

COUNCIL
23 FEBRUARY 2012

FAIRER CONTRIBUTIONS FOR FAIRER ACCESS TO SERVICES

Portfolio Holder: Councillor David Brake, Adult Services
Report from: Rose Collinson, Director of Children and Adults
Author: Genette Laws, Social Care Commissioning and Voluntary Sector Manager

Summary

To set out the final outcome of consultation regarding proposed changes to the council's policy on charging contributions for non residential Adult Social Care services.

1. Budget and Policy Framework

1.1 Adult Social Care contributions have been set by the council under its charging policy, and fees and charges are a matter for Full Council. This decision is within the council budget and policy framework.

2. Background

Fairer contributions policy for non-residential services

- 2.1 The current charging arrangements for home care and other non-residential services were introduced in 2002. The charges are based on the *type* of care delivered. This form of charging is focused on care services and not on the personalised care and support, which is now offered. With personalisation, the emphasis is outcome based and the personal budget is set to meet the outcomes, i.e. there is no *type* of care defined. Currently Medway Council collects over £9 million of income in client contributions for residential, respite and home care services. The Council does not currently charge for day care or transport services.
- 2.2 On 24 February 2011, Full Council agreed, as part of the budget setting that "The legitimate emphasis that has been placed on personalisation and direct budgets has exposed anomalies in the way in which the Council calculates contributions for social care. These will be addressed to create an equalised and fairer system ..."
- 2.3 In order to create an equalised and fairer system, it is proposed that the contributions policy for Adult Social Care services or a direct payment should

have regard to the personal financial circumstances of the individual in receipt of a service or a direct payment to provide such. The current system results in some people not being assessed to make a contribution because of the *type* of service that they receive.

3. Advice and analysis – Fairer contributions for personal budgets

- 3.1 A Personal Budget funds a person to achieve outcomes, regardless of the activities undertaken. It is equitable for all support funded by Adult Social Care to all client groups to be assessed for contributions with the exception of services which must be provided free of charge by virtue of statutory provisions, such as services under Section 117 of the Mental Health Act 1983 and minor adaptations. By collecting income from all people in receipt of Adult Social Care support who are means tested as liable for charging it will also enable Medway Council to sustain the funding available to vulnerable adults in Medway.

5 Advice and analysis - Consultation

- 5.1 The consultation period commenced on 12 December 2011 and concluded on 9 February 2012.
- 5.2 The consultation exercise was undertaken for two purposes. First to inform people about the details of the proposed policy changes and, secondly, to invite the views of service users and carers so that the Council could better understand the direct impact of those changes on them, and take into account those views when reaching its final decision. The consultation programme included writing to existing service users, carers and families, Medway Council Members, Medway Members of Parliament, Medway LINK, NHS partners and Social Care staff. It also included presentations to the Health and Adult Social Care Overview and Scrutiny Committee, on 26 January 2012 (see Appendix 1). Consultation meetings were held as part of the listening exercise.
- 5.3 283 completed questionnaires were returned and one person was referred for independent advocacy support so that they could share their views. Three items of correspondence were received including letters and emails, in addition to the petitions received. There were seven consultation meetings held as part of the listening exercise with 104 attendees at the meetings.
- 5.4 The Diversity Impact Assessment presented in the report to Cabinet on 29 November has been updated to reflect the views shared as part of the consultation process, see Appendix 3.

6 Advice and analysis – fairer contributions policy consultation

- 6.1 The key messages that people told us were:
- 6.1.1 People felt that those who can afford to pay for care should pay.
- 6.1.2 A minority of people felt that charging was a tax on being disabled and questioned the cost/benefit of charging.

- 6.2 In preparing this report, officers identified the need to complete a full impact assessment for this proposal. See Appendices 3 and 4. The full impact assessment will enable Cabinet and Full Council to give due regard to the issues in determining the changes in policy and also the issues which need to be addressed if the decision is made to adopt the proposed changes.
- 6.3 In considering the potential impact of this proposal on service users, carers and their families, research was undertaken about the changes of such policies elsewhere and in particular in relation to people with mental health needs.
- 6.4 The proposed introduction of charging to a specific group with disabilities, people with mental health needs, means that a full diversity impact assessment was undertaken to assess the potential impact and to identify how any potential impact on this group can be mitigated if the proposal to change the policy is made.
- 6.5 The council collected £9 million in 2010/2011 at a cost of less than £300,000.

7 Cabinet

- 7.1 The Cabinet considered a report on 14 February 2012 regarding both the fairer contributions policy consultation and the major adaptations policy consultation.
- 7.2 The Cabinet's recommendation to Full Council regarding the fairer contributions policy is set out in paragraph 11 below.
- 7.3 In addition, the Cabinet agreed the Major Adaptations Policy being adopted in Medway.

8. Risk management

Risk	Description	Action to avoid or mitigate risk
People may be disproportionately and adversely impacted by the proposal	Some groups with protected characteristics may be disadvantaged – either knowingly or unknowingly by the proposed changes to the policies	A full consultation process has informed a diversity impact assessment that may lead to reasonable adjustments being identified.

