

## **Southampton City Council Non Residential Care Contributions Policy Officer Led Review – Proposals for change**

### **1. Introduction**

A report was prepared in August 2012 to detail the outcomes of the officer led review of the current non residential care (NRC) charging policy for adult social care provision and the impact for service users. This has been updated to reflect the changes to original proposals related to day services and revised national guidance published in October 2012. It should be noted that all figures are quoted at 12/13 rates and will be subject to an annual uplifting in April 2013 in line with increases in rates paid to providers.

### **2. Background**

**2.1** The Council has discretionary power to levy contributions towards the costs of NRC, provided these are in line with national guidance. This differs from residential care where contributions are nationally prescribed under Charging for Residential Accommodation Guidance (CRAG) regulations. The Council's NRC policy was last reviewed in 2008. A further review was undertaken to consider the policy's application in supporting the development of the Personalisation agenda, ensuring equity, fairness and fit with recently revised national guidance and considering maximisation of income for those who can afford to pay to meet the costs of providing for increased demand due to demographic changes.

The review was informed by the following;

- A benchmarking exercise undertaken with other Councils.
- A review of national guidance.
- Discussion with staff teams about current practice issues.

**2.2** The current policy operates in the following way;

- The assessment of an individual's contribution towards the costs of their NRC services considers 3 areas.
- Income - the majority of benefits are taken into account, as are private pensions and other income. Notional income from all capital over £14,250 (excluding the home the individual is occupying) is taken into account at a rate of £1 per £250.
- Expenditure –national guidance ensures Councils offer Dept of Works and Pension minimum income levels plus an additional 25% in recognition of the increased expenditure needed to meet additional needs resulting from frailty or ill health. In Southampton at the present time an additional 30% is allowed. In addition to this all Local Authorities must have regard to individual circumstances and

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Southampton’s policy allows additional expenses, often related to disability.

- The costs of the provision - in Southampton at the present time individuals are asked to contribute a maximum of £13.69 per hour of domiciliary care or day of day service provision no matter the real costs of the service.
- The contribution the individual pays is the lesser of the net disposable income (expenditure minus income) or the notional cost levied for the service.
- No one with a FACS eligible need will ever be refused a service because they cannot afford it. There is delegated authority to waive charges in situations where this is important for the welfare of the customer, e.g. when a person has no insight into their needs due to mental health issues and would refuse to pay for services.

**2.3** It is not proposed to significantly change the current approach to calculating an individual’s contribution towards the cost of their services. There are however specific areas where changes to the current policy are recommended.

### **3. Policy Review**

#### **3.1 Personalisation –“contributions” rather than “charges”**

To promote choice and control, individuals with social care needs are now offered an Individual Budget (IB) and helped to determine how they will use this and other resources available to them to develop individualised support packages to meet their desired outcomes in a more holistic way. This differs from the previous approach which largely arranged services from a defined range to meet social care need. The language of “charging” is therefore no longer relevant and the recent national review of NRC guidance suggests “contributions” should be used.

##### **3.1.1 Recommendation**

- To re-name the NRC Charging Policy the NRC Contributions Policy.

#### **3.2 Personalisation –weekly/annualised Individual Budgets**

Weekly IB allocations are now offered. However, there will be times when an individual’s spend will increase in some weeks e.g. if the person requires a respite arrangement. To offer maximum flexibility in the use of IB it is proposed that the IB can be annualised where required.

##### **3.2.1 Recommendation**

- To agree annualised IB sums when required.

#### **3.3 Capital Limits**

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In national CRAG guidance, when an individual has capital over £23,250 they are expected to commission and fund their own care home placement, whilst still being entitled to assessment of their social care needs and signposting to services to meet these needs.

Southampton's NRC policy has no capital limit beyond which an individual is expected to commission their own services. This has the effect of drawing individuals into a full assessment process to find at the end of the process they can often commission services themselves at similar or lower costs. This is a negative experience from the consumer's view point; it promotes a dependency culture and does not make best use of staff resources.

The benchmarking exercise undertaken showed that all Councils NRC policies had capital limits, beyond which individuals are expected to commission and to fund 100% of their care costs. Two Councils cap these costs, one at £900 per week and the other at £334.50.

