

## Disability Equality Impact Assessment

### Policy or Action Disability Impact Assessment Record Sheet

Policy or Action Title: <b>Fairer Contributions Policy</b>			
Policy Action owner Name & Title: Cliff Brown, Director of Community Services, Darlington Borough Council			Date: April - July 2010
Type of assessment	Type 1 <input checked="" type="checkbox"/>	Type 2 <input type="checkbox"/>	Type 3 <input type="checkbox"/>

Is this a policy or an action? Please state: <b>Implementing Government Guidance</b>
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#### Introduction

Fairer Charging was originally introduced by government in April 2003. It gave guidance to councils on how to work out what adults could pay toward the cost of non-residential care services that they receive. In Darlington a Fairer Charging Policy was implemented in 2009 following a detailed Disability Equality Impact Assessment.

In January 2009 the Department of Health began a review of the fairer charging guidance. The aim of the review was to design a financial contribution framework for non-residential care that supports personal budgets. The review concluded in new guidance being released by the Department of Health in July 2009.

The guidance provides councils with a model for calculating a person's contribution to their non-residential care provision. The Guidance proposes that the principles set out in the original Fairer Charging Guidance (2003) should be maintained and to be applied to the first stage of the charging assessment. This effectively set out a means test determining an individual's income available to make a contribution after they have retained an amount to cover living expenses. The concept of a fairer contributions policy is to financially assess someone's ability to pay towards the total cost of their non residential services. Currently services are charged at subsidised daily, hourly and flat rates.

The principle of a contribution to the overall cost of care for an individual (the Personal Budget) removes the complexities and inequities which are inherent when charging for a range of services, each of which has a unique charging structure.

From October 2010 all existing service users who have their annual review of their needs and support, will also be offered a Personal Budget, following a self-assessment. Personal Budgets have been systematically introduced in Darlington since April 2010 in response to this national agenda, offering eligible service users an individual allocation of money with which they may choose to purchase and manage their own care. People who do not wish to purchase their own care can elect to have their care managed by the Council on their behalf, as is the case currently.

The proposed new policy aims to ensure that the significant contribution from public funds is directed at those most in need. Where service users have the means and ability to contribute to their care costs it is considered reasonable to expect them to contribute.

## Principles

There are a number of principles set out in the national guidance which will shape the proposed Fairer Charging policy, namely that local authorities:

- (a) Set contributions for non-residential services based on service user's ability to pay. Regardless of whether a service user receives a direct service provision or personal budget equivalent, everyone is charged the same;
- (b) Has a clear and transparent contributions policy which is easy to understand and challenge;
- (c) Ensures an appropriate contribution is calculated fairly and collected for all service users (taking into account service users circumstances including their mental capacity);
- (d) Provides an early notification of service users' contributions to care costs;
- (e) Ensures that service users have an opportunity to maximise welfare benefits thus maximising their ability to contribute to their care costs and to reduce the burden of funding that may transfer to the Council;
- (f) Ensures administrative efficiency and convenience for service users;
- (g) Apply the new policy fairly and equitably with due consideration of potential and actual impact on the affected groups.

It is the essentially the last principle which this Disability Impact Assessment has been conducted to address.

## How we approached this Assessment

A Disability Equality Impact Assessment (DEIA) has been undertaken for the Fairer Contributions Policy. This has been informed by a public consultation, so that relevant information is available to anticipate any likely negative impact on people on disabled people. The assessment seeks to reduce the effect of potential or actual negative impacts by taking alternative courses of action wherever possible. The documents used to inform the consultation and DEIA are available as **Appendices 1 & 2**. Easy read versions of the policy and DEIA were also made available.

This DEIA needs to be seen as a working document and not a one-off process. The Fairer Contributions Policy, once in operation, will be monitored and reviewed after a year for any evidence of adverse impact on particular groups and changes recommended if necessary.

## What are the positive or negative effects that the policy or action will have on disabled people?

Under the Disability Discrimination Act there is a duty not to discriminate against disabled people. Indeed, there is also a duty to promote disability equality. All people affected by this policy will have some form of impairment or frailty; therefore the DEIA must also consider the relative impact on those with different types of impairment. Diversity issues have also been considered in the construction of the new policy.

