

## Equality Impact Assessment Template

Title of proposal (include forward plan reference if available)	Adult Social Care Contributions Policy – outcomes of consultation
Directorate and Service Area	Adult Social Care/Finance (joint)
Name and title of Lead Officer completing this EIA	Kevin Balchin, Interim Policy Officer
Contact Details	<a href="mailto:Kevin_Balchin@sandwell.gov.uk">Kevin_Balchin@sandwell.gov.uk</a> 07722 590055
Names and titles of other officers involved in completing this EIA	Kay Murphy, Service Manager – Business Management Chris Cooper, Community Care Business Unit Manager
Partners involved with the EIA where jointly completed	None
Date EIA completed	12th October 2022
Date EIA signed off or agreed by Director or Executive Director	
Name of Director or Executive Director signing off EIA	
Date EIA considered by Cabinet Member	

## **1. The purpose of the proposal or decision required (Please provide as much information as possible)**

This EIA relates to the Cabinet paper reporting on the outcomes of public consultation on changes in the contributions policy for the Council. It is based on an equalities assessment of the impact on the sample of clients used to produce the models that were consulted on.

*The key change made since an EIA was prepared for Cabinet on 16<sup>th</sup> May 2022 is to update the database on which modelling has been carried out to include all 2,425 clients receiving non-residential services as at August 2022, which in turn changes the equalities analysis below.*

## **2. Evidence used/considered**

The evidence used to determine the impact of the policy changes that were proposed in the public consultation are based on:

1. Testing alternative funding models which could produce a contributions regime which is financially viable for the Council whilst being fairer and complying with equalities expectations, i.e. avoids discriminating against any group of people with a protected characteristic. An analysis of the equalities data on current clients is shown in Table 1 below, with a further analysis in Appendix B to the Cabinet paper
2. Legal advice on the need to align policy and practice to recent case law and developments, including the Care Act and the “Norfolk Judgment” to remove outdated references and inconsistencies which could form the basis of a challenge that the policy is not equitable, is incoherent, or is based on erroneous figures and is therefore irrational.
3. An initial assessment of the contributions policies of a range of other councils to assess how up to date they are.
4. A review of data on people who have been assessed to pay a financial contribution to their non-residential services in terms of take-up by different groups (see table below) and comparison with Sandwell population profile on Sandwell trends by ethnicity, gender etc.

## **3. Consultation**

Public consultation has been undertaken over three months in the summer on the options being offered, setting out the impact on the assessed contributions of a range of people of the proposed funding options. All clients currently receiving non-residential services were advised individually of the consultation, their opportunities to take part in it, and the availability of methods to be told the financial impact on them based on their individual circumstances.

#### 4. Assess likely impact

As identified in the original Cabinet Report for 18<sup>th</sup> May 2022, the changes proposed will have a **negative** impact in that all the models propose increasing the total income the council receives from contributions. Inevitably, therefore, a significant number of people face an increase in costs. However, an examination of the various options did not reveal any obvious or intentional discrimination.

Within that overall impact, the different models proposed have a range of impacts as they attempt to deliver an equitable solution within an overall increase in contributions charged;

- For a significant group of people, the changes are **negative** in that they face an increase in the contributions they must pay. This particularly affects people with a higher disposable income which in turn is often those of pension age;
- For some people, the changes are **positive** in that notwithstanding the overall increase, their individual contribution is reducing because of the redistributive effects of the various models - particularly benefiting those people with disability related expenditure, lower disposable income and/or of working age.
- There are a group of people who see **no impact** from any of the models proposed. These are people who do not have disposable income and hence do not pay any contribution under the current method or any of the three alternatives proposed – they are unaffected.

The original modelling work undertaken to identify alternative methods for calculating contributions used anonymous actual data for 195 current clients in a range of models that attempted to address perceived inequalities identified in case law. The attempt was made to assess alternatives that offered a real choice as to how to calculate contributions within the regulations whilst reducing or remove any direct or indirect discrimination against any group of people with a protected characteristic.

The key issue that arose from the original work undertaken is that *apparent* inequality exists in national regulation and benefits; basic state pensions and benefits and the national “minimum income guarantee” figures that we are required to apply in financial assessments are all (on average) significantly higher for people over pension age compared with those under pension age.

As a consequence, the work on a range of models to be applied by Sandwell has had to attempt to minimise the effect on any one group of people, even though the underlying government regulations and benefits do (apparently)

benefit particular groups. Whilst this may be a deliberate choice by central government, it makes delivering “equality” a challenge, particularly in the situation where Sandwell is obliged to increase contributions overall.

The number of responses to the consultation were low, to the point that they are not really statistically significant. An equalities breakdown of the total who made some form of response is;

Demographics					
What is your age?			Which of these groups do you consider you belong to?		Do you have physical or mental impairment with a substantial long term adverse effect on your ability to carry out day to day activities?
20-29		4.5%	English / Welsh / Scottish / Northern Irish /		Yes38.6%
30-39		6.8%	British	79.5%	
40-49		11.4%	Irish	5.1%	
50-59		20.5%	Gypsy or Irish Traveller	5.1%	
60-69		20.5%	Any other White background	0.0%	
70 or over		27.2%	Mixed / Multiple ethnic background	2.6%	No38.6%
Prefer not to say		9.1%	Asian	0.0%	Prefer not to say22.8%
No		100.0%	Black / African / Caribbean background	0.0%	
			Any other ethnic group	0.0%	
What is your sex?			Prefer not to say7.7%		
Male		44.2%		100.0%	If yes, what type of physical or mental impairment?
Female		55.8%			Physical disability41.2%
		100.0%			Sensory impairment0.0%
					Learning difficulty0.0%
Is your gender the same as the sex you were registered at birth?					Mental Health17.6%
Yes		100%			Longstanding illness/ health condition (eg. HIV, cancer, chronic heart disease)29.4%
No					Other11.8%
		100%			