An audit undertaken in August 2012 demonstrated there were 313 individuals receiving non residential services with capital over the proposed limit who would be required to fully fund and commission their own services. There would be no impact on income, however this approach could impact on the workload of the service in the longer term.

### **3.3.1 Recommendation**

- To introduce a capital limit, in line with CRAG, excluding the capital in the home where the individual is currently resident.

### **3.4 Net Disposable Income**

Following the 2008 review, which showed the Council to be more generous than its comparators, the Council made the decision to increase the chargeable factor of the net disposable income (income minus expenditure) to 85% in 2010 and 95% in 2011. In the recent benchmarking exercise the Council was again shown to be more generous. 75% of councils indicated they take 100% of net disposable income into account.

The reduction of the net disposable income adds to the NRC policy's complexity and potentially makes it less transparent for our customers. In addition it does not maximise income from those who can afford to pay.

A detailed review of those in NRC charging at August 2012 showed that of the 2,109 people in NRC charging 798 would be affected by this proposal, none of whom currently contribute at full cost due to capital or refusal to disclose their financial arrangements. The range of annual contributions increase for the 798 would be between 52p and £2,600 with average increase of £121 per annum. In total this exercise has indicated that the proposal will raise an additional £96,200 income.

### **3.4.1 Recommendation**

- When determining NRC contributions to take 100% of net disposable income into account.

### 3.5 Charging full unit costs for day and domiciliary care

The current maximum contribution towards the costs of services directly commissioned by the Council is calculated at £13.69 per hour of domiciliary care or day of day service provision. When actual costs paid to providers (based on full occupancy in day services and market average costs in domiciliary care) are taken into account the real cost of day service provision is higher whilst the maximum contribution for domiciliary care meets actual costs of the service.

Provision	Current charge	Actual average direct cost
Domiciliary care	£13.69	£13.69
Day care	£13.69	£42.57

The proposals made in August 2012 had suggested taking overheads related to paying providers and billing service users into account, however national guidance published in October 2012 has shown that this is not possible. For this reason the proposals have been amended and whilst the principle of requiring a maximum contribution of the actual cost of domiciliary care is suggested no increases to the unit cost of domiciliary care would result from this.

In terms of day services the Council is more generous than the majority of Councils. One Council charged a lower rate of £9.60 per day but was about to consult on charging the actual cost of the service. Another did not charge for any in house service. Some charged for transport and meals separately in day services. The maximum charge was £98 per day.

Changing the approach to contributions for day services would ensure equity between individuals who are offered Direct Payments (DP) and those who rely on the Council to manage their IB. At the present time those receiving DP contribute towards the full cost of their services, whilst those who are receiving care commissioned by the Council contribute only towards the full notional cost. This could have the effect of discouraging the uptake of DP when the policy drivers are to increase its use because studies show that the use of DP increases the individual's control over their support. It is likely that the numbers taking up DP will be part of the revised national performance indicator set for social care.

Discussion with day service providers highlighted that to increase costs from £13.36 to £42.57 in a single year is likely to result in a significant number of individuals ending their day service. This would destabilise current care arrangements and increase strain on carers. In addition, the Joint Commissioning Team is planning to review day service contracts to develop personalised approaches. This is likely to change models of provision and to reduce costs. For these reasons the original proposal has been amended and it is now proposed to increase the maximum

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contribution over 2 years, increasing the maximum contribution to £22 in 2013/2014, an increase of around 50% from the current charge of £13.69 per day.

A review of service users in August 2012 was reviewed based on raising contributions to £22. This has demonstrated that in addition to the proposal at point 3.4 raising the full cost rates for day care would generate a further £120,700. 527 individuals received day services and 203 would be affected by the proposal. The range of annual increase for clients would be from £7.50 to £2,166 and the average additional contribution would be £594.69 per annum.

It should be noted that if a decision is made to introduce a capital limit this could reduce the numbers affected and income generated by this proposal.

### 3.5.1 Recommendation

- To charge up to the actual full cost of providing Domiciliary and Day care.
- To phase the increased contributions in Day care over 2 years, increasing the maximum contribution to £22 in 2013/2014, then £42.57 from 14/15.