9. Director's comments

- 9.1 The income generated from fairer charging for non-residential services, £9 million last year, enables the council to maintain fair access to care at Substantial and Critical.
- 9.2 The proposed changes to this policy will ensure that all people with eligible needs are treated equally but there is a recognition that some groups that will be financially assessed for the first time may be disproportionately and adversely impacted by the changes if reasonable adjustments are not put in place.
- 9.3 The personalisation agenda is such that the current approach to charging in relation to services rather than a personal budget will perpetuate an output-led rather than an outcomes-focused approach to adult social care.
- 9.4 Officers are confident that the implementation of the proposed changes can be successfully implemented if a measured and sensitive approach is taken, as described in the full impact assessment.

10. Financial and Legal implications

10.1 Financial

- 10.1.1 If the fairer contributions changes are implemented there will be an increase in income as all service users means tested as liable for charging would contribute to their Personal Budget and other services. This would bring 1,400 Service Users into the contributions scope. This includes 491 Service Users who only receive day care and up to 700 Mental Health Service Users not subject to S.117. The change in policy would also bring transport in scope which would result in contributions for transport or fewer people using council transport. The financial benefit is estimated to be in the region of up to £1m.
- 10.1.2 The threshold for means testing is proposed to remain the same at £23,500. Fee levels are set by Full Council each year as part of the budget setting process and are not affected by this proposal.

10.2 Legal

- 10.2.1 When considering making changes to service provision, the decision maker needs to comply with its obligations as to equalities under the Equality Act 2010. In essence this requires decision makers to have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.

Protected characteristics, as defined in the 2010 Act, are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Having due regard to the above needs involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics.
- taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

In order to comply with its equality duties, the Council is required to engage with service users, representative groups, staff and unions and to use the information and views gathered as a result of such engagement (together with other equality information the local authority has) in assessing the equality impact of the proposals.

10.2.2 Where any consultation is undertaken it must be undertaken at a time when proposals are still at a formative stage; it must include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and an intelligent response; adequate time must be given for this purpose; and the product of consultation must be conscientiously taken into account when the ultimate decision is taken.

11. Recommendation

11.1 The Cabinet recommends to Full Council to note the issues identified in the full Diversity Impact Assessment as set out in Appendix 4 to the report and;

- agree to the Fairer Contributions Policy as set out in the report being adopted and;
- agree the Implementation Plan as set out in the full Diversity Impact Assessment as set out in Appendix 4 to the report.

Lead officer contact details

Genette Laws
Social Care Commissioning and Voluntary Sector Manager
Extn. 1345
genette.laws@medway.gov.uk

Background papers

- Fairer Charging for Home Care and Other non-residential services 2002
- Capital and Revenues Budget 2011/12 at <http://democracy.medway.gov.uk/mgConvert2PDF.aspx?ID=7088>

Appendix One

Extract of the record of the meeting from the Health and Adult Social Care Overview and Scrutiny Committee meeting held on 26 January 2012

Discussion:

The Social Care Commissioning and Voluntary Sector Manager gave a presentation illustrating the background to the proposed changes to the council's policies on charging contributions for non-residential Adult Social Care services and Disabled Facility Grant for adaptations.

The Service Manager, Physical Disabilities, then gave a presentation on the proposals with regard to the Disabled Facility Grant. She explained that the review was to ensure that the system is as fair as possible and sustainable in the future. She explained that in a few complex cases the Disabled Facility Grant was not enough to enable people to make the alterations needed to their homes because they are means tested or the adaptations cost more than the grant available. In cases where additional financial support was needed the Council was looking into the possibility of offering an interest free loan in such cases on the understanding it would be repaid when the home was no longer needed by the disabled service user or their family.

Members questioned officers on both reports and sought clarification on a number of issues.

Some Members felt that more should be done in the way of checking the feasibility of making these changes particularly as there were often structural reasons why houses could not be adapted extensively. There was also concern around the ability of some people to be able to repay and, what was perceived to be, a possible unfairness of putting a charge on a property, which would affect other family members.

The view was expressed that widening access to adaptations should not be used as an argument to close establishments such as the Balfour Centre as it was not possible to replicate the social element involved. Officers then explained that the proposals in relation to fairer contributions for fairer access to services were not connected with the proposals under consideration relating to the decommissioning of the Balfour Centre or the outsourcing of Linked Services Centres.

A proposal was made that the Cabinet should be asked to reconsider the proposal and look at how to use the Council's assets more effectively to move quickly to the provision of purpose built accommodation to meet the needs of disabled people using private investors and with affordable rents. On being put to the vote this proposal was lost.