**Table 1 - analysis of impact of recommended contribution model on sum a person can afford to pay**

Current contributions policy - analysis of sample cases by equalities characteristics			Model 2 contributions method excluding transition - analysis of sample cases by equalities characteristics			
Characteristic	Number	Average contribution person can afford based on income	Characteristic	Number	Average contribution person can afford based on income	% change compared with current policy
Female	1429	£ 30.75	Female	1429	£ 37.32	21%
Male	997	£ 32.26	Male	997	£ 38.84	20%
65 or over	1385	£ 38.84	65 or over	1385	£ 46.80	20%
Under 65	1041	£ 21.43	Under 65	1041	£ 26.17	22%
Asian	395	£ 16.46	Asian	395	£ 23.68	44%
Black	225	£ 31.07	Black	225	£ 35.47	14%
Mixed	41	£ 24.60	Mixed	41	£ 37.16	51%
Other/Not known	81	£ 28.10	Other/Not known	81	£ 33.66	20%
White	1684	£ 35.22	White	1684	£ 41.85	19%
Lower rate disability benefit	363	£ 14.41	Lower rate disability benefit	363	£ 15.32	6%
Middle rate disability benefit	562	£ 32.89	Middle rate disability benefit	562	£ 47.15	43%
Higher rate disability benefit	1501	£ 34.90	Higher rate disability benefit	1501	£ 39.97	15%
Learning Disability	589	£ 31.34	Learning Disability	589	£ 34.82	11%
Memory and Cognition	148	£ 31.31	Memory and Cognition	148	£ 42.13	35%
Mental Health	49	£ 38.79	Mental Health	49	£ 32.61	-16%
Physical	1551	£ 30.32	Physical	1551	£ 38.88	28%
Sensory	30	£ 30.91	Sensory	30	£ 43.64	41%
Social	59	£ 53.36	Social	59	£ 35.72	-33%

An equalities assessment of the *current* contributions policy and the recommended model proposed for consultation is shown in **Table 1 above**. These figures show the outcome in the 2,425 cases of applying their actual financial assessments to the model, compared with their current assessed contribution.

The cash figures shown represent the *average* weekly assessed contribution of people in the 2,425 cases which have now been assessed as to the impact of the changes. These were mapped over a range of characteristics for which data was available;

- Gender
- Age
- Ethnicity
- Level of disability (using disability benefit awarded as proxy)
- Primary support reason

Thus, for example, 395 people self-identified as Asian. The average weekly contribution of those 395 is £16.46 in the current methodology, but the average weekly contribution rises £23.68 in the proposed model 2.

These are genuine figures showing the effect of the models on all 2,425 people, based on a range of equalities characteristics and using these people's actual recorded capital and income, applied to the allowances and limits set out in the financial assessments regime. What the figures cannot explain is why people who (for example) identify as Asian have a lower average contribution than those who identify as Black. The reasons can only be speculated on, as shown in section 4a below.

**Table 2 – change in contributions arising from the recommended model**

Current methodology

CURRENT METHOD																					
47% DISPOSABLE INCOME TAKEN ("SANDWELL ALLOWANCE")																					
Charges scaled to year	Charges scaled to 2,426 clients			By gender		By age		By ethnicity					By disability severity			By primary support					
				F	M	<65	65 or +	Asian	Black	Other/ Not known	Mixed	White	Low	Middle	High	LD	Memory & Cognition	MH	Phys	Sens	Social
£3,956,920	£3,956,920			59%	41%	43%	57%	16%	9%	2%	3%	69%	15%	23%	62%	24%	6%	2%	64%	1%	2%
		Income																			
Clients under 65 in sample		£1,159,985																			
Clients 65 or over in sample		£2,796,935																			

Model 2

AMENDED % ALLOWANCE, DRE DEDUCTED FIRST WITH TWO LUMP SUM BANDS (One increased)																									
DISPOSABLE INCOME TAKEN ("SANDWELL ALLOWANCE") >								80%		HIGHER DISABILITY LUMP SUM				£10.00				LOWER DISABILITY LUMP SUM				£5.00			
Charges scaled to year		Charges scaled to 2,426 clients	Change from present																						
£4,786,976		£4,786,976	£830,056		21%		By gender		By age		By ethnicity					By disability severity			By primary support					Overall	
							F	M	<65	65+	Asian	Black	Other/ NK	Mixed	White	Low	Middle	High	LD	Memory	MH	Phys	Sens	Social	
Clients whose contributions increase							31%	25%	23%	32%	8%	5%	1%	1%	40%	5%	15%	35%	17%	3%	1%	33%	1%	1%	56%
Clients whose contributions decrease							8%	5%	5%	8%	2%	1%	0%	0%	10%	1%	3%	9%	3%	1%	0%	9%	0%	0%	13%
Clients whose contributions unchanged							20%	12%	15%	17%	7%	3%	1%	0%	19%	9%	6%	17%	5%	2%	1%	23%	0%	1%	31%

**Table 2 above** shows an equalities assessment of the impact on contributions of the model, based on the current 2,425 clients financially assessed for non-residential contributions.

This shows the estimated increase in income delivered by the recommended model. These figures show what percentