

Response of the Association of Disabled Professionals to:

**Fairer Charging Policies for Home Care and other
non-residential Social Services - Draft Guidance**

1 General

- 1.1 We acknowledge that section 17 of the HASASSA Act 1983 permits local authorities to make reasonable charges for the social services that are set out in chapter III of the draft Guidance. We cannot, however, accept this as reasonable. We note that under section 117 of the Mental Health Act 1983 after care services cannot be charged for and we find it difficult to reconcile this difference in treatment.
- 1.2 We note the widespread support given in respect of the National Health Service to the principle that provision of the service should be free at the point of delivery or need. We find it difficult to reconcile this with the idea of charging for services for disabled people, particularly when some of these people are those whom the NHS discard as "incurable".
- 1.3 We note that citizens expect a number of services to be provided free in return for paying Council Tax. For example, schooling for their children. They do not expect to have to pay for it in addition to paying Council Tax and people who are robbed are not asked to pay for the police investigation. We find it difficult to reconcile these facts with the practice of collecting Council Tax from disabled people to pay for social services and then charging these people if they need these services.
- 1.4 We note that under the provisions of *Supporting People*, DETR are proposing no charging for support services that are said to tend to be short term. On this dubious basis it is proposed not to require charges to be made in respect of support for: women in refuges fleeing domestic violence; single homeless people; people who have misused drugs or alcohol; young vulnerable people; ex-offenders; and those with short-term or recurrent mental health needs. People in several of these groups are likely to need far more than merely short term support and we find this difficult to reconcile with the proposal in the same circumstances to charge older people, and some people with mental health problems, learning disabilities, physical disabilities and HIV/AIDS.
- 1.5 We deplore the justification for charging for services for disabled people on the grounds that it allows local authorities to help more people in need. This merely amounts to redistributing resources from those in need to those in greater need, always assuming that the money saved is recirculated to care services. The more equitable procedure would be for the community as a whole to pay as they do for such matters as schooling, street cleaning, refuse collection and policing.
- 1.6 However, we acknowledge the fact that it will be proposed that disabled people are charged for services, whatever the arguments against it and whatever the wrongs imposed on disabled people in so doing.

1.7 Accordingly, we would like it to be understood that whenever we express support for any of the detailed proposals in the draft Guidance, we are merely expressing support for the better of two or more unacceptable alternatives. We could liken it to agreeing to be fined rather than be imprisoned for being disabled or to be charged twice rather than be reduced to abject poverty.

2 Principles that should be laid down strictly in the guidance

2.1 The Guidance is too soft and equivocal on too many issues. It allows too much variation between different local authorities to continue.

2.2 It is cruelly simplistic to suggest that local authorities know what is best for local people where disabled people are concerned. The current variation in charging proves otherwise.

2.3 We have little faith in local democratic processes when it comes to safeguarding the interests of disabled people. Local democracy generally favours majority interests. Disabled people are in a minority and their needs are not well known to the non-disabled majority. Consequently, the demands of the non-disabled majority frequently overwhelm the needs of disabled people. It is for this reason that the Guidance needs to be far firmer if not obligatory.

2.4 Firm recommendations need to be made in relation to all the significant issues covered including the following:

2.4.1 Charges should depend on the cost of the actual hours of service provided (not on bands of hours). Charges should exclude the costs of charging and collecting charges and the costs of securing contractors to supply the services.

2.4.2 Whether the savings, income and expenses of a partner and others living in the household should be assessed along with those of the disabled person.

2.4.3 Whether the parent or parents of disabled children should be exempted from charges regardless of the savings, income and expenses of the parents, and which parent should be exempted when there are two and only one is to be charged.

2.4.4 All the extra costs associated with disabled living should be rigorously taken into account, including all those noted in section 5 below, not merely a few of the more obvious extra costs.

2.4.5 Savings and capital assessments should exclude all those amounts needed on account of disability, including those noted in section 6 below.

