

## LOCAL AUTHORITY CIRCULAR

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To: The Chief Executive  
County Councils )  
Metropolitan District Councils ) England  
Shire Unitary Councils )  
London Borough Councils  
Common Council of the City of London  
Council of the Isles of Scilly

The Director of Social Services

23 November 2001

### **Fairer Charging Policies for Home Care and other non-residential Social Services - Guidance for Councils with Social Services Responsibilities**

#### **1. SUMMARY**

- 1.1 This circular draws the attention of local councils to the issue of guidance *Fairer Charging Policies for Home Care and other non-residential Social Services*, issued under section 7 of the Local Authority Social Services Act, 1970. This circular outlines the main actions councils need to carry out to implement the guidance by the required dates.

#### **Background**

- 1.2 Problems with the variations in home care charging policies between local councils have been identified in the Report of the Royal Commission on Long Term Care (1999), and *Charging with Care*, published by the Audit Commission in May 2000. The Government took powers through the Care Standards Act, 2000 to issue statutory guidance on charging under section 7 of the Local Authority Social Services Act, 1970.
- 1.3 Section 17 of the Health and Social Services and Social Security Adjudications Act 1983 (HASSASSA Act 1983) gives councils a discretionary power to charge adult recipients of non-residential services.
- 1.4 Section 7 of the Local Authority Social Services Act 1970 allows the Secretary of State to issue guidance to councils on the exercise of their social services functions, including those which are exercised under discretionary powers. In exercising those functions, councils must have regard to guidance issued under section 7.
- 1.5 Section 17 of the HASSASSA Act 1983 provides that councils may recover such charges as they consider reasonable in respect of relevant services. The guidance includes advice

on a number of issues where councils need to take particular care to ensure that any charging policy is reasonable.

- 1.6 There is no presumption by the Government that all councils will charge and, where they do decide to charge for services, they also retain substantial discretion in the design of charging policies. The guidance sets out a broad framework to help councils ensure that their charging policies are fair and operate consistently with their overall social care objectives. The guidance provides clear objectives, which all councils operating charging policies should achieve. Nothing in the guidance requires councils to make existing charging policies, which go beyond the requirements set out in the guidance, less generous to users than they currently are.  
**The guidance may be accessed by visiting our website address at [www.doh.gov.uk/scg/homecarecharges](http://www.doh.gov.uk/scg/homecarecharges)**
- 1.7 A summary of the responses to the consultation, and reasons for the Government's decisions is also available at the website address given above.
- 1.8 Practice guidance to help councils in devising and implementing charging policies will be issued at the end of January 2002. This will cover issues such as assessments of users' disability costs and the provision of benefits advice to users.
- 1.9 Regional workshops to help with the planning and implementation of the guidance are being scheduled for February 2002 and further details of these will be notified.
- 1.10 Monitoring arrangements are set out in sections XIX and XX of the guidance.

## **2. ACTION**

- 2.1 Implementation will take place in **two phases** and councils are asked to take the following action.

### **1 October 2002**

- 2.2 Councils should ensure that users receiving Income Support (IS) or Job Seekers Allowance (Income Based) (JSA-IB), whose overall income equals the defined "basic" levels plus the 25% buffer, are no longer charged from no later than this date.
- 2.3 Users receiving more than 10 hours care weekly, whose Disability Living Allowance (DLA), Attendance Allowance (AA), Severe Disability Premium (SDP), Constant Attendance Allowance (CAA), or Exceptionally Severe Disablement Allowance (ESDA) is included in an assessment of income should also have an individual assessment of their disability-related expenditure from no later than this date. For users receiving 10 hours or less home care weekly, councils may as a transitional measure continue with existing charging policies in relation to DLA, AA, SDP, CAA and ESDA.
- 2.4 From the date of issue of this guidance, for other users, regardless of the amount of service received, councils should not introduce a new charging policy, which takes AA, DLA, SDP, CAA or ESDA into account for the first time, without also providing for an individual assessment of disability-related expenditure.

- 2.5 Earnings should be disregarded as part of income in charge assessments from no later than this date.
- 2.6 The following are the main actions, which councils will need to undertake to be ready for the 1<sup>st</sup> phase of implementation by 1 October 2002.
- redesign and consult on charging policy, allowing time to take account of responses, make and notify decisions
  - identify existing users receiving IS or JSA-IB whose overall income equals the defined basic levels, plus 25% to ensure that they cease to be charged
  - identify users receiving more than 10 hours weekly home care, whose disability benefit is included in an assessment of income, to ensure that they receive an assessment of their disability costs
  - where necessary (ie, where disability benefits are taken into account), make arrangements to carry out assessments of users' disability costs; this will require appropriate staff training
  - identify users with earnings and ensure these are disregarded in any charge assessment

### **1 April 2003**

- 2.7 All other parts of the guidance should be implemented by this date at the latest. Councils will need to plan and consult on any necessary changes in charging policies during 2002-03.
- 2.8 Councils will need to plan and model new charging systems, assessing the effects of changes on charge income - this will be particularly important for charging policies after April 2003.
- 2.9 It is important that the managerial task of designing and administering more sensitive charging policies is addressed at an early stage. It may be necessary to profile the local user population, using data from residential care charging and short stay respite care charging if data are not available from home care charging systems. It may be necessary to ask users for information, for example, on disability-related expenditure, before final decisions are made on a new charging system.
- 2.10 Where this does not already happen, councils should give early attention to provision of benefits advice to all users and carers at the time of a charge assessment. Although the provision of a fully comprehensive service is not required before April 2003, progress during 2002-03 will be important both for users and for the maintenance of charge income for some councils.

### 3. ENQUIRIES

Enquiries about this Circular and the guidance should be made to:

Crispin Acton on 020-7972-4036 or Mike Sosnowski on 020 7972 4441 or Helen Woodhead on 020 7972 4039. Alternatively you can contact them at the following e-mail addresses:

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