services which, or the equivalent of which, are subsidised services when provided by the council (based on the council’s charging policy).

2.15 These two figures added together will give the maximum possible contribution to the personal budget that the person might be asked to make, subject to any lower locally set maximum contribution and the person’s available income. The following paragraphs explain how this works.

2.16 Councils should apply the percentage calculated as in paragraph 2.4 across all non-exempted client groups, to any portion of a personal budget that is to be spent on services which when provided by the council are not subsidised. This gives the maximum possible charge that the person might be required to pay towards that portion of the personal budget that is to be spent on non-subsidised services or their equivalent via direct payments.

2.17 The maximum charge for that portion of the personal budget to be spent on services which are subsidised by the council or their equivalent via direct payments is determined in accordance with the council’s policy for charging for these services. Councils should be able to show that both charges are reasonable in accordance with section 17 of HASSASSA.

2.18 The total maximum charge will be the total of the two amounts arrived at in paragraphs 2.14 and 2.15. This should be compared with the available income of the individual (calculated in accordance with the Fairer Charging guidance) and any locally set lower maximum charge. The person’s actual contribution will be the lower of these amounts. Councils should be able to show that the resulting contribution is no more than is reasonably practicable for the person to contribute to the personal budget.

3. Effect of contributions on individuals’ income

3.1 Regard should be paid to the effect of contributions on a user’s net income which should not be reduced below the levels set out in the Fairer Charging guidance. As stated above no-one should be expected to contribute any more than the financial assessment shows is reasonably practicable for them to pay. Councils should ensure that their policy on Disability Related Expenditure (DRE) is consistent with the Fairer Charging Guidance and transparent to
service users. Councils might find it helpful to formulate their DRE policies in partnership with local user groups.

3.2 Councils are reminded that section 17(3) of HASSASSA gives a user the right to ask the council for a review of the charge which has been assessed, if the user considers that their means are insufficient for it to be reasonably practicable for them to pay the charge.

3.3 Whatever decision is taken about the level at which future charging is to be set, councils should assess the potential implications on service users and their carers to ensure that, where appropriate, transitional measures can be put in place to mitigate the impact of any extreme changes for service users and carers.

4. Collection of Contribution

4.1 A personal budget or portion of a personal budget may be taken as a direct payment. Paragraphs 88 to 90 of the Community Care, Services for Carers and Children’s Services (Direct Payments) Guidance England 2003 provide guidance on charging for direct payments and refer to the Fairer Charging guidance.

4.2 The legislation on direct payments provides that with certain exceptions direct payments must be made gross unless the council decides that they will be paid net. Councils may find that paying personal budgets net of contribution provides for greater efficiency. Paying a personal budget or a portion of a personal budget net of a person’s contribution means that the recipient receives the balance of that personal budget allocation and is expected to contribute the remainder. Where a council decides to pay a personal budget net of the person’s contribution it should ensure that the person is clearly informed of the amount of the contribution, and how both the personal budget and the contribution have been calculated, in an accessible format. The guidance on direct payments provides further information on this.

4.3 There are some circumstances where it will not be appropriate or possible to pay a net allocation to an individual. For example, where a service user has a personal budget a portion of which is to be deployed on commissioned services, it is possible that the cash portion of their personal budget will be less than their overall assessed contribution. In these cases a contribution will still need to be collected from the individual. Councils will therefore need to
retain a mechanism for collecting contributions from service users. Where a service user challenges the amount of contribution they have been asked to pay a council may wish to consider making payments gross until the matter has been resolved.

5. Consultation

5.1 Councils should consult as necessary on any proposed changes to their existing charging policy in accordance with the Fairer Charging guidance. Councils might wish to allocate a member of staff to be responsible for consultation to meet local user and carer groups and to seek their views.

5.2 Councils will need to consider the impact upon their finances and those of their service users. Whilst it is possible to make implementation for councils cost-neutral overall, it may not be possible to isolate all service users from the impacts of the changes and consultation will be necessary on fundamental changes. This could also happen where Councils intend to introduce fundamental changes to the structure of charging and/or introduce policies which result in significant and substantial changes for service users. Again, consultation would be essential.

5.3 Councils should pay particular attention to DRE, Income Support/Guarantee Credit and the buffer of 25% (or more) when setting their percentage, and consider the effect this will have on individuals and their carers.

5.4 Councils have discretion as to how often they review the percentage applied to personal budgets. In accordance with paragraph 105 of the Fairer Charging Guidance, the percentage should not operate against the Government’s policy agendas for social care, to promote independent living and social inclusion. It is important that consideration of charging policies is not purely budget based, but takes account of service needs. The design of charging policies needs to be sensitive to the variety of users’ circumstances and needs. The ways in which charging policies are developed also need to be sensitive and to involve users and carers.

5.5 Councils are also reminded of the need to follow paragraph 107 of the Fairer Charging Guidance when considering how best to manage the service and user contributions, to ensure they are responsive to users’ needs. Required performance information includes client
numbers and service levels; clients refusing/cutting down on services as a result of charging, or asking for charges to be reviewed; levels and reasons for arrears; levels of client incomes, in particular the take-up of different benefits; and cost of collection as a percentage of income.

6. **Equality duties**

6.1 Councils should meet their duties under equality legislation including the need to carry out an Equality Impact Assessment on their policies and to involve disabled people, as required by the Disability Equality Duty introduced by the Disability Discrimination Act 2005, in creating an accessible contributions assessment process.

6.2 They should also ensure compliance with statutory obligations to monitor the effects of their policies on equality, for example by monitoring service user contributions and user/carer experience.

7. **Further considerations**

7.1 Community equipment and minor adaptations continue to be exempt from charging, in accordance with the Community Care (Delayed Discharges etc) Act (Qualifying Services) (England) Regulations 2003 and LAC (2003)14. After-care services provided under section 117 of the Mental Health Act 1983 also continue to be non-chargeable. Care must therefore be taken to exclude from charging any portion of a personal budget that is to be spent on these items or services. Similarly, a personal budget holder should not be expected to make a financial contribution towards advice about the availability of services or for assessment, including assessment of community care needs. Ongoing support such as payroll services could be subject to a contribution.

7.2 Councils are reminded that under direct payments legislation direct payments cannot be made for purchasing more than four continuous weeks of residential care per year. Where a personal budget is used to purchase residential respite care (within the limits set out in the direct payments legislation), councils are reminded that, as stated in the National Assistance Act 1948 and in the Charging for Residential Accommodation Guide (CRAG), for the first eight weeks of residential care an assessment of ability to pay is not required. Councils remain free to decide whether or not to undertake CRAG assessments. Where no CRAG assessment is
undertaken, the charge made is the amount it appears reasonable to the council for the resident to pay (which may be determined by the local Fairer Charging policy). It is therefore possible to charge for this type of care in line with the local policy applied to non-residential community care services.

7.3 During the move to personal budgets, measures may need to be taken by the council to ensure that they treat those who receive personal budgets as direct payments as they would have treated them under the council's charging policy, if those people were to continue to be in receipt of traditional care packages and the same principle of fairness applies to those who hold personal budgets and those who do not. Any new policy should not produce a disincentive to service users accessing personal budgets as direct payments or traditional packages by having a more favourable regime for one or other.
Appendix 1  Updated references to legislative provisions – July 2009

Changes to references to Health Act partnerships

The arrangements previously referred to as “section 31 Health Act flexibilities” are now made under the National Health Service Act 2006 (“the NHS Act 2006”).

Section 31 of the Health Act 1999 has been repealed and the arrangements it covered are now made under section 75 of the NHS Act 2006.

Section 28A of the National Health Service Act 1977 (“the 1977 Act”) has also been repealed and the power of PCTs to make payments to local authorities is now covered by section 256 of the NHS Act 2006.