A comprehensive list of responses and comments is included in **Appendix 3**. However, for the purpose of this report a number of comments have been themed to enable

considerations as to the impact be made and how it is proposed to mitigate and monitor the effect.

There were no positive impacts identified for individuals. There was general agreement for the policy in that it increases consistency in how the Council charges for services and in making the policy fair and equitable for all.

## **Negative Impacts**

The consultation indicated the following actual and potential areas where there could be a negative impact for disabled people. Actions to mitigate the impact are included.

### **Impact 1**

#### **Some people who attend Day Services and are full payers will be required to pay more.**

People who attend day services and fund their own care, currently pay £10 per session whereas people receiving a Direct Payment for social activities as an alternative to day care would pay an hourly rate. The new policy removes this inequality. The change will therefore have a negative impact on those service users attending day care who pay for themselves; in future they will be required to pay the actual unit cost of the service up to their maximum charge. There is an estimated 63 such service users, 9 of whom are people with a learning disability and 54 are older people.

### **Mitigation**

Until a financial assessment is undertaken it is difficult to ascertain the exact impact this will have on each existing service user, those who are known to be full payers have been written to inform them of the new Fairer Contributions Policy. In addition, a proposal has been put forward to reduce the immediate impact, by deferring the implementation of the Fairer Contributions Policy until April 2011 for existing service users who pay their own charges. This is to allow for each person to receive a review of their needs and circumstances and alternatives to be considered.

As a part of each financial assessment a "Disability Related Expenditure" (DRE) assessment will be carried out to ascertain how much expenditure a service user generally incurs above that assumed within income support levels. This is taken into account when calculating how much a service user can afford to contribute towards their support. Individuals will also be offered a supported self assessment and support plan, where they express a wish to no longer attend day care, advice and assistance will be provided to identify alternatives and managers will be working with service providers to develop new and alternative offers.

It is of note that for service users funded by the Council, who are not in receipt of a direct payment or personal budget, the full charge would be paid by the Council and they will not be affected by the change outlined above.

### **How and when will this action be monitored?**

An operational plan will be put in place from the 1<sup>st</sup> October to the 1<sup>st</sup> April to identify and review those existing service users who will be affected by this change in policy. The information obtained from this exercise will be collated and presented to senior managers on the outcome of each review, with recommendations of how to support service users transferring over the new policy. The process will be overseen by the Head of Adult Social Care. In addition, Day Services are all under review and people

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may prefer to take up alternatives in the future. The current service user numbers accessing the day services will be monitored, through normal contract monitoring procedures to inform review processes.

## **Impact 2**

### **Transport to social care activities will no longer be free to all.**

The Council does not currently have a Transport Payment Policy and people who are assessed to receive no support with their care needs, do not currently pay for transport to social care activities. The Fairer Contributions Policy is clear that transport will be an identified need and included in a persons support plan and personal budget. This will therefore become an additional charge to be met from personal budgets or by individuals themselves.

## **Mitigation**

Until a Transport Payment Policy has been developed and it has been approved by Cabinet, no charges will be made.

## **How and when will this action be monitored?**

This will be monitored by the Head of Adult Social Care through the validation of support plans and financial assessments.

## **Impact 3**

### **Short Breaks in residential care homes generate multiple financial assessments.**

People currently receiving traditional short breaks in residential care are financially assessed using Charging for Residential Accommodation Guidance (CRAG). Where they also receive non-residential care they receive two financial assessments. This is current practice and the Fairer Contributions Policy provides clarity to this issue. There is potential, however, with personal budgets that people may use alternative choices as they become available through the market and without further financial assessment pay the incorrect amount.

## **Mitigation**

To protect against this type of circumstance, financial assessors separate the two assessments without performing additional assessment visits. They can also reassess, with the correct information, and can carry out a desktop exercise without impacting directly on the individual. Care Managers will also discuss options with service users and carers as part of the support planning process and advise that any changes made may lead to alterations in the payments.

This will be monitored for adverse effects through service user feedback, comments and complaints as the policy is embedded.

## **Impact 4**

### **Perceived lack of a consistent approach in applying Disability Related Expenditure (DRE)**

Concerns were expressed that the additional costs borne by disabled people living independent lives will not be taken into consideration when applying the Fairer Contributions Policy.