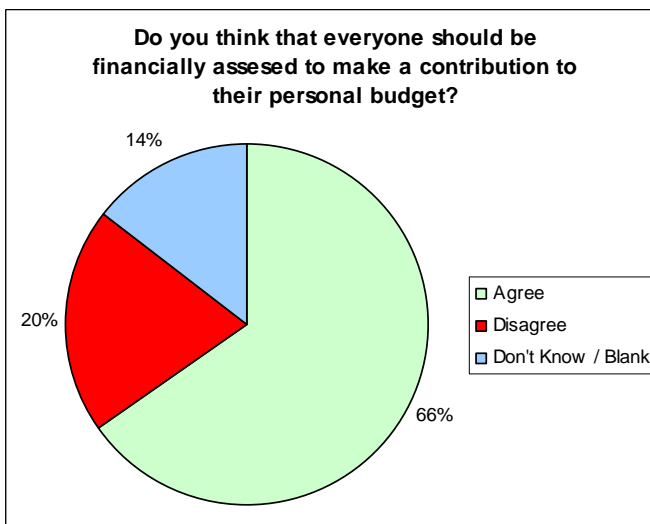
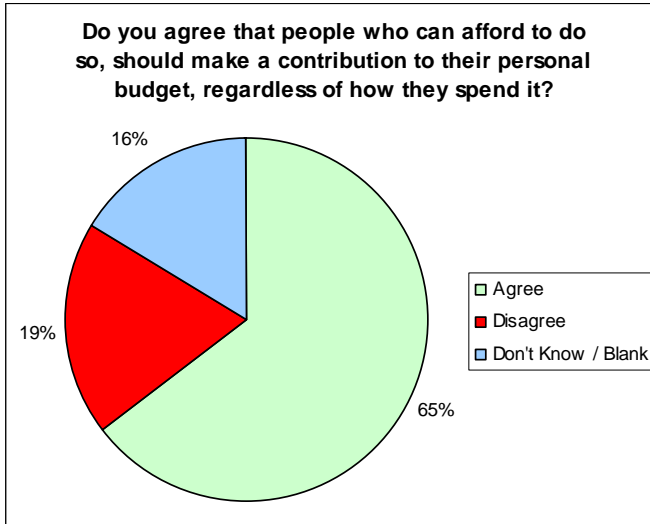
Some Members of the Committee then expressed support for the Cabinet's proposals, which would enable people to retain their independence but it was suggested that the Cabinet should also consider ways to increase the provision of purpose built accommodation.

Decision:

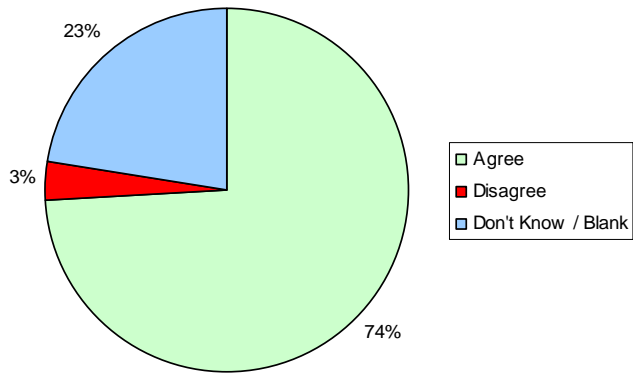
It was agreed to recommend the Cabinet to consider the comments made at the meeting and to investigate the possibility of building specially adapted houses for people with a disability.

Appendix Two

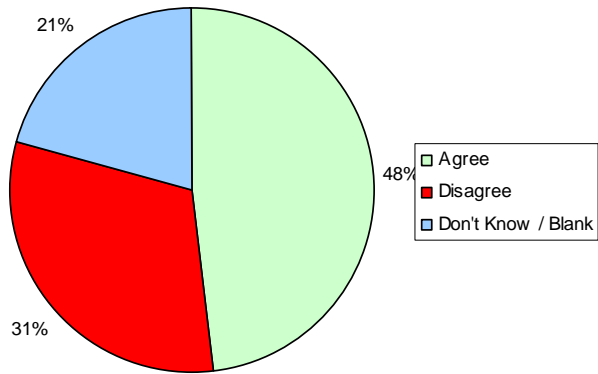
Analysis of the Fairer Contributions questionnaire