Section 28BB of the 1977 Act has been repealed and the power of local authorities to make payments to NHS bodies is covered by section 76 of the NHS Act 2006. See further Department of Health guidance at http://www.dh.gov.uk/en/Healthcare/IntegratedCare/Healthact1999partnershiparrangements/DH_363

Section 17 of the Health and Social Services and Social Security Adjudications Act 1983 has been amended and now reads as follows:

17 Charges for local authority services in England and Wales

(1) Subject to subsection (3) below, an authority providing a service to which this section applies may recover such charge (if any) for it as they consider reasonable.

(2) This section applies to services provided under the following enactments—
(a) section 29 of the National Assistance Act 1948 (welfare arrangements for blind, deaf, dumb and crippled persons etc);
(b) section 45(1) of the Health Services and Public Health Act 1968 (welfare of old people);
(c) Schedule 20 to the National Health Service Act 2006 or Schedule 15 to the National Health Service (Wales) Act 2006 (care of mothers and young children, prevention of illness and care and after-care and home help and laundry facilities);
(d) section 8 of the Residential Homes Act 1980 (meals and recreation for old people); and
(e) paragraph 1 of Part II of Schedule 9 to this Act other than the provision of services for which payment may be required under section 22 or 26 of the National Assistance Act 1948;
(f) section 2 of the Carers and Disabled Children Act 2000.

(3) If a person—
(a) avails himself of a service to which this section applies, and
(b) satisfies the authority providing the service that his means are insufficient for it to be reasonably practicable for him to pay for the service the amount which he would otherwise be obliged to pay for it, the authority shall not require him to pay more for it than it appears to them that it is reasonably practicable for him to pay.
(4) Any charge under this section may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

(5) This section has effect subject to any regulations under section 15 of the Community Care (Delayed Discharges etc) Act 2003 (power to require certain community care services and services for carers to be free of charge).

Changes to DWP benefits mentioned in Fairer Charging Guidance

The references to War Disability Pension and War Widows Pension in paragraph 24 should be amended to read ‘War Disability Pension or Armed Forces Compensation Scheme: Guaranteed Income Payment’ and ‘War Widows Pension or Armed Forces Compensation Scheme: Survivors Guaranteed Income Payment’ accordingly. Armed Forces Compensation Scheme benefits only cover incidents that occurred after 6 April 2005; War Disability Pension and War Widows Pension continue to be received by existing claimants.

The reference to Invalid Care Allowance (ICA) in paragraph 85 should be changed to read ‘Carers Allowance (CA)’. Please note that references to this superseded benefit also appears in the footnote to Annex B section C and in Annex B section E of the 2003 Fairer Charging guidance. Invalid Care Allowance has now been completely replaced with Carers Allowance.

From October 27 2008, Employment Support Allowance (ESA) replaced Incapacity Benefit and Income Support paid on the grounds of incapacity for new claimants. Existing claimants before that date continue to receive Incapacity Benefit and Income Support where appropriate. The net levels of income below which service users should not be reduced still apply, however it should be noted that the premiums for ESA differ slightly from those for Income Support. The disability premium does not apply to ESA and instead there is a Support Component and a Work Related Activity Component.
Appendix 2  Examples of calculation of contributions

Example 1

80 year old man who lives alone. He owns his own house (no mortgage) and gets full Council Tax Benefit. He has £5,000 in savings.

His personal budget is calculated at £100.00 per week and he has decided to let his council commission all services for him.

His council, Council A, does not provide any free or subsidised services and uses 100% of the allocated personal budget when calculating the chargeable amount; their charging policy only takes 85% of available income into account.

Charging calculation

<table>
<thead>
<tr>
<th>Income Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Retirement Pension</td>
<td>95.25</td>
</tr>
<tr>
<td>Guarantee Credit</td>
<td>87.60</td>
</tr>
<tr>
<td>Attendance Allowance</td>
<td>47.10</td>
</tr>
<tr>
<td><strong>Total income</strong></td>
<td><strong>229.95</strong></td>
</tr>
</tbody>
</table>

Deduct Income Support / Guarantee Credit Threshold

<table>
<thead>
<tr>
<th>Amount</th>
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<tr>
<td>162.50</td>
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Deduct Disability Related Expenditure

<table>
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<tr>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.00</td>
</tr>
</tbody>
</table>

*Income available for charging* 47.45 (229.95 less 182.50)

85% of this 47.45 = 40.33

The £40.33 figure is compared with 100% of the amount of his personal Budget (£100.00) and the client contribution will be the lower figure i.e. £40.33.

Example 2

75 year old lady who lives alone. She has housing costs of £25.00 per week. She is also liable for Council Tax of £20.00 per week but gets £5.60 of this in Council Tax Benefit. She has savings of £16,000. She doesn’t qualify for Guarantee or Savings Credit.

Her personal budget is calculated at £120.00 per week: £30.00 of this is used by her council (Council B) to commission daycare, which is provided as a free service by Council B so is not part of the chargeable amount; (Alternately this £30 is available to her as a direct payment free of contribution if she wants to purchase the daycare herself) It is Council B’s policy to apply 90% to the remainder (£90.00) to determine the chargeable amount (= £81.00).

---

1 Including an additional amount for severe disability (£52.85)
2 Standard minimum guarantee of pension credit + 25%
3 In line with that particular council’s charging policy.
Charging calculation

State Retirement Pension 95.25  
Attendance Allowance 47.10  
Occupational Pension 160.00  
Tariff income 8.00  
**Total income** 310.35

Deduct Income Support / Guarantee Credit Threshold 162.50  
Deduct Disability Related Expenditure 15.00  
Deduct mortgage interest 25.00  
Deduct Council Tax 14.40  
**Income available for charging** 93.45 (310.35 less 216.90)

The £93.45 figure is compared with the chargeable amount of her Personal Budget (£81.00) and the client contribution will be the lower figure i.e. £81.00.

**Example 3**

A 38 year old man was involved in a road traffic accident 18 months ago. He lives on his own in housing association accommodation and has housing costs paid and receives full Council Tax Benefit. He has £3,400 in savings.

His personal budget is calculated at £280 per week. He deploys his PB on two services. Service (A) is full cost if LA provides it and service (B) is subsidised if LA provides it. The value of the subsidised service is £50 but the subsidy means he only pays £40. The calculation is as follows:

Take out the value of the service B £50 from the PB - £280 - £50 = £230
Do a separate calculation of the contribution to the £50 i.e. £50 less £10 subsidy = £40.

Apply 100% (the percentage used by this council) to the remainder as it is to be spent on a service which is charged for at full cost when provided by the council =£230

So total max contribution is £230 + £40 = £270.

Charging calculation

Incapacity Benefit (incl. age addition) 96.35  
Income Support 48.30  
Middle Rate DLA Care 47.10  
**Total income** 191.75

---

4 Based upon £1 per £250 above the lower capital limit (£14,000)
Deduct Income Support / Guarantee Credit Threshold\(^5\) 114.75
Deduct Disability Related Expenditure 30.00
**Income available for charging** 47.00 (191.75 less 144.75)

The £47.00 figure is compared with the maximum chargeable amount of his Personal Budget (£270.00) and the client contribution will be the lower figure i.e. £47.00.

\(^5\) Income Support, including disability premium + 25%
How councils should work out what you might have to pay for services

Fairer Contributions Guidance

EasyRead version
Before you begin

Some of the things in this paper are not easy to understand.

You may need some support to read it.
What is this about?

The law says that your council can ask you for some money to help pay for some of your services. But they will only ask you to pay if you can afford it.

This money is called a contribution.

This is the guide for councils to work out how much you have to pay for services yourself.
A bit about how councils pay for services

Before they buy services, councils work out what people’s needs are and how much services will cost.

Councils add up everybody’s Personal Budgets. This will tell them how much money they need to meet everyone’s needs.

Personal Budgets and you

A Personal Budget is the amount of money you need for your services.

The council works out this amount with you in a needs assessment. A needs assessment is a meeting to decide what kind of support you need.

Your council will then look at all the money you already have.
If you have less money than what your Personal Budget says you need, the council will give you the money to make up for it.