### 3.6 Charging for 24 hour live in care/ sleep in care/waking night care/Extra Care overnight care

There is no coherent approach to charging for some of the services detailed above. At the present time the Council provides sleep in cover in 2 of its 3 Extra Care facilities and waking cover in the 3<sup>rd</sup>. There are no charges set for these services whilst those who do not live in Extra Care do not contribute towards these costs those in their own homes do so, although no scale of charges has currently been formally set.. This could be considered inequitable in terms of applying the national guidance. It is therefore important that the Council clarifies its charging policy in this area.

In August 2102, a review of those in services showed very few people had their needs met in this way; in charging there were 19 individuals who received live in care, sleep-in night care, or waking night care and 71 people receiving care lived in Extra Care Sheltered Housing. However, the Council is committed to developing further Extra Care and other Supported Housing solutions many of which will offer overnight support. In addition as personalisation allows an individual to have more control over their support it is likely that individuals who currently move to residential care will increasingly consider 24 hour support in their own homes. Administering a contributions policy based on a weekly allocation of funds which can be used to buy a wide range of support services when some services are chargeable and others are not would be confusing and lacking in transparency for our customers, time consuming for staff and impede the development of personalisation.

Benchmarking showed the majority of Councils apply full cost for these services. Two organisations apply ceiling limits, one of £900 per week and the other £334.50.

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Additional benefits can be claimed when there are overnight care needs e.g. higher rate attendance allowance. These benefits are given to meet additional care costs but are not currently taken into account in the NRC charging policy. To ensure equity it is appropriate that they are taken into account in determining contributions for packages which include an element of overnight care.

The costs of the extra care services in Southampton are £95 for night sleep in and £106 per night waking cover. Using current numbers receiving the service the unit cost would be £29.18 per week. However there is capacity to increase numbers of residents without increasing the overheads and taking this into account the proposed maximum contribution for this service is £19.52 per week.

Current and proposed future contributions are detailed below

	Sleep in (per night)	Waking Night	Extra Care(per week)	24 hour waking care (per hour)
Current	£10.63	£55 per night	£0	£13.69
Proposed	£16.42	£13.69 per hour	£19.52	£13.69

The changes proposed to 24 hour, waking and sleep in case are based on average real costs for these services and would generate no additional income nor would they impact on individuals receiving these services in August 2012.

Of the 90 individuals receiving services in August 2012, 71 individuals in Extra Care would be affected by this proposal of whom 7 contribute at the current maximum cost. The annual increase in contributions would range from £491.68 to £1,334.78 with the average client increase being £1,182.06. The proposal would generate £63,700 in additional income.

### 3.6.1 Recommendation

- To charge up to the full unit cost for Extra Care, 24 hour care, sleep in and waking night care.
- To take benefits related to night time care into account in the financial assessment.

### 3.7 Charging for two carer packages

Increasingly there is a need for 2 carers to be in attendance for the provision of domiciliary care. This is largely to ensure safe moving and handling but can also be to ensure the safety of the carer, e.g. in the case of individuals who, due to their impaired cognitive abilities, display aggressive behaviour. Currently the Council charges on the basis of 1 carer being present, although the real costs charged by providers are for 2 staff members' attendance.

Benchmarking shows that the majority of the Councils in the sample applied charges for a second carer. Some applied criteria such as not charging if the second carer is

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required for external health and safety reasons such as visiting an area which may be dangerous after dark.

At August 2012, 105 individuals in charging received 2 carer packages and 1 individual received a 3 carer package. In addition to the proposals at point 3.4 and 3.5 above the analysis showed that a total of 24 individuals would be affected by changes to 2 carer contributions. Of those, 18 individuals contribute full cost due to capital or refusal to disclose income. The average client increase would be £5,498.47 per annum and the range of increase is £33.89 to £12,701.30. Total additional contributions from this element of the proposals would be £132,000.

It should be noted that if a decision is made to introduce a capital limit this will reduce the numbers affected and income generated by this proposal.

### **3.7.1 Recommendation**

- To charge for the full costs of a two carer package based on charges outlined in 3.5 above.

### **3.8 One off services**

There is a lack of clarity locally on contributions for one off services such as the provision of pet care in an emergency or a deep clean of a home. Funding for these one off services will in future be a part of an Individual Budget. Administering a contributions policy based on a weekly allocation of funds which can be used to buy a wide range of support services when some services are chargeable and others are not would be confusing and lacking in transparency for our customers, time consuming for staff and impede the development of personalisation.