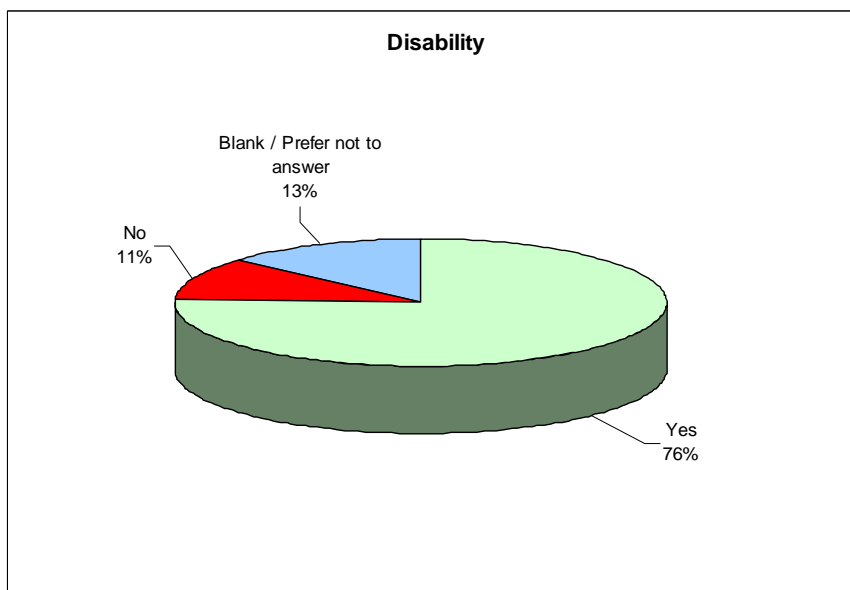
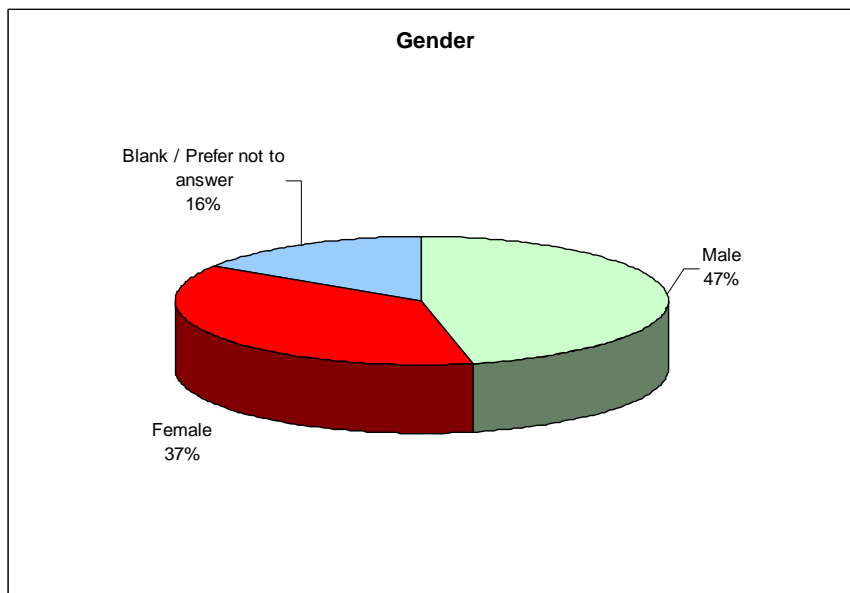
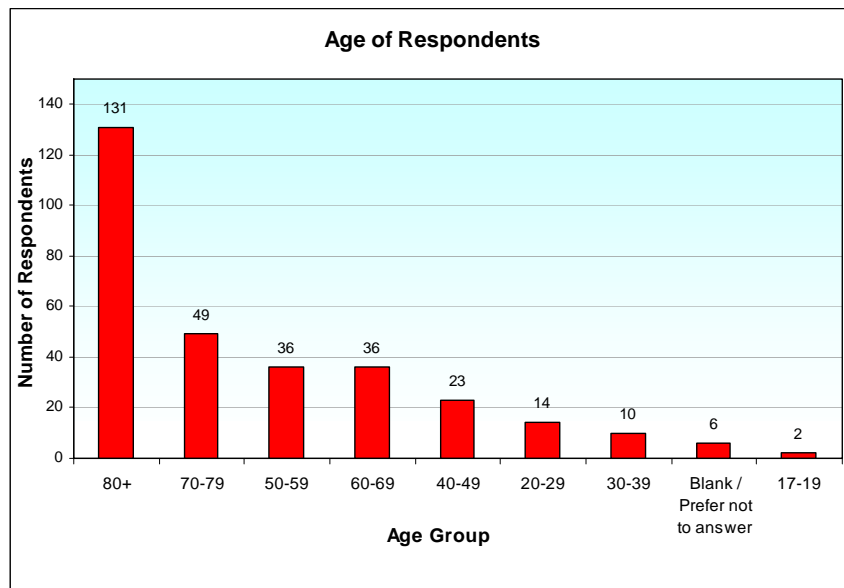
Do you think that these extra costs should be allowed for in your financial assessment?