It is up to you how you want to use your Personal Budget and to agree this with the council.

You can ask the council to use it to plan and buy services for you.

You can have it as cash (Direct Payments) and buy services yourself.

You can even have some of it as cash and leave some with the council to buy services for you.

What you decide will be written down in your care or support plan.
When this is done, the council will work out how much you might have to pay for your services. Some people will not have to pay anything.

They will do this using this Fairer Contributions Guidance.

Some people may have to pay for many of their services. Some people may only have to pay for a few or none at all.

How much you pay, depends on how much money you already have.

The Fairer Contributions Guidance is to make sure everyone pays a fair amount.
People who pay for all their services

Some people may have enough to pay for all their services themselves.

Councils must make sure these people get a needs assessment.

Councils should give them help to plan and order services if they ask for it.

Councils should tell them about other types of support and services. These could be services that anyone can use.
How councils should work out your contribution

Each council decides which services need to be paid for.

They need to work out what each service costs to run.

The council should work this out using everyone’s Personal Budgets.

They then decide how much they can ask people to pay for these services. The amount each person pays will be different for different people.

The council then looks at how much money each person already has.

From this, they will be able to work out a fair amount for each person to pay for their services.
How much to ask for each service

When working out how much money to ask for each service, councils must not include these costs:

- planning and buying the service
- working out and collecting contributions
- community equipment like raised toilet seats
- special things to make life easier like grab rails and stair lifts.

When they have decided what amounts to ask for, councils must think about whether this will change how people choose to live.

Councils must show that what they ask for is fair.
Services that are no longer free or at a cheaper rate

A council might decide not to offer a service for free or at a cheaper rate anymore.

When a council decides to do this, they must take extra care. They must make sure people are not asked to pay too much because the services are no longer free or cheaper.

But they will only ask you to pay for a service if you can afford it.

Councils must make sure that everyone pays a fair amount no matter what type of services they use.
Rules for councils that give free or cheaper rate services

Some councils choose to give some services for free or less than what they cost.

For these councils, working out your contribution is a bit different.

Like other councils, when working out what amount to ask you to pay, they look at your Personal Budget.

Your Personal Budget shows the amount of money you need for your support. You decide what services you want.
Councils include the full cost of these services when working out how much you should pay.

They include the cost of services that they give for free or at a cheaper rate.

They do this to make sure that everyone, whether they have a Personal Budget or not, is treated fairly.

They also do this to make sure that people who choose not to use free services are treated fairly.
Make sure people are not paying too much

All the money you get to live on is called an income. This includes wages, benefits, pensions and allowances.

Councils must make sure that you have enough income to live on and pay what they are asking for.

Councils should make sure their rules for deciding how much money to ask for services are clear to people who use them.

They should make sure their rules follow the Department of Health’s rules on this.

They should think about asking people who use services to help them write their rules for deciding.
The right to ask for a review

If you think you are being asked to pay too much, you have the right to ask for a review.

This means the council need to look again at how they decided how much you should pay.
How councils should collect money from you

Councils can choose to collect the money by:

1. Taking the money out of the cash part of your Personal Budget before giving it to you. This is called “Net”.

   Councils can ask for more money from you if the cash part of your Personal Budget is not enough.

2. Giving you all the money for your Personal Budget then asking you to pay afterward. This is called “Gross”.

   If a council chooses to use “Net”, they should make sure that you know how they worked everything out and how much you will need to pay.

   They should make sure that you can read this information easily.
Ask people what they think

When councils want to change the rules for deciding how much to ask for services, they should ask the people who use them for their thoughts.

Treat everyone fairly and equally

The law says councils must make sure that they treat people fairly and equally. It gives them a list of things they must do.

They must make sure the way they ask people to pay is easy to follow for people with disabilities.

They must make sure that they know how their rules affect people with disabilities.
Credits

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Appendix D.

Fairer Charging and Fairer Contribution Policies.

Executive Member Report. 22\textsuperscript{nd} June 2010.

Report Summary

1. Under Department of Health guidance all Councils are required to implement a “Fairer Contribution” Policy for care and support provided following a twelve-week consultation period. All contributions under the policy should be based on each Council’s existing “Fairer Charging Policy”. The Council’s existing “Fairer Charging” Policy has been amended to meet the requirements of the proposed “Fairer Contribution” Policy and should form part of the consultation.

The Council’s “Fairer Charging Policy” which underpins and provides the methodology for calculating “Fairer Contributions” is based on Department of Health Guidance on “Fairer Charging” policies for Council’s which was issued in 2001 and subsequently amended in 2003. Implementation of the Council’s “Fairer Charging” Policy, effective from 1 April 2002, was approved by the Social Services and Health’s Executive on 25 February 2002.

Bristol City Council’s proposals for a “Fairer Contribution” policy are set out below and in the accompanying policy documents and the following key elements should be noted:

- The policy replaces charging on a service unit, actual provision basis with a contribution based on the full cost of the support or care packages provided.

- Although the Fairer Contribution guidance from the Department of Health allows Council’s the discretion to charge for some services and not others many Authorities have made the decision to calculate contributions based on the full cost of packages which means that many previously free services will become chargeable by default. This model has been adopted in the proposed policy document.

Current situation with chargeable/non chargeable Services:

**Chargable:**

- Personal Care including at Very Sheltered Housing and Direct Payment recipients
- Home Care
- Community Meals
- Transport Respite Care
- Community Meals and Emergency Communication Systems will be charged at a standard rate regardless of financial circumstances
- To enable inclusion, residential respite care will be treated as non residential care provision for the first four weeks.

Non Chargeable:
- Community Support Services (Including Buildings Based Day Care, Very Sheltered Housing and Direct Payment Recipients)
- Carer’s Services
- Adaptations

- This will mean that many service users who have not been charged previously will be brought into charging which is considered fair and equitable as previously some service users have paid for services such as personal care while other have not for services such as community based support.

- The proposals also do not provide a higher limit for the contributions which will be capped at the full cost of the individual package. The ability to charge a percentage of the full cost has also not been adopted.

- The proposals are seen as being fairer, more equitable, simpler to understand and also provide for ease of administration and collection removing previous problems of variation and the need to prove that services have actually been delivered. Courts will not make people pay for services they have not had if we are managing the budget.

Recommendations

The Executive Member should:

2. Agree in principle subject to consultation to the proposed “Fairer Contribution” and "Fairer Charging" policy and,

3. Agree to a twelve week public consultation period commencing 26 July 2010,

4. Consider whether this is a key decision which needs to be referred to Cabinet,
5. Consider whether the standard charge for a Community Meal should increase from £3.60 per meal and £2.09 per tea meal. (The latest published average unit cost for a meal is £6.70 per meal based on 3,138 meals per week).

Context

Current situation

6. The statutory guidance refers only to non residential services as charges for residential services are conducted under different legislation. Section 17 of the Health and Social Services and Social Security Adjudications Act 1983 is the enabling legislation which permits Council’s to charge for these services.

7. Under the current “Fairer Charging” policy Service Users are charged on their ability to pay for the services they receive and some services, particularly personal care such as home care, are chargeable whilst others such as community based support are not, which is neither fair nor equitable.

8. Service Users who have savings in excess of £23,250 are required to pay the full cost of the services provided whilst those with less are financially assessed (a form of means test) to pay a lower contribution if necessary. The method of financial assessment is set out in the Council’s “Fairer Charging ” policy based on the Department of Health’s guidance on “Fairer Charging” policies dated 2001 and 2003.

9. The amount a person is required to pay is therefore the full cost of the service or, the financially assessed weekly maximum cost whichever is the lower of the two figures.

10. The charges are based on the costs of service (e.g. £12.88 per hour for home care) multiplied by the number of hour’s service which can vary week on week leading to variable charges.

Proposed Fairer Contribution Policy

11. All Service Users will be eligible, unless exemption applies, to pay a contribution based on the outcome of a financial assessment of their resources (a form of means test).

12. Service Users will no longer pay a charge but, instead, will pay a contribution towards the full cost of the care or support they receive. The main change being that contributions will no longer be related to the services received and will not be variable on a weekly basis.
13. As the contribution will be based on the full cost of all services and support which form part of the package received, all services will become chargeable by default which means that the Council will no longer provide services free of charge, including those provided for Carers.

14. The contribution will continue to be based on the Council’s “Fairer Charging” policy amended to meet the requirements of the “Fairer Contribution Policy” and the same rules as outlined above will apply.

15. The proposed policy is fairer and more equitable because everyone will be required to pay a contribution, for all services, based on the same “Fairer Charging” criteria irrespective of the care category they fall within.

16. Services and support provided in Care Homes fall outside of this guidance and charges for residential services will still be calculated under the Charging for Residential Accommodation guidance provided under Part 111 of the National Assistance Act 1948.

“Fairer Charging”

17. All a service users resources are taken into account in calculating ability to pay. Service users with over £23,250 in capital will pay the full cost and those with less will be eligible for a financial assessment to determine what lower amount they should pay. The amount paid as a contribution is the lower of the two figures.

18. In the financial assessment, allowances are given at the rate of Income Support the person would be entitled to if eligible, plus a 25% buffer to safeguard against poverty and hardship. Additional allowances are given for housing related costs not covered by housing benefit, council tax benefit or income support as well as for Disability Related Expenditure.

19. The allowance for Disability Related Expenditure is based upon additional expenditure the service user has specifically relating to their disabilities. This is to safeguard disabled people, in receipt of Disability Related Benefits from any financial consequences of charging or contribution.

20. Disability Related Expenditure is calculated on the basis of a matrix which was drawn up in 2003, as part of the “Fairer Charging” Policy and although the council will persevere with this approach in the new policy it is intended to examine the possibly of a banded approach for Disability Related Expenditure based on the Resources Allocation System under Self Directed Support. This will be a future development designed to introduce some economy into process.
Consultation

21. The Department of Health insists that at least 12 weeks consultation should be undertaken on proposed policies and this should be as wide ranging as possible in the public domain.

22. The Council must allow sufficient time for analysis of the results and to ensure that any suggestions are fully considered and taken account of in the final policy.

23. The consultation process and methodology still have to be designed and adequate resources allocated.

24. The possible timescale for the consultation is as follows:

   Start: 26 July 2010
   End: 11 October 2010
   Complete Analysis of Results 18 October 2010
   Report to the Executive Member: 25 October 2010
   Implementation of Final Policy: 8 November 2010

Draft Consultation Documents have been prepared.

Impact on charge payers and contributors:

25. The new policy will apply immediately on the implementation date. Any new carer, care or support recipients after that date will pay the full cost or, their individual assessed contribution whichever is the lower of the two figures.

26. Existing charge payers have already been financially assessed, will have a weekly maximum contribution already calculated and will continue to pay their current charges until a financial review is carried out. Each service user receives a financial review annually on the annual review of initial financial assessment and any contribution calculated under the new policies will apply from the date of review.

27. On this basis it will not be necessary to provide transitional protection as everyone will be treated the same.

28. Service users and carers who have previously been in receipt of non chargeable services will be required to pay their full contribution from the Monday following the date of financial assessment.
29. The new policy is equitable, fairer and consistent as contributions are applied equally and the same calculation methodology is used to determine all contributions. Allowances are made for people who have additional expenditure as a consequence of their disability and all care category groups are treated in exactly the same way.

Consultation:

30. Requirement for Public Consultation to be arranged.

Legal and Resource Implications

Equalities Impact Assessment:

To be provided as part of the final report following consultation.

Legal: Sarah Sharland

Section 17 Health and Social Services and Social Security Adjudications Act 1983 (HASSASSA) gives local authorities the discretion to charge service users for non residential community care services. Charges must be at a rate that the authority considers reasonable and the authority must not require a service user to pay more than it appears reasonably practicable for them to pay. Section 17(3) gives service users the right to ask an authority for a review of an assessed charge if the service user considers that he/she has insufficient means for it to be reasonably practicable to pay the assessed charge.

Policy guidance entitled Fairer Charging Policies for Home Care and Other Non Residential Social Services (the Fairer Charging guidance) was issued in November 2001 with further guidance entitled Fairer Contributions Guidance issued in July 2009. Both sets of guidance were issued under section 7 of the Local Authority Social Services Act 1970 and therefore should be followed unless a local authority gives clear and adequate reasons for its decision not to. Any departure from the guidance must be as limited as possible.

A local authority must consult with service users before making substantial changes to its charging policy (R (on the application of Carton and Larrad) v Coventry City Council (2001). The Fairer Charging guidance provides that where charging policies would result in significant increases in charges for some users this should be specifically explained and considered as part of the consultation. The 2009 guidance requires consultation on amendments to the charging policy resulting from the new guidance.

Local authorities have a legal duty to have due regard to the need to:

Eliminate unlawful gender and race discrimination and harassment
Promote equality and opportunity between men and women and for persons of different races

Promote good relations between racial groups

Section 49A Disability Discrimination Act 1995 requires that every public authority in carrying out all its functions must have due regard to:-

- the need to eliminate unlawful disability discrimination;
- the need to eliminate disability related harassment of disabled persons;
- the need to promote equality of opportunity for disabled people;
- the need to take steps to take account of disabled persons disabilities, even where that involves treating them more favourably;
- the need to promote positive attitudes towards disabled people; and
- the need to encourage participation by disabled people in public life.

Two recent cases have held that Councillors taking decisions must have more than a general awareness of the duty, instead the duty must be “exercised in substance, with rigour and an open mind.”

The Fairer Contributions guidance draws council’s attention to their statutory duty to undertake and have due regard to an equality impact assessment and to involve disabled people in creating an accessible contributions assessment process.

The Fairer Contribution guidance requires local authorities to assess the potential implications for service users and carers to ensure that, where appropriate transitional measures can be put in place to mitigate the impact of any extreme changes.

**Financial:** Denise Hunt

- Current income from charges for home care is £3.8m.

- The new charging and contribution policies are expected to bring an additional 1,000 service users into charging and may generate in the region of £1m in charge income. **Further profiling details will be supplied at or before the Executive Members briefing on 22 June 2010.**

- There will be resources issues relating to the consultation and the additional visiting and financial assessment tasks, which will need to be undertaken, which has yet to be quantified. Any additional costs will need to be met from within existing resources.

**Land:**

None

**Personnel:**
Appendices

- Proposed Fairer Contribution Policy
- Fairer Charging Policy

Policy Framework

- Charging for Residential Accommodation Guidance (updated annually)
- Fairer Charging Policies for Home Care and other Non Residential Services – Guidance for Councils with Social Services Responsibilities (September 2003)
- D oH Fairer Contributions Guidance (July 2009)
- Charging for Residential Accommodation Leaflet HSC 37 (April 2009)
- Charging for Non Residential Services Leaflet HSC 42 (April 2009)
- Section 22 – National Assistance Act 1948
- Section 17 Health and Social Services and Social Security Adjudications Act 1983
Appendix E

Consultation on amendments to the Council’s Fairer Charging Policy and Proposed Fairer Contribution Policy.

Executive Member Briefing Report 6 July 2010.

Report Summary

- Following the Executive Member’s decision, at the briefing on the proposals on 22 June 2010, a 12 week period of public consultation is now required on the policy proposals for charging.

- The Consultation should culminate in a report to Cabinet on 25 November 2010. Cabinet will make a decision at that date on whether to implement the proposals with a target date of 3 January 2011.

- A further summary report is required for the Scrutiny Commission on 15 July 2010 and this item must also be added to the Leader’s Forward Plan because of its political sensitivity.