Although 66 % of Councils stated they do not charge for 1 off services the range of services they consider as non chargeable varies, with charging for some of these services being proscribed by legislation e.g. Occupational Therapy aids to daily living.

### **3.8.1 Recommendation**

- To bring the majority of services into charging and to clarify which services should not be included when determining an individual's contribution.

### **3.9 Charging for Services provided to informal carers**

At the present time the Council has no policy on whether services directly provided to support carers are chargeable, although in custom and practice terms no charges are levied. In the majority of cases the service benefits both the direct customer and their carer and in these cases the customer's ability to pay is assessed. There are however increasing numbers of situations when the service is provided solely for the benefit of the carer and when carers are being offered their own IB.

Benchmarking shows that the majority of Councils do not ask carers to contribute towards the costs of their services. One applies a low key "self assessment" where

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those declaring they have over £23,250 pay the full cost whilst those who sign to say they have less than this amount pay no contribution.

### **3.9.1 Recommendation**

- To treat carers support as non chargeable.
- To continue to charge the customer for services when they are the direct recipient, e.g. respite, sitting and day services.

### **3.10 Rent Allowance**

A small group of individuals who have a learning disability and live in parental/family homes have historically been given rent allowance of £40 per week. This longstanding arrangement has only recently been recognised.

Due to this inequitable approach the current operation of the policy does not meet national guidance and exposes the Council to potential challenge. The Council therefore requires to either apply this allowance to all those living in parental homes or to remove the allowance.

There is no rationale to applying a £40 allowance. The current system of applying a weekly allowance takes account of day to day living expenses. In addition parents who are on a low income and qualify for Housing Benefit are deducted £11.45 per week Housing Benefit when the service user lives at home. This is currently allowed for as rent when calculating the service user's social care contribution.

The benchmarking exercise showed all but 1 Council made no allowances for rent, assuming this was catered for from other benefits unless there was evidence to show otherwise. One Council allowed £9.40 per week but had clear guidelines to ensure there is no opportunity to receive Housing Benefit and rent allowances and guidance on what rent allowance is expected to pay for. Two Councils ask for proof of a rent book and tenancy agreement before making an allowance and finds it rarely offers an allowance.

A review of the impact in August 2012 suggests the removal of the rent allowance for these specific clients could generate a maximum additional income of £150,800 based on applying proposals at 3.4 and 3.5 above first. The removal of rent allowance will affect 92 individuals, of the total 108 individuals receiving this allowance, of whom 61 will contribute towards their costs for the first time. The average additional client contribution will be £1,639.17 per annum, with the minimum additional contribution being £245.58 and the maximum £2,085.60.

### **3.10.1 Recommendation**

- To remove the rent allowance for the small group of current users who receive it.

### **3.11 Charging regime for respite care**



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Clarification is required on charging for respite care when customers take their Individual Budget in the form of a Direct Payment which they use to directly commission their own services.

In the past residential respite care has been assessed using the national CRAG regulations. Benchmarking showed that, in common with Southampton, 66% of Councils now allow Direct Payment users to be charged under NRC guidance when they commission their own residential respite care. The other Councils are reviewing their approach with a view to updating the policy.

### **3.11.1 Recommendation**

- To assess Direct Payment recipients, arranging their own residential care, under NRC policy.
- To continue to assess individuals where the Council has arranged residential respite under CRAG policy.

### **3.12 Charging for day services**

Day services directly commissioned by the Council are subject to closures for public holidays throughout the year. To minimise the administrative burden on the Council no reduction in charges has been made for these closures, the rationale being that the charges were annualised.

#### **3.12.1 Recommendation**

- To ratify the policy of annualising day service contributions, taking account of the level of closure for public holidays.

### **3.13 Couple's contribution**

There is a lack of clarity in the current policy about the approach to the contributions paid by couples. Local practice to date has been to assess both individually and as a couple and to use the most favourable figures for the customer. In most cases the individual NRC assessment is a lower figure than the couple's assessment. Benchmarking demonstrates a variety of practices across Councils. 33% of Councils opted for a joint assessment.

#### **3.13.1 Recommendation**

- To ratify the current practice, offering the choice of NRC assessment as an individual or a couple.