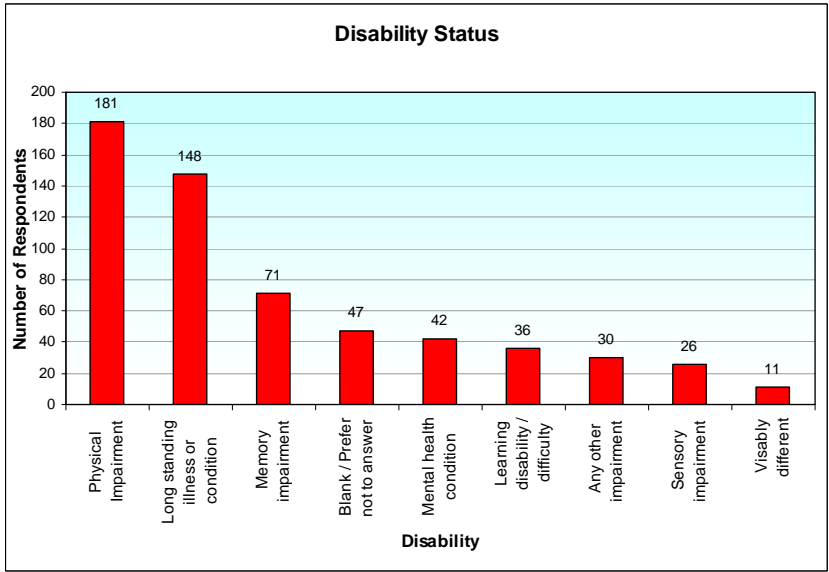
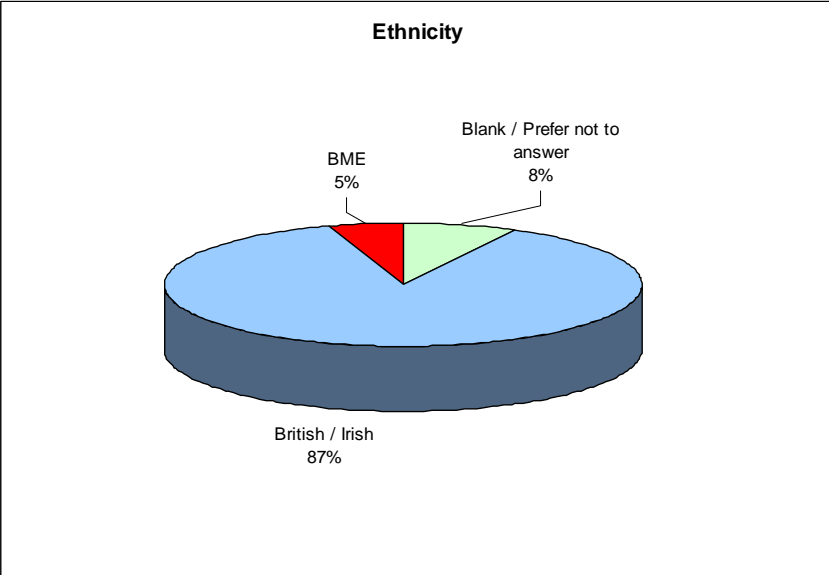
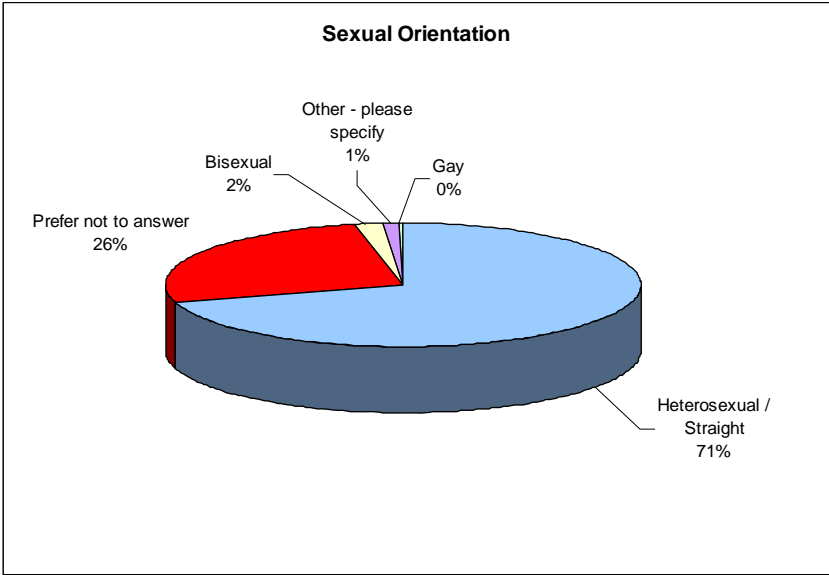