Decisions Required

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<tr>
<td>1.</td>
<td>Will Carers be charged for services received in line with the approach adopted by other Local Authorities?</td>
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<tr>
<td>2.</td>
<td>Should meals charges be increased from £3.60 - £6.70 and should this form part of the consultation?</td>
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<tr>
<td>3.</td>
<td>Is the consultation process satisfactory?</td>
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<tr>
<td>4.</td>
<td>Is the timescale adequate and achievable?</td>
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<tr>
<td>5.</td>
<td>Resources need to be identified for the consultation process.</td>
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Requirements for Consultation

- The consultation should be conducted in accordance with Department of Health Guidance and Corporate Governance.

- The process must be transparent, impartial, fair and equitable and should not therefore be conducted by Finance Officers who are partial and have been responsible for designing and drafting the proposals.

- The consultation must be for a twelve-week period and must be inclusive of all interested parties including those in the public domain.

- The Council must allow sufficient time for analysis of the results and to ensure that any suggestions are fully considered and then reflected in the final policy.

Parties to be included:
Possibilities:

Service Users and their representatives
Members, Officers and other internal interest groups
Ethnic Minority service user groups – check PPFB
Older People’s Forum
The Disability Equality Forum
The Carer’s Forum
The Women’s Forum
The Race Equality Forum
Lesbian Gay and Bisexual Equalities Forum
List of Providers supplied by corporate Equalities Team
WECIL
Learning Difficulties Partnership Board
User and Carer Steering Group
Mental Health Forum

Do we need to add to the list?

Methodology:

- It is not intended to hold public meetings and this seems to have been the approach pursued by other Local Authorities. Public meetings can generally lead to adverse feedback which can distort the final outcome.

- It is also envisaged that two consultation meetings will be held with a mixed group of representatives from the different interest groups to ensure that we have identified the different and conflicting priorities between these groups.

- A survey questionnaire will be used and the considered responses will form part of the eventual analysis.

- An on-line version of the questionnaire needs to be made available for those who prefer this method via the consultation finder and in other accessible formats.

- Publicity will need to be organised via the Press Office.

- A mailing will need to be conducted prior to the commencement date of the consultation. A pack will need to be sent to each service user and other interested party (draft attached) either by surface mail or by electronic means. The pack needs to be accessible, provided in alternative formats and if necessary talked through with users who are less familiar with Systems, English as a first language or they may be BSL users.

- Respondents will be encouraged to return their results in a reply paid envelope or electronically during the twelve-week period and the
results will be analysed on a continuous basis once received by Performance and Information staff.

- Any comments received after the closing date and time will not be considered.

- A Help Desk needs to be established to help people who cannot understand the survey or, to deal with questions arising or, to assist people who are having trouble completing the form.

- The results need to be processed within a week of the closure of the consultation survey to enable the Cabinet Report to be compiled.

- The policies need to be updated as a consequence of the analysis report and the final report needs to be written in time for presentation to the Cabinet Agenda Conference.

- If agreed arrangement will then have to be made for implementation at the beginning of January 2011.

- **Time Line:**

<table>
<thead>
<tr>
<th>Date</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>06.07.10</td>
<td>Executive Members Briefing</td>
</tr>
<tr>
<td>13.07.10</td>
<td>Add to Leaders Forward Plan</td>
</tr>
<tr>
<td>15.07.10</td>
<td>Report to Scrutiny Commission</td>
</tr>
<tr>
<td>26.07.10 – 15.10.10</td>
<td>Consultation Period</td>
</tr>
<tr>
<td></td>
<td>Analysis of Results</td>
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<td></td>
<td>Deal with queries</td>
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<td>Adjust survey as necessary</td>
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<tr>
<td>18 – 22.10.10</td>
<td>Complete Analysis of Results</td>
</tr>
<tr>
<td>25 – 29.10.10</td>
<td>Complete Draft Report</td>
</tr>
<tr>
<td>01.11.10</td>
<td>Draft Report completed and Signed Off</td>
</tr>
<tr>
<td>04.11.10</td>
<td>Report to Agenda Conference</td>
</tr>
<tr>
<td>15.11.10</td>
<td>Final Report ready for Dispatch</td>
</tr>
<tr>
<td>25.11.10</td>
<td>Cabinet Meeting</td>
</tr>
<tr>
<td>03.01.11</td>
<td>Implementation</td>
</tr>
</tbody>
</table>

**Resources**

- A Third Tier Lead Officer has to be identified.

- A Co-ordinating Officer (Project Manager) needs to be identified to manage the consultation process.
• Publicity needs to be organised through Corporate DCX – Communications and Marketing Media and Mike Brewin or Philip Higgins may be able to assist.

• A final version of the pack needs to be agreed. Advice to be sought from the Press Office and all other appropriate sources on format. Ian Popperwell and Alistair Henderson will be able to assist specifically with Learning Difficulty Recipients.

• The On Line information and Form need to be established – Corporate DCX – Communications and Marketing Media and CICT.

• Printing, Mailing and Electronic Dispatch needs to be organised – Printing and Stationery will be involved and resources need to be identified to deal with e – mailing.

• A Help Desk needs to be established – should this be Care Direct and will they need additional resources?

• The results will be analysed by the Performance Information Team (PIT) in HSC on a continuous basis during the twelve weeks. PIT will need to receive results, register and analyse them and produce an end point report within time scales.

Results

• The results will be analysed and reported on by the Performance Information Team who will produce the end point analysis report by 22 October 2010.

Equalities Impact Assessment (EqIA)

• The EqIA will be framed as part of the consultation process as it will need to include the results of the consultation survey. The EqIA will be delivered as part of the final Cabinet Report.

• Avoid unjustifiable discrimination between younger and older service users

• Ensure equity between direct payments and those who use services provided by the council

• Non-personal budget holders not treated less favourably than budget holders

• Disability related expenditure - approach to this needs to be transparent and if changes are planned it should form part of the consultation
• All paperwork should be accessible and in Plain English
  Adverse impacts need to be justified and if possible mitigated what will happen if service users refuse services/cut down on services due to the charging policy?

• Support to take up all benefits that they may be entitled to

• What is happening concerning respite care?

Legal Issues:

• It is important that there is a good and thorough EqIA an the proposals and that cabinet are made fully aware of the equality implications of the proposals and their public sector equality duties.

Sarah Sharland:

A local authority must consult with service users before making substantial changes to its charging policy (R (on the application of Carton and Larrad) v Coventry City Council (2001). The Fairer Charging guidance provides that where charging policies would result in significant increases in charges for some users this should be specifically explained and considered as part of the consultation. The 2009 guidance requires consultation on amendments to the charging policy resulting from the new guidance.

Local authorities have a legal duty to have due regard to the need to:

- Eliminate unlawful gender and race discrimination and harassment
- Promote equality and opportunity between men and women and for persons of different races
- Promote good relations between racial groups
- Section 49A Disability Discrimination Act 1995 requires that every public authority in carrying out all its functions must have due regard to: -
  - the need to eliminate unlawful disability discrimination;
  - the need to eliminate disability related harassment of disabled persons;
  - the need to promote equality of opportunity for disabled people;
  - the need to take steps to take account of disabled persons disabilities, even where that involves treating them more favourably;
  - the need to promote positive attitudes towards disabled people; and
  - the need to encourage participation by disabled people in public life.

Two recent cases have held that Councillors taking decisions must have more than a general awareness of the duty, instead the duty must be “exercised in substance, with rigour and an open mind.”

The Fairer Contributions guidance draws council’s attention to their statutory duty to undertake and have due regard to an equality impact
assessment and to involve disabled people in creating an accessible contributions assessment process.

The Fairer Contribution guidance requires local authorities to assess the potential implications for service users and carers to ensure that, where appropriate transitional measures can be put in place to mitigate the impact of any extreme changes.

Attachment: Draft Consultation Pack.

Appendix F

BRISTOL CITY COUNCIL

HEALTH AND SOCIAL CARE

NON RESIDENTIAL

FAIRER CHARGING POLICY

(V4 Revised JUNE 2010).
Bristol City Council – Health and Social Care.