2.4.6 The procedures for avoiding disincentives to work should be clarified.

3 Charging for services

3.1 If charges are levied, justice requires that the charges are related to the services

- provided and the user's means. Flat rate charges are therefore unacceptable.
- 4 Income Support and the effect of charges on user's income
- 4.1 As basic income support (IS) levels constitute the safety net below which people's incomes should not drop, it follows that charging policies should ensure that no user's income should fall below basic income support levels.
- 4.2 We note and welcome the fact that it is proposed that a safety buffer of at least 25% above IS levels should be set to ensure that charges do not result in reducing people below IS levels (para 63(iv) Guidance). This 25% buffer should apply whether or not the disabled person is on IS.
- 4.3 Where people receive other income in addition to IS, that is to say income such as disability living allowance (DLA), attendance allowance (AA) and severe disability premium (SDP), all payable to help cover a few of the extra costs of disability, it would be inequitable to ignore these additions if they were not similarly ignored in the case of people on the same income but not in receipt of IS.
- 4.4 We note that between August 1996 and August 2000, the number of disabled people on income support has risen from 782,000 to 976,000, while all others (the over 60s, lone parents, and others) have all decreased. As current social security policy with respect to disabled people is likely to further increase the number of disabled people on income support, we are happy to see excluded from charges people on income support level plus 25%.
- 4.5 Note, however, that we strongly oppose the basic concept of charging because it is incompatible with justice when compared with all other local authority services for which citizens are not charged.
- 5 Treatment of disability related benefits
- 5.1 It should be acknowledged that disability benefits (excluding the higher rate mobility component of Disability Living Allowance which is specifically for transport costs) are paid to cover **all** the extra costs of disability, not just for care, domestic help and sundry equipment in the home.
- 5.2 Taking full account of these benefits will therefore result either in reducing disabled people's incomes below IS levels and/or in reducing their standard of living below an acceptable level.
- 5.3 It will therefore be essential in assessing means to take a full, informed and sensible account of **all** disability related extra costs incurred in living as a disabled person.
- 5.4 A basic list of a few such extra costs are set out in paragraph 36 of the draft Guidance. However, there are many more and if taking account of extra costs is to be accomplished equitably, a far more detailed list and more thorough

guidance needs to be laid down centrally on such issues as:

- 0.0.1 extra heating and lighting needs and, where metered, water consumption
 - 5.4.1 extra washing and laundering
 - 5.4.2 wear and tear of clothing and household furnishings
 - 5.4.3 extra costs of diets, medicaments and disinfectants
 - 5.4.4 extra shopping costs including the cost of delivery and the inability to shop around for bargains
 - 5.4.5 inability to do simple jobs around the home leading to extra costs of upkeep and repairs around the house and garden
 - 5.4.6 extra costs of insurance, repair and maintenance of essential equipment
 - 5.4.7 extra costs of requiring to be accompanied by an assistant
 - 5.4.8 extra costs of readers and signers
 - 5.4.9 extra cost of special clothing and equipment (including communication equipment of all sorts, mechanical aids, and special beds)
 - 5.4.10 extra cost of standard equipment to accommodate disability (eg talking microwave ovens, more comprehensive remote control systems for tv/radio)
 - 5.4.11 extra costs associated with irregular activities such as outings and holidays
- 5.5 Three difficulties arise in assessing these extra costs. If the aim is to encourage local authorities to be reasonable in setting charges and fair in not impoverishing the lives of disabled people too much, guidance will need to be given on how to handle each one:
- 0.0.1 Capital expenditure and irregular extra costs will need to be annualised and divided into a weekly expense; items that should be treated in this way will need to be listed.
 - 5.5.1 Several of the extra costs will not be conveniently covered by separate invoices or other evidence of expenditure as an extra cost (for example, extra heating and electricity costs); guidance will be needed on how these can be identified and assessed.
 - 0.0.2 Some will involve opportunity costs in that they will be paid for by forgoing other expenditure, for example, the absence of normal family expenditure

on holidays, outings, drink, newspapers and sweets; it would be reasonable to take these into account as evidence of extra disability costs and to explain how to local authorities.

6 Savings and capital

6.1 If the intention is to produce a fair charging scheme which takes full account of the cost of services and the real ability of recipients to pay for the services provided, four issues need to be agreed.

6.1.1 If savings are taken into account, the real income from the savings above £10,000 should be assessed, not a tariff income set which bears no relationship with the real income from savings.