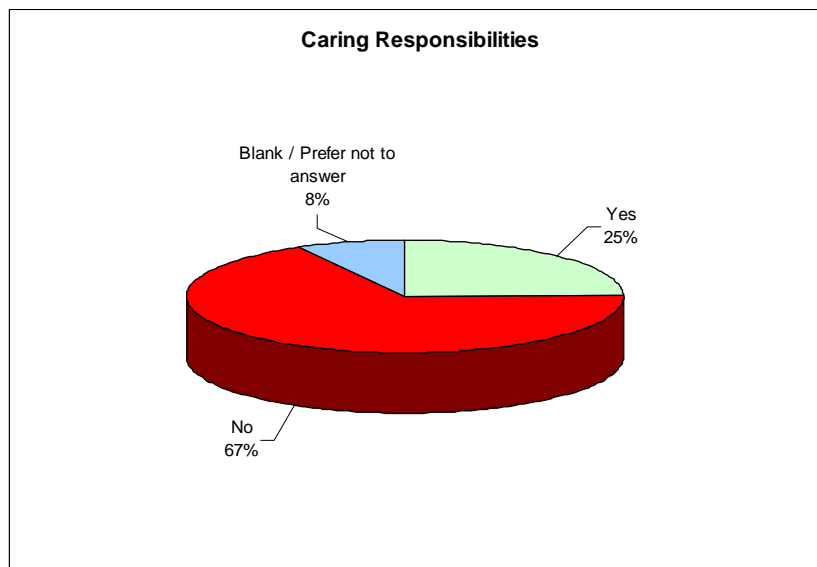
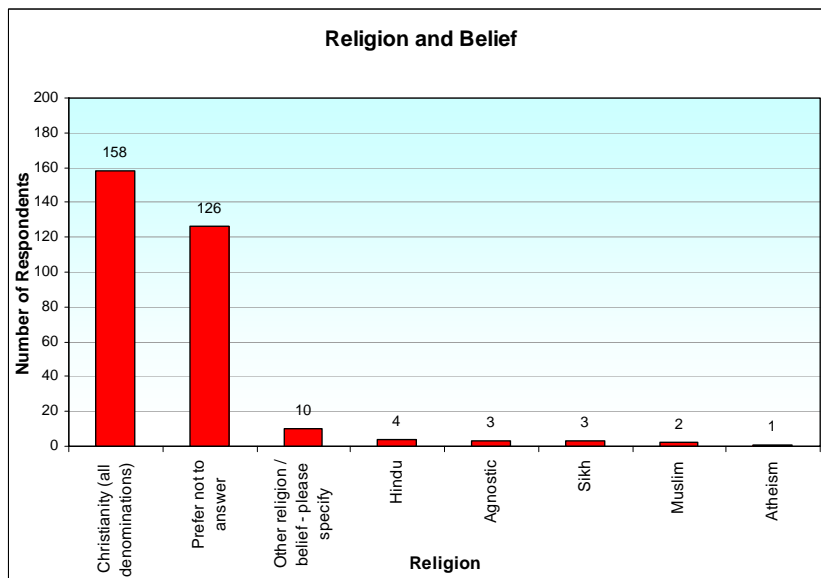
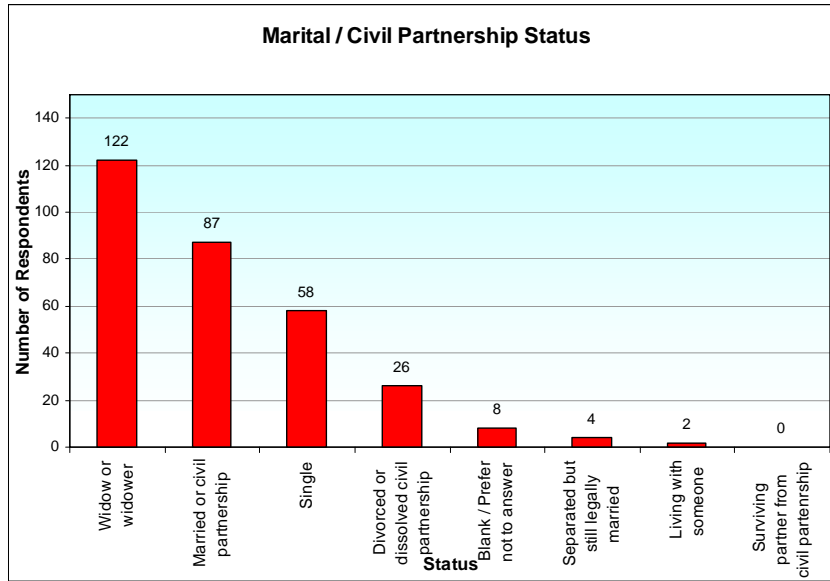
Do you agree that people should be assessed on the basis of their ability to pay, rather than their particular disability?



Analysis - Equalities Monitoring Information







Appendix Three

Diversity Impact Assessment: Screening Form

Directorate	Name of Function or Policy or Major Service Change		
Children & Adults	Changing Medway's Fairer Charging policy for adult social care non-residential services to Fairer Contributions		
Officer responsible for assessment	Date of assessment	New or existing?	
Genette Laws	February 2012	New	
Defining what is being assessed			
1. Briefly describe the purpose and objectives	The proposals will mean that changes need to be made to the current charging policy, contributions by service users will have to be assessed differently with personalisation.		
2. Who is intended to benefit, and in what way?	The changes will ensure that all service users of adult social care will be financially assessed in a fair and equal manner. This will address the current system which results in some service users being charged depending on the type of service they access, rather than their financial circumstances.		
3. What outcomes are wanted?	This contributes to the transformation of Medway's personalisation of adult social care by financially assessing the personal budget of an individual with eligible needs rather than assessing the financial value of services. It ensures equal treatment of all people with eligible needs regardless of their diagnosis.		
4. What factors/forces could contribute/detract from the outcomes?	Contribute Clear communication and consistent application of the policy	Detract Lack of consultation with service users	
5. Who are the main stakeholders?	Service users and carers of adult social care.		