Non residential Fairer Charging Policy.

1. Summary

This policy applies only to non Residential Services and the enabling legislation is Section 17 of the Health and Social Services and Social Security adjudication Act 1984.

Care Home Charges are subject to different legislation and do not form part of this policy. Charges are calculated under the provision of Section 22 of Part 111 of the National Assistance Act 1948 and assessment of Resources Regulations 1992. The charging guidance is contained in the Charging for Residential Accommodation Guide which is updated annually in April of each year.

The Department of Health in its “Fairer Charging” Guidance to Council’s has indicated that the guidance in CRAG should be equally applied to Fairer Charging of non residential services where appropriate.

This is an amended version of Bristol City Council’s Non Residential “Fairer Charging” Policy, based on the Department of Health’s Guidance on “Fairer Charging” Policies for Council’s (dated 2001 and amended in 2003), which provides the basis for calculating contributions under the Council’s proposed “Fairer Contribution” Policy (June 2010) as well as charges for non residential services prior to the implementation date of that policy.

The original policy was implemented on 1 April 2002 on authority of the Council’s Social Services and Health Executive dated 25 February 2002.

The Policy applies equally to all people who are either receiving non residential services through a Care Plan or non residential support through a Support Plan under Self Directed Support. The policy requires that all recipients will pay either the full cost of their care or support package or contribute a lesser amount determined by a financial assessment under this policy. The Contribution will be the lower of the two figures.

2. Introduction

- Local Authorities are required to implement a “Fairer Charging” Policy under Department of Health guidance issued in 2001 & 2003 and a Fairer Contribution Policy under Department of Health Guidance issued in 2009.

- All service users are eligible, unless any exemption applies, to make a contribution towards the cost of the services and support provided determined by a financial assessment (a form of means test). The Council
will financially assess all service to establish the level of contribution they will be required to make towards the cost of the services and support provided.

- In devising the policy the Department of Health has indicated that Council’s should refer to the original documents as above in addition to the new Fairer Contribution Guidance issued in July 2009 including reference to the CRAG guidance where necessary.

- The policy should be equitable and fair and all service users must be charged in exactly the same way.

3. **Principles for the charging and contribution system**

- The process should be based on equity and fairness. Any discriminatory practice must be identified and removed and the approach to contributions should be fair and equitable to all.

- The system is based on everyone making contributions towards the costs of their individual packages of care or support based, determined by a financial assessment and on a fair and transparent basis. It is intended to be fair to all in that the contributions will better reflect the actual care or support being given.

- The system should be linked to ability to make a contribution.

- The system should not restrict the choices that people can make.

- Contributions will be reviewed on an annual basis, or on demand if recipient’s financial resources have changed.

4. **Scope**

- All recipients will be eligible to make a contribution towards their care or support packages based on their ability to pay determined through the financial assessment process.

- The charges for individual services commissioned and purchased by the Council will be agreed as part of the Standard Charges Report submitted to the Executive Member for Health and Social Care in January of each year for approval, and will be implemented from the date of Increase for National Insurance Benefits which is usually the first Monday in April of each year. These charges will be used in compiling the cost of the care or support provided through Care or Support Plans.

- The cost of support will be determined by the Resource Allocation System and subsequent processes.

5. **Current Service Provision Prior to SDS:**

Those services marked with an asterisk were previously free but will become chargeable under the proposed policies:
• Personal care including Very Sheltered Housing or Direct Payment Recipients
• Home Care
• Community Support Services (Including Buildings Based Day Care, Very Sheltered Housing and Direct Payment Recipients).*
• Community Meals
• Transport
• Very Sheltered Housing
• Supporting People*
• Carer’s Services*
• Respite Care
• Adaptations*
• Emergency Communication Systems such as Piper Lifeline, Care Line, and Assistive Technology which will be charged at a standard rate regardless of financial circumstances
• To enable inclusion, residential respite care will be treated as non residential care provision for the first four weeks.

6. Exemptions and Exceptions to Contributions:

• After Care services provided under 117 of the Mental Heath Act 1983.
• People suffering from Creutzfeldt Jakob Disease
• Continuing Health Care funded services
• ILF funded services
• Reablement and Intermediate Care arrangements for the first six weeks
• Community Equipment and Minor Adaptations.

7. Contribution Methodology

• All service users who are receiving a package of services under a traditional Care Plan will have their contributions calculated on the basis of the total cost of their care package as quickly as possible after confirmation of start of service has been received by the Client and Carer Financial Services Team. A visit will be arranged within five days or referral to collect information and the contribution will be calculated within a further 5 working days at which stage the service user will be notified of the contribution in writing, together with a statement showing how the
calculation has been carried out, who by and who to contact in the case of disagreement.

- All service users who are receiving a support package under Self Directed Support will have their contribution calculated on the basis of the full cost of their Support Plan.

- All recipients of Self Direct Support, following the provision of Short Term Service and assessment of need for further services, will receive a Self Directed Support Questionnaire which will result in the setting of an Indicative Budget.

- The amount of the indicative contribution required must be calculated as soon as possible in proximity to the setting of the Indicative Budget, to make sure that the Service User is aware, as early as possible, of the likely cost.

- The referral for financial assessment will be triggered by the Team Managers authorisation of the Indicative Budget.

- The Financial Assessment should take no longer than five working days to organise the visit and to collect financial information and a further five days for the calculation.

- The recipient will be notified of the amount of the indicative charge in writing to inform their decision making.

- Following the setting of the Indicative Budget a Provisional Cost will be set after agreement is reached with the service user and will be set once the support plan has been finalised. This will be followed by the setting of an Actual Cost and confirmation of the contribution required in writing, together with a statement showing how the calculation has been carried out, who by and who to contact in the case of disagreement.

- The Maximum Weekly Contribution, in all cases, for the service user will be the full weekly cost of the services or support unless a lower amount (Maximum Weekly Contribution) is determined through the financial assessment process. The calculation is carried out under this policy.

- Service Users who have in excess of the CRAG determined upper funding threshold will be required to pay the full cost of the package although the Council continues to have obligations in relation to care assessment, support and advice in relation to service and support provision.

- Contributions towards packages/personal budgets with a residential component (except for the first four weeks of respite) will be calculated under the CRAG guidance.

- Charges for Emergency Communication Systems are made and collected by Neighbourhoods on behalf of Health and Social Care. Service users who are FACS eligible and who are receiving other chargeable services are required to pay the weekly charge for the Emergency Communications
System but a compensating adjustment is made through a Disability Related expenditure Allowance.

- Other service users who declare they are unable to pay or will suffer hardship as a consequence of doing so are offered a financial assessment.

- Community Meals are subject to Standard Charges set under delegated authority. Service users are required to pay the costs of the meals and no further allowance is given against contributions as the allowance against charge for Income Support plus 25% should cover the cost of normal food and dietary requirements.

- All other contributions will be calculated under this policy and the Department of Health’s Non Residential Charging Guidance.

- Only the Director and Service Directors for Health and Social Care have the power to waive charges in exceptional circumstances for time limited periods.

8. **Collection of Charging Information and Welfare Benefits Advice**

- All service users other than full cost charge payers will be offered a financial assessment to determine what lower contribution they should be required to make on the basis of their financial resources.

- In accordance with the Department of Health Guidance all service users who decline a financial assessment or refuse to provide financial information for a charge assessment “it may reasonable to require payment of the full charge”.

- Financially assessed service users will receive a visit from the Health and Social Care Visiting Team, at the Indicative Budget Stage, for self determined support, or confirmation of start of service for Care managed cases (within five days of referral). The Visiting Team will:
  - Collect financial information on which to base the financial assessment
  - Conduct a benefit check and initiate claims for any necessary benefits including Housing Benefit and Council Tax
  - Calculate Disability Related Expenditure
  - Signpost to other services as necessary.