## **Mitigation**

The policy clearly states that applying Disability Related Expenditure (DRE) will be considered, and it will be the Council officers' responsibility to apply this as consistently

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as possible in the absence of a Council policy in the immediate future. A Council policy for the application of DRE will be developed for which a DEIA will be conducted to inform its development. The Head of Strategic Commissioning and Partnerships will ensure this is developed within six months. Cabinet approval will be required prior to implementation.

#### **How and when will this action be monitored?**

The application of Disability Related Expenditure will be monitored for consistency, both with immediate effect and following the application of a new Disability Related Expenditure policy, by a revised validation panel led by the Head of Adult Social Care. Comments and complaints received will also inform the quality of practice in this area.

#### **Impact 5**

##### **People who pay full fees will not be eligible for a free Direct Payment Service**

Service users who are assessed as a full fee payer currently receive support without charge from the Direct Payments Service commissioned from DAD, if this is their preferred option. This has been an anomaly which the new Fairer Contributions Policy now clarifies and those affected will be required to fund any future management service.

#### **Mitigation**

To lessen the immediate impact existing service users will not be charged before April 2011. New service users will have a charge negotiated for them as an immediate action. The impact of this should be minimised with the development of a Brokerage Service for people using personal budgets and the new policy in development for the application of DRE.

#### **How and when will this action be monitored?**

The numbers of people affected will be investigated as part of the service review of the Direct Payment Service and in development of the new brokerage service. People with assessed needs who then refuse services will also be monitored and those at risk will be supported in alternative ways by Council Officers.

#### **Impact 6**

##### **In certain circumstances people may be unable to claim DRE against Housing related expenditure.**

This new policy clarifies the current practice. A small number of carers may be negatively affected by the policy in relation to which housing costs are taken into account when calculating DRE. This may be unavoidable in certain circumstances.

#### **Mitigation**

To reduce the impact of this as far as possible the Care Management Service will support people and carers ensuring that the people who are affected receive the correct information and possibly advocacy services to find other means of funding additional housing related costs.

#### **How and when will this action be monitored?**

The weekly Validation Panel chaired by the Head of Adult Social Care will monitor consistency in support planning for Carers. Comments and complaints received will be monitored and used to inform the quality of practice in this area.

### **Impact 7**

#### **People may not understand the complexities within the Fairer Contributions Policy.**

People find this a complex and difficult to understand policy area and require support in dealing with a complex care system.

### **Mitigation**

The new policy is designed to provide greater clarity in how fairer contributions will be calculated. It is a complex area and as a consequence three meetings have been held with DAD in which difficult to understand areas of the policy were amended for clarity. An easy read version has been published to support the consultation. Plain English information sheets will be developed for Care Managers and Finance Managers to leave with the service users, family and carers assessed to back up verbal information provided.

### **How and when will this action be monitored?**

Feedback received will also inform the effectiveness of the information and quality of practice in this area.

### **Conclusion**

There are seven negative impacts outlined in this document for which, wherever possible, actions have been identified as to how the Council will minimise the negative impact for those people affected. The Director of Community Services has overall responsibility to ensure these actions are put into practice and are monitored.

### **Appendices**

Appendix 1 – Fairer Contributions Policy (separate attachment)

Appendix 2 – DEIA Proforma Consultation Feedback Form (separate attachment)

Appendix 3- Process (attached)

## Appendix 5 – Process

### **Disability Equality Impact Assessment Level:- One (Wide Involvement\*)**

*\*See DBC Disability Equality Impact Scheme 2006-09*

### **Duration of consultation:- 1<sup>st</sup> April 2010 – 25<sup>th</sup> July 2010 (122 days)**

This was extended by 31 days at request of DAD.

### **How we communicated:-**

Communication with the public of Darlington was through the following:

Email, Telephone, Facebook, Twitter, Council Website, Newsletters, Partnership Boards, Word of Mouth, Programme Stakeholder Steering Group, Monthly Staff Briefing Sessions.

The major local newspapers and local Council flyers also featured the consultation prominently.

The Fairer Contributions Policy and Easy Read Version along with two consultation forms, one asking people to complete on whether the new policy would have a negative or positive affect on them, and the other had specific questions on the actual policy, were distributed to targeted groups. The covering letter gave people the choice of replying by letter, telephone, email or web based comments to the web based information on the Darlington Council web site.