Assessing impact

7. Are there concerns that there <u>could</u> be a differential impact due to <i>racial groups</i> ?		This policy will be based financial circumstances and should not have any disproportionate impact on any particular racial group. The table below shows the ethnicity of the service users impacted by these proposals.
	NO	

What evidence exists for this?	Ethnicity		Total
	White - British		1986
	Asian or Asian British - Indian		67
	Not stated - Refused		29
	White - Any other White background		26
	Any other ethnic group		25
	Chinese		22
	White - Irish		20
	Asian or Asian British - Any other Asian background		16
	Asian or Asian British - Pakistani		6
	Black or Black British - African		6
	Mixed - White and Asian		5
	Black or Black British - Any other Black background		4
	Black or Black British - Caribbean		4
	Mixed - White and Black Caribbean		3
	Mixed - Any other mixed background		2
	Mixed - White and Black African		2
Asian or Asian British - Bangladeshi		1	
Not stated - Information not obtained		1	
Grand Total		2225	

8. Are there concerns that there <u>could</u> be a differential impact due to <i>disability</i> ?	YES	<p>The groups currently subject to financial assessment do not include people with mental health needs (about 500 in number) and the proposed policy change would see them subject to financial assessments for the first time. However, this policy will mean that people with Mental health issues are treated in the same way as people with different disabilities.</p> <p>In addition, people using the Balfour Centre (over 100 people) may be subject to further change in terms of the council changing the way in which it discharges it duty to ensure that people can participate in the community. Should these proposals be adopted Balfour attendees will receive individual assessments to support them in identifying how best their needs can be met in the future.</p> <p>The table below sets out the numbers of people who are potentially impacted on who are older, or have a physical or learning disability.</p>

What evidence exists for this?	Category		Total
	OP		1590
	PD 18-64		393
	LD 18-64		242
	Grand Total		2225

9. Are there concerns that there <u>could</u> be a differential impact due to <i>gender</i>?	YES	The gender profile for people that are subject to charging demonstrates an over-representation of women, because they are over represented in this client group.
What evidence exists for this?	Gender	Total
	Female	1447
	Male	778
	Grand Total	2225
10. Are there concerns there <u>could</u> be a differential impact due to <i>sexual orientation</i>?	NO	We do not have monitoring information in relation to sexual orientation but as the proposed changes relate to introducing fairer eligibility criteria it is not expected to disproportionately impact on any group.
What evidence exists for this?		
11. Are there concerns there <u>could</u> be a have a differential impact due to <i>religion or belief</i>?	NO	
What evidence exists for this?		All groups are currently charged depending on the type of service they access this is just a different mechanism for charging based on financial assessment
12. Are there concerns there <u>could</u> be a differential impact due to people's <i>age</i>?	YES	The age profile for people that are subject to charging demonstrates an over-representation of older women. The gender profile for people that are subject to charging demonstrates an over-representation of women, because they are over represented in this client group.
What evidence exists for this?	Age Group	Total
	18-34	205
	35-44	97
	45-54	166
	55-64	170
	65-74	311
	75-84	564
	85-94	631
	95+	81
	Grand Total	2225
13. Are there concerns that there <u>could</u> be a differential impact due to <i>being transgendered or transsexual</i>?	NO	
What evidence exists for this?		All groups are currently charged depending on the type of service they access this is just a different mechanism for charging based on financial assessment
14. Are there any <i>other</i> groups that would find it difficult to access/make use		If yes, which group(s)?

of the function (e.g. people with caring responsibilities or dependants, those with an offending past, or people living in rural areas)?	NO	
What evidence exists for this?		
15. Are there concerns there <u>could</u> be a have a differential impact due to <i>multiple discriminations</i> (e.g. disability <u>and</u> age)?	YES	
What evidence exists for this?	<p>People with disabilities that use the Balfour Centre may be subject to two changes if Cabinet decides to close the Centre and implement the proposed changes. The council will provide individual support to these people to ensure that are duty to discharge appropriate care is maintained.</p> <p>The groups that are subject to financial assessments are older women given that the majority of clients of adult social care are older people and women – both of these protected characteristics are over-represented in terms of this policy because of their over representation in the client group.</p> <p>Additionally, working age adults with functional mental health needs will be financially assessed for the first time if the decision is taken to amend the</p>	
Conclusions & recommendation		
16. Could the differential impacts identified in questions 7-15 amount to there being the potential for adverse impact?	YES	
17. Can the adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or another reason?	YES	Please explain
	NO	N/a
Recommendation to proceed to a full impact assessment?		
YES	<p>The groups that are subject to financial assessments are older women given that the majority of clients of adult social care are older people and women – both of these protected characteristics are over-represented in terms of this policy.</p> <p>Additionally, working age adults with functional mental health needs will be financially assessed for the first time if the decision is taken to amend the policy.</p>	
Action plan to make Minor modifications		
Outcome	Actions (with date of completion)	Officer responsible