9. **Calculation of the Financial Assessment under Fairer Charging**

The methodology has not changed since the 2003 guidance and the Department of Health has indicated in the Fairer Contribution guidance that the Fairer Charging guidance should continue to be used to assess people’s ability to pay charges or a contribution.
• The financial information is returned to the Health and Social Care Casework Team who will calculate the amount of the contribution within a further five working days.

• All service users who have above the CRAG defined upper funding threshold will be required to pay the full cost of the support/care package.

• Contributions towards non residential packages will be calculated under the Fairer Charging guidance as amended by Local Policy and Guidance.

• All of a service user’s available income is taken into account in the non residential financial assessment and a personal allowance is made equal to the applicable amount of Income Support a person would receive if entitled, plus a 25% buffer to safeguard against poverty. Additional allowances are given for housing costs not covered by Housing Benefits.

• An assumed level of income is calculated on any capital and savings above the lower CRAG capital threshold at the rate of £1.00 per week for every £500 or part thereof up to the upper capital limit.

• There is no set maximum charge but the maximum a service user can pay is individually determined as below.

• No amount of earned income is taken into account and any assessable income is assessed net of tax or any national insurance commitments.

• War Widows and War Disability Pensions are subject to an additional £10.00 weekly disregard.

• The value of any additional property which a service user owns can be taken into account, for financial assessment purposes, as long as it is not their normal place of residence and it is not occupied by a spouse or someone who is over 60, disabled or both.

• Disability Related Expenditure can be allowed for any additional expenditure a service user has as a consequence of their disabilities, according to a matrix approved by the Director of Social Services in 2003. The maximum amount of Disability Related Expenditure should not exceed the amount of Disability Related Benefits received by the service user.

• The higher rate of Attendance Allowance or Disability Living Allowance Care Component is only taken into account if services are provided either on a 24 hour or at night time.

• The Mobility Component of Attendance Allowance and Disability Living Allowance and the Mobility Supplement of War Widows Pensions are not taken into account.

• The service user is required to provide evidence of Disability Related Expenditure through provision of receipts although this provision is waived on the initial assessment.
• A Disability related Expenditure allowance equivalent to the weekly standard cost is made for Emergency Communications Systems if the service user is receiving other FACS eligible services from Health and Social Care for which they are already being charged.

• A similar allowance is not made from Community Meals recipients unless they have particular dietary needs relating to their disabilities which result in higher costs. This is because the Income Support plus 25% buffer is intended to cover normal food costs.

• The result of the financial assessment is the Weekly Assessed Maximum Contribution which the service user can afford to pay according to the Department of Health’s guidance.

• The total cost of the Support/Care Plan is the Maximum Weekly Cost and the service user will be required to contribute at whichever is the lesser amount of the comparison between the Maximum Weekly Cost to the Weekly Assessed Maximum Contribution.

• After initial financial assessment, financial assessments and contributions will be reviewed on an annual basis.

• Recipients of the Emergency Communication Service are offered a financial assessment if they cannot afford to pay or if they are suffering financial hardship as a result of paying.

10. Notification of the Amount of the Contribution

• Will be in accordance with the provisions of the Fairer Contribution Policy.

11. Collection of Contributions

• Financially assessed contributions will apply from the Monday following the date of assessment and notification. There will be no backdating unless the amount of the contribution has reduced.

• For all Direct Payment Recipients the Contribution will be deducted from the Gross payment and a net payment will be made.

• In Council managed and commissioned arrangements contributions will be collected by Debtors invoice, submitted to the service user or their representative, four weeks after the elapse of the service period.

• For mixed packages the contribution will also be collected by Debtors invoice.

• Methods of payment are prescribed by Corporate Shared Transactional Services and details are on the reverse of the invoice. Further information is provided to service users in the contribution notification letter.

12. Non Payment or Default on Payment
• Non payment of invoices, including those for emergency Communication Systems and Community Meals will become subject the Health and Social Care Debt Recovery Policy. Corporate Shared Transactional Services will send three reminder letters and if payment still has not been received further action will be determined by the outcome of negotiations with Operational Managers in Health and Social Care and Case Conferences, which may result in legal recovery action being taken.

• Failure to make contributions against a Direct Payment is more difficult to detect and will have to be dealt with on a case by case basis through the yet to be defined Direct Payment Audit and Contingency arrangements.

13. Reviews and Complaints Against Charges

• Section 17 (3) of the Health and Social Services and Social Security Act 1984 gives the service user the right to ask for a review of the charge which has been assessed if the service user considers that it is not reasonably practicable for him/her to pay it.

• Reviews will be carried out by the Principal Finance Officer in Client and Carer Financial Services who will review the case within 10 working days. The outcome will be notified to the service user in writing.

• If the Principal Finance Officer is unable to resolve the complaint or query the service user will be referred to the Health and Social Care Formal Complaints procedure.

• Complaints about the process, conduct or behaviour will be referred to the Health and Social Care Complaints Manager through the Complaints procedure.

14. Information and Advice

• Health and Social Care will provide information, advice and guidance on charging and charging policies in whatever format is required by service users.

• Leaflets are composed and amended on an annual basis and charging information is available on both Intranet and Internet sites and Web pages.

• Work is also conducted with partner organisations and various forums to minimise the impact of charging on vulnerable groups and to keep people informed.

15. Equality and Diversity

• This policy takes account of equalities legislation relating to quality and diversity.

• As part of Bristol City Council, Health and Social Care is an Equal Opportunities organisation and as such, is committed to eliminate discrimination and will seek to introduce positive measures to promote
equality of opportunity. Our policies practices and procedures will be
guided by Corporate Policy and strategy to be monitored and reviewed
regularly to ensure they accord with the principles of equal opportunities,
anti discrimination and promoting diversity. In providing a service in the
community, no individual shall be denied access to services from Health
and Social Care on the grounds of gender, marital status, race or ethnic
origin, disability, religion, age, sexual orientation or political belief. This will
include consideration of the eligibility for services. Provision and delivery of
services shall be carried out in accordance with Corporate guidelines on
Anti Discriminatory practice.

16. Policy Framework

- Section 22 of part 111 of the National Assistance Act 1948
- Section 17 of the Health and Social Services and Social Security Act
  1948
- Charging for Residential Accommodation Guidance (updated annually)
- Fairer Charging Policies for Home Care and other Non Residential
  Services – Guidance for Councils with Social Services Responsibilities
  (September 2003)
- D oH Fairer Contributions Guidance (July 2009)
- Charging for Residential Accommodation Leaflet HSC 37 (April 2009)
- Charging for Non Residential Services Leaflet HSC 42 (April 2009)

Don Rayment

18 June 2010
Appendix G

V4 Proposals for

BRISTOL CITY COUNCIL

HEALTH AND SOCIAL CARE

NON RESIDENTIAL

FAIRER CONTRIBUTION POLICY

JUNE 2010.

Subject to twelve weeks consultation to commence from 26 July 2010.
Non Residential Fairer Contribution Policy.

1. **Summary Fairer Contribution Policy.**

   This is Bristol City Council’s Non Residential “Fairer Contribution” Policy which will apply to all people who are either receiving non residential services through a Care Plan or support through a Support Plan under Self Directed Support. The policy requires that all recipients will be eligible to contribute either the full cost of their Care or Support package or contribute a lesser amount determined by a financial assessment of their resources calculated in accordance with the Council’s Non Residential “Fairer Charging” Policy (revised June 2010). The Contribution will be the lower of the two figures.

   Eventually, planned completion date April 2012, all service users will have a Support Plan and Personal Budget under self Directed Support but until that date some service users will continue to receive their non residential services through a traditional care managed Care Plan until reviewed for Self Directed Support.

   It is important therefore that during the period leading up to April 2012 all service users are treated the same and that service users receiving care managed non residential services are required to make a contribution in exactly the same way as those receiving support under Self Directed Support. The contribution for care managed services will be based on the full cost of the care package they receive.

   This is a departure from the traditional method of charging which was service unit based on the actual services provided.