As well as giving people the opportunity to respond directly those more likely to be affected were given the opportunity to meet with staff from Adult Social Care consisting of Commissioning and Finance staff to obtain their views. Pre-arranged consultation sessions were held with the following organisations who expressed an interest. In the case of AGE UK a second visit was requested to speak with smaller groups including carers to enable greater understanding and ability to contribute to the DEIA.

#### Arranged meetings:

- GOLD members X 1
- MINDX 1
- Age UK X 2
- DAD X 3

D.A.D requested an extension to the original consultation by 4 weeks and 3 meetings were held. Officers from Adult Social Care have been working closely to resolve most of the issues raised in relation to clarity by amending the policy prior to circulating to Cabinet. Issues in regard to the negative impacts which have been reflected in this DEIA.

### **The Response**

In terms of the overall response there has been little response from outside the pre-arranged forums. Most of the responses have come out of arranged meetings with service users groups, for example Age UK and MIND. DAD was also involved representing Disabled People and GOLD as an Older Persons reference group.

Many people wanted to know how the proposed policy would impact on their individual charges; and a general discussions took place on self directed support and personal budgets. Concern was expressed about how this will impact upon how people will

receive services in the future with a perceived outlook on an ever increasing complex care system.

The responses are not necessarily impacts rather comments and considerations. Therefore these have been themed in the main body of the report.

### List of Concerns and Comments

Those that can afford to pay should pay.

Concerns over whether people have the capacity to organise and arrange activities and transport. Members wanted assurance that people can continue to use the service as they do now.

Penalise people for being responsible with their cash and working hard all their life.

Concern that people will reduce their spending on looking after themselves if charges/contributions increase.

How is someone going to manage a personal budget?

Concern about the impact on people with disabilities.

Incentive to spend rather than save for old age.

Council should contribute to everyone's care.

Concern that the new policy will create incentives to enter residential care rather than remaining in the community.

The proposals will cost more for people with high care needs.

How do we know the full costs of any service ?

Proposals of a £23k capital limit will impact on people with low income however have moderate capital, e.g. people may be living on basic state retirement pension but have a nest egg. Savings limit should be higher.

Will there be choice by having a list of different provision listed with prices to compare.

People with disabilities pay more for home maintenance, transport such as electric wheelchairs and frequent purchase of a car from savings. People with disabilities need a "level playing field" compared with others.

Concern that the policy will make people dependant on the council rather than managing for themselves.

Plea for clarity and support in dealing with a very complex care system.

I would be prepared to pay more as I have enough money and I value coming here.

I would be prepared to pay a little more.

Carers group - Most thought the questions regarding the Financial Assessment were invasive, demoralising and unnecessary.



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The Carers group asked if there are more people who would be asked to pay, than those who cannot pay, where would the “service” costs be adjusted ?

Do not have enough information, or what is available for “services”.

Will we be given a list of places to go, compare prices and decide which service to attend.

A lack of Transparency, (from the Town Hall).

Worry over change – don’t like change happy with the way things are.

If I had the amount for the full cost of service I would not come here – would like a PA to take me out.

Never had any choice so don’t know what is available.

Very suspicious – told things will be better, is it a way to get money out of us ? pay more for less.

Is this fair ? – free treatment under the mental health act, people with dementia having to pay.

Should the rich contribute more to their care.

How will people understand the process and how are you going to tell everyone about it, members thought people may need a one to one personal explanation. Sometimes even the assessment process can be difficult for people to comprehend (care assessment and financial assessment).

People who have some savings may have too much coming out of their budget to pay for care, and this could eat into their savings.

Concerns about a greater impact on people who are on the borderline of contributing/not contributing.

Is the implication of fairer contribution policy that the system is not fair at the moment? Is this a money saving exercise?

Perhaps it will provide more benefit to some people with learning disabilities who can gain more freedom and who have a life left to live.

Will be difficult if people currently going to day care find they can no longer afford to go.

Is it fair that people will have to pay more than they do now for day care

Could be quite expensive if Transport costs are put into the chargeable section.

Everything’s changing at once and we’re not sure what is to do with what. So much paperwork and not easy to read all the way through.

More obvious to individuals to know what services they are getting and contributing towards

If someone can afford to pay for the services they should pay Someone pays actual cost they would be more involved in the provision of services provided