Planning ahead: Reminders for the next review		
Date of next review		
Areas to check at next review (e.g. new census information, new legislation due)		
Is there <i>another</i> group (e.g. new communities) that is relevant and ought to be considered next time?		
Signed (completing officer/service manager) Genette Laws, Social Care Commissioning and Voluntary Sector Manager	Date	
Signed (service manager/Assistant Director)	Date	

Appendix Four

Full Diversity Impact Assessment – Fairer Contributions policy for non-residential services

Directorate Children and Adults – Learning and Caring	Name of Service Change/Policy/Function Changes to the fairer contributions policy so that financial assessments are applied to value of the personal budgets rather than services and that all people with eligible needs are financially assessed.			
Officer responsible for assessment David Quirke-Thornton Assistant Director Adult Social Care		Assessment date 15 February 2012	New or existing? Existing	
Identify potential issues and factors				
1. In regard to which groups are there concerns that there <u>could</u> be a differential impact?	Race	Religious belief	Trans-gendered or transsexual	
	Disability	Age	Other (specify)	
	Gender	Sexual orientation	Carers	
2. What differential impact do you think there <u>could</u> be on this/these group(s)?				
Map existing data				
3. What existing evidence do you have for this - e.g. take-up, complaints?				
Information/ data	When collected	Source	Strengths of data (e.g. up-to-date)	Gaps
People felt that those who can afford to pay for care should pay.	12 December 2011 to 9 February 2012	Questionnaires, correspondence and information from consultation meetings	Up to date and in a variety of formats to triangulate the views shared	None due to a full consultation process taking place
Equalities monitoring data for people using the service	February 2012	Care Director – the council's electronic social care record system	Collated in February 2012	There is insufficient information in relation to sexual orientation or religious belief to either support or refute concerns about adverse impact.
4. What are implications of the gaps in evidence (e.g. people with visual impairments do not know	There are no implications in relation to the gaps identified because the personalised approach to assessment means that any needs in relation to sexual orientation or religious belief would be identified, respected and supported.			

about council services)?		
5. What is the key question you want answered, and by whom.	What do service users, their families and carers think about the proposal to change the fairer contributions policy and, in particular, what, if any, are the concerns?	
Formal Consultation		
6. Are there any experts/ relevant groups who you could approach to ask their views on the issues?	YES	Please list:
	NO	Officers have met with MULO (Medway User Led Organisation), the Physical Disability Partnership Board and the Mental Health User-Led Organisation
7. Have you discussed your consultation request with Research and Review?	YES	
	NO	
8. Describe in detail the views of the relevant groups/experts on the issues.		
<ol style="list-style-type: none"> 1. People felt that those who can afford to pay for care should pay. 		
<ol style="list-style-type: none"> 2. A minority of people felt that charging was a tax on being disabled and questioned the cost/benefit of charging. 		
9. What options, alternatives or reasonable readjustment(s) have been considered?		
<ol style="list-style-type: none"> 1. People with mental health needs will be assessed for the first time in terms of financial assessment and therefore the involvement of social care professionals, health professionals and their families in the implementation of the policy so that service users and their carers are appropriately supported to understand the process and manage any anxieties. 		

Conclusion and recommendations

10. In your own words, briefly state what changes (from the customers' point of view) are reasonable adjustments to make access fair.

In order to ensure that the proposed changes to the policy takes into account reasonable adjustments, from the customer's perspective, would be to:

1. Ensure that a clear communications and implementation plan is in place. In particular, clarity about the timetable of implementation.
2. Involvement of social care professionals, health professionals (as appropriate) and their families in the implementation of the policy so that service users and their families and carers are appropriately supported to understand the process and manage any anxieties.

Target setting

Outcome	Actions (with completion dates)	Measure of progress
Clear communication and respectful implementation	Co-ordination between Care Manager, Client Financial Assessment Officers, Self-Directed Support Team, Service Users and Carers in undertaking assessments and then implementing the contributions. 15 March 2012. Coordination between health professionals, Children & Adult social care professionals, Self-Directed Support Team, Client Financial Assessment Officers, with service users with mental health needs and their families and carers (By 15 March 2012)	Service Managers report to CADMT. Plan for coordination to be presented to DMT by the Principal Officer for Mental Health Social Care Services.
Signed (officer responsible for achieving above DIA actions) Adult Social Care Service Managers		Date 15 February 2012
Signed (completing officer/service manager) David Quirke-Thornton, Assistant Director, Adult Social Care		Date 15 February 2012
Signed (service manager/Assistant Director) David Quirke-Thornton, Assistant Director for Adult Social Care		Date 15 February 2012