   It is important to note that under this policy the recipient is making a contribution towards or, at actual cost rather than a charge based on an hourly rate for the service provided.

2. **Introduction**

   - The “Fairer Contributions” Guidance issued by the Department of Health in July 2009 requires Council’s to implement a Non Residential “Fairer Contribution” Policy to enable them to calculate how a persons contribution to their personal budget will be calculated.

   - All service users are eligible to make a contribution towards the cost of the services and support provided determined by the outcome of a financial assessment under the council’s Non Residential “Fairer Charging” policy and all services and support provided by the council as part of Care or Support become chargeable under this policy.

   - The statutory basis for calculating contributions remains the same:
Section 17 of The Health and Social Security and Social Services Act 1983 gives Councils the power to decide whether to charge for non residential services and Guidance on Fairer Charging is provided in the Department of Health’s Guidance issued in September 2003.

- In devising the new policy the Department of Health has indicated that Council’s should refer to the original documents as above in addition to the new Fairer Contribution Guidance issued in July 2009 including reference to the CRAG guidance where necessary.

- The policy should be equitable and fair and all service users are expected to contribute in exactly the same way.

- Contributions will no longer be based on units of service provision but will be based on the cost of the Support or Care Plan.

3. Principles for the contribution system

- The process should be based on equity and fairness.
  Any discriminatory practice must be identified and removed and the approach to contributions should be fair and equitable to all.

- The system is based on everyone’s eligibility to make contributions towards the costs of their individual packages of care or, support based on a financial assessment and a fair and transparent system of calculation. It is intended to be fair to all in that the contributions will better reflect the actual care or support being given.

- The system should be linked to ability to make a contribution.

- The system should not restrict the choices that people can make.

- Contributions will be reviewed on an annual basis, or, on demand if recipient’s financial resources have changed.

4. Scope

- All recipients will have to make a contribution towards their care or support packages.

- The charges for individual services commissioned and purchased by the Council will be agreed as part of the Standard Charges Report submitted to the Executive Member for Health and Social Care in January of each year for approval, and will be implemented from the date of Increase for National Insurance Benefits which is usually the first Monday in April of each year. The charges will form part of the basis for the costing of support and services which form part of care and support packages.

- The Resource Allocation System and subsequent agreement on support requirements will determine the cost of support for individual recipients in finalising Support or Care Packages.
5. **Current Service Provision Prior to SDS:**

Those services marked with an asterisk were previously for but will become chargeable under the proposed policies:

- Personal care including Very Sheltered Housing or Direct Payment Recipients
- Home Care
- Community Support Services (Including Buildings Based Day Care, Very Sheltered Housing and Direct Payment Recipients).*
- Community Meals
- Transport
- Very Sheltered Housing
- Supporting People*
- Carer’s Services*
- Respite Care
- Adaptations*
- Emergency Communication Systems such as Piper Lifeline, Care Line, and Assistive Technology which will be charged at a standard rate regardless of financial circumstances

• To enable inclusion, residential respite care will be treated as non residential care provision for the first four weeks.

6. **Exemptions and Exceptions to Contributions:**

- After Care services provided under 117 of the Mental Heath Act 1983.
- People suffering from Creutzfeldt Jakob Disease
- Continuing Health Care funded services
- ILF funded services
- Reablement and Intermediate Care arrangements for the first six weeks

- Community Equipment and Minor Adaptations.

7. **Contribution Methodology and method of Calculation of Charges**

Defined in the Non Residential “Fairer Charging” Policy.
8. **Transitional Protection and application of Contributions:**

- The “Fairer Contribution” guidance issued by the Department of Health suggests that Local Authorities may wish to offer transition protection to mitigate against the effects of large increases in Contribution rates.

- In this proposed policy it is not intended that transitional protection should apply but this will be determined by the results of the consultation.

- Any new recipients of support or care services will be required to pay their contribution, if eligible through the financial assessment process, and after the date of implementation of this policy from the date their care or support commences.

- Existing service users who have already been financially assessed and are currently eligible for and are paying charges will continue to contribute at the same rate until their annual financial review. At that point a new contribution will be assessed and applied from the Monday following the date of assessment.

- Service users who are currently receiving services for which a charge is not currently paid will be expected to pay their contributions from the Monday following the date of assessment for eligibility to and calculation of their contribution.

- All service users will be expected to pay the lower of their weekly assessed maximum charge or the full cost of the care or support they receive.

9. **Collection of Contributions**

- Subject to the above rules financially assessed contributions will apply from the Monday following the date of assessment and notification. There will be no backdating unless the amount of the contribution has reduced.

- For all Direct Payment Recipients the Contribution will be deducted from the Gross payment and a net payment will be made.

- In Council managed and commissioned arrangements contributions will be collected by Debtors invoice, submitted to the service user or their representative, four weeks after the elapse of the service period.

- For mixed packages the contribution will be collected from the Direct Payment and the excess will be collected by Debtors invoice, four weeks after the elapse of the service period.

- Methods of payment are prescribed by Corporate Shared Transactional Services and details are on the reverse of the invoice. Further information is provided to service users in the contribution notification letter.
10. Non Payment or Default on Payment

- Non payment of invoices, including those for emergency Communication Systems and Community Meals will become subject the Health and Social Care Debt Recovery Policy. Corporate Shared Transactional Services will send three reminder letters and if payment still has not been received further action will be determined by the outcome of negotiations with Operational Managers in Health and Social Care and Case Conferences which may result in legal recovery action being taken.

- Failure to make contributions against a Direct Payment is more difficult too detect and will have to be dealt with on a case by case basis through the yet to be defined Direct Payment Audit and Contingency arrangements.

11. Reviews and Complaints Against Charges

- Section 17 (3) of the Health and Social Services and Social Security Act 1984 gives the service user the right to ask for a review of the charge which has been assessed if the service user considers that it is not reasonably practicable for him/her to pay it.

- Reviews will be carried out by the Principal Finance Officer in Client and Carer Financial Services who will review the case within 10 working days. The outcome will be notified to the service user in writing.

- If the Principal Finance Officer is unable to resolve the complaint or query the service user will be referred to the Health and Social Care Formal Complaints procedure.

- Complaints about the process, conduct or behaviour will be referred to the Health and Social Care Complaints Manager through the Complaints procedure.

12. Information and Advice

- Health and Social Care will provide information, advice and guidance on charging and charging policies in whatever format is required by service users.

- Leaflets are composed and amended on an annual basis and charging information is available on both Intranet and Internet sites and Web pages.

- Work is also conducted with partner organisations and various forums to minimise the impact of charging on vulnerable groups and to keep people informed.

13. Equality and Diversity

- This policy takes account of the Race Relations Act 2000 and other associated legislation relating to quality and diversity.
As part of Bristol City Council, Health and Social Care is an Equal Opportunities organisation and as such, is committed to eliminate discrimination and will seek to introduce positive measures to promote equality of opportunity. Our policies, practices, and procedures will be guided by Corporate Policy and strategy to be monitored and reviewed regularly to ensure they accord with the principles of equal opportunities, anti-discrimination, and promoting diversity. In providing a service in the community, no individual shall be denied access to services from Health and Social Care on the grounds of gender, marital status, race or ethnic origin, disability, religion, age, sexual orientation, or political belief. This will include consideration of the eligibility for services. Provision and delivery of services shall be carried out in accordance with Corporate guidelines on Anti-Discriminatory practice.

15. **Policy Framework**

- Section 22 of Part 111 of the National Assistance Act 1948
- Section 17 of the Health and Social Services and Social Security Act 1948
- Charging for Residential Accommodation Guidance (updated annually)
- Fairer Charging Policies for Home Care and other Non-Residential Services – Guidance for Councils with Social Services Responsibilities (September 2003)
- D oH Fairer Contributions Guidance (July 2009)
- Charging for Residential Accommodation Leaflet HSC 37 (April 2009)
- Charging for Non Residential Services Leaflet HSC 42 (April 2009)

Don Rayment

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