6.1.2 If savings are taken into account, it is essential to take account of the higher savings required by an owner-occupier compared with those who live in council houses and those paying rent for furnished and certain unfurnished accommodation. Savings amounting to some 20% of the capital value of a dwelling should be ignored to cover repairs and maintenance.

6.1.3 Savings for the replacement of carpets and other furnishings and capital equipment such as cookers and fridges should also be ignored.

6.1.4 Savings for equipment, for large future expenditure such as on a holiday or for a relief assistant and for house alterations should all be ignored when they are related to disability.

7 Income, savings and expenses of parents, partners and third parties

7.1 Charges for children should take account of the savings, income and expenses of parents and the children. Any other course fails to take account of the economics of disability where the disability of a wage earner or of the home maker may have a far more serious effect on household finances than the disability of a child.

7.2 If the intention is to produce a fair charging scheme which takes full account of the cost of services and full account of the real ability of recipients to pay for the services provided, the savings, income and expenses of a spouse or partner also need to be taken into account. If charges are to be fair, household savings, income and expenditure need to be assessed.

7.3 If this is not done, a disabled partner with more savings or more earnings will be charged more for services than would be the case if an otherwise identically disabled partner with fewer savings and lesser earnings became the disabled person even though, in the latter case, the resources of the household could be far greater than in the former case.

7.4 The difficulties that arise with third parties such as sons and daughters, fathers

and mothers in law and grandparents living in the same household illustrate the problem of devising equitable means tests. These difficulties are probably best avoided by ignoring all their savings, income and expenses in assessing the ability to pay for services.

- 7.5 We agree that the assessment of partners introduces difficult decisions relating to what constitutes a partner and how cohabitation should be handled. We believe that these difficulties, while illustrating the problems of truly equitable means tests, are preferable to the inequities indicated in 7.1 and 7.3 above.
- 7.6 Notwithstanding the possible inequities, we could argue for assessments to be applied only to the person receiving the service, as the advice regarding charging carers in para 64 of the draft Guidance suggests should be the case. We are surprised that this critically important charging issue is not discussed in the draft Guidance. We find this inexplicable in the light of the admonition that: "Councils need to ensure both that their charging policies are demonstrably fair between different service users and that the overall objectives of social care, to promote the independence and social inclusion of service users, are not undermined by poorly designed charging policies."

8 Work incentives

- 8.1 We welcome the intention to avoid any disincentives to work, either to take work at all or to work longer or for increased earnings. We note, however, that it is intended to set an upper limit of 55% to the amount of net earnings that can be taken into account in assessing ability to pay. Unfortunately, we know that this limit will constitute a grave disincentive for more severely disabled medium and higher earners and cannot accept it.
- 8.2 We are uncertain whether it is intended that this limit applies only to the disabled person or to his or her partner or to both. Our view would be that it should apply to both if the savings, income and expenses of both are taken into account in assessing charges.
- 8.3 We are uncertain what exactly is meant by "net earnings". In addition to all the usual deductions (NI, pension, income tax, etc), we think the sum should exclude any cost incurred in working that is attributable to disability. This will need to include the direct expenses of the disabled person and any indirect expenses incurred by a partner because of his or her partner's disability (eg provision of relief help while at work).
- 8.4 We do not know how the proposed limit was decided and wonder how it can be justified.

9 Conclusions

- 9.1 We do not believe that the draft Guidance will do much more than help curtail a few of the worst charging excesses of recalcitrant local authorities.

- 9.2 We realise that the intention is not to decrease overall the amount local authorities collect from charges and that no radical or even significant change in charging policy is therefore being recommended. This disappoints us.
- 9.3 The Guidance contains some useful advice - for example, the 25% buffer above IS levels, the recommendation to cover some disability-related extra expenses (although far too few), the need to avoid work disincentives (although entirely inadequate), and the strategic management review of policy outlined in para 86. Unfortunately it fails to be firm enough in recommending and in decrying specific actions. The Guidance will therefore leave unjustifiable differences in practice among local authorities.
- 9.4 We think the whole issue of charging should be subject to a fundamental review. If it has to continue, it should be strictly prescribed on a national basis that encompasses charging under Supporting People.

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