### **3.14 Thresholds for contributions**

The Council has no minimum contribution below which it will not invoice customers who are receiving directly commissioned services. Transaction costs in producing and sending invoices and collecting income is such that it is not economically

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efficient to collect contributions below a specified sum. All other Councils have a threshold below which they will not collect income.

An initial analysis of the impact of setting a threshold are detailed below, this is based on using 100% net disposable income and proposed increased full cost rates as detailed earlier in this report. This exercise has also been undertaken based on the existing charging policy and the difference is negligible.

Lower threshold amount per month	Estimated number of individuals affected	Income reduction per annum
£2	0 - 5	£50
£3	6 - 10	£110
£4	10 - 15	£200

### 3.14.1 Recommendation

- To discontinue the collection of income of assessed contribution of less than £3 per month.

### 3.15 Backdating contributions

The Council does not enforce a policy of backdating contributions when an individual's income has increased and they fail to inform the Council of this. This could be viewed as inequitable. It does however backdate decreases in contributions when it is informed of reduced income. Southampton is the most generous Council in the bench marking group. All other Councils backdate charges, usually allowing a period of up to 6 weeks for the service user to inform the Council of the change. All other Councils backdate to the date the increased income was received. It is not possible to estimate the numbers of individuals who would be affected or the income maximised by this approach.

#### 3.15.1 Recommendation

- That the Council backdates changes to contributions to the date the individual's income changes.

### 3.16 Independent Living Fund

In the past when an individual's contribution towards the cost of social care services was calculated ILF adjusted their payment to take account of this contribution. However, ILF will no longer make any adjustments to payments and if an individual's contribution increases this is not being allowed for.

If the package of care remains the same, the client requires to fund the difference in the care package costs from their own resources, in effect paying a higher contribution than other customers towards their social care costs. Some individuals will be unable to afford this additional sum and this could jeopardise their care package.

#### 3.16.1 Recommendation

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- After individual review of the support arrangements to ensure best value and equity in spend to take account of the additional contribution the individual is required to make when setting contribution rates.

### **3.17 Guardianship**

The current policy lacks clarity with regard to charging individuals on Guardianship orders for their services although in practise individuals are asked to contribute. Bench marking shows 44% of comparator authorities ask individuals to contribute towards the costs of these services and 22% were also unclear about their policy. There are currently 7 people on Guardianship orders and all are being charged for their services.

#### **3.17.1 Recommendation**

- To require those on Guardianship orders to contribute towards the costs of their services.

### **3.18 Compensation and future care**

The Council has no clear policy or guidance on contributions to be made by individuals who have received compensation following an injury. A recent case has shown the need for clarity nationally and for the Association of Directors of Adult Social Services (ADASS) to discuss the approach now being taken in Courts and by Trust Fund Managers with Government.

Bench marking has demonstrated that many other Local Authorities have no clear policy. One Council treats interest from compensation awards as income but refuses to allow disability related expenses. Two councils take the level of care which would be needed had the accident not occurred into account and applies charging to this but not to services provided for the needs for which compensation has been paid.

The numbers of cases where compensation is paid is very small and therefore will not have an impact on income. However, given the sums paid in compensation individual contributions could be significant.

#### **3.18.1 Recommendation**

- To maximise contributions from those who have been awarded compensation.
- To work with other Councils and ADASS to develop a coherent policy.

### **3.19 Debt**

The Council currently allows personal debt to be considered at the point the first assessment of contributions is made as part of the individual's allowances. This could be viewed as inequitable. No other Council has taken this approach apart from Hertfordshire which allows debt related to the purchase of disability related equipment to be taken into account. Many Councils have systems where referral to and support from money management services is offered.

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Officer time taken in managing bad debt will increase if the approach taken in other Councils is adopted.

### **3.19.1 Recommendation**

- To develop clear pathways to debt management services.
- To end the practice of allowing debt to be taken into account in determining contributions.

### **3.20 Disability Related Expenses**

In Southampton disability related expenses are determined on an individual basis using National Association of Financial Assessment Officers guidance in conjunction with advice from a Care Manager involved with the individual. A review of this policy was undertaken and has determined that it is equitable and robust.

### **3.20.1 Recommendation**

- To endorse the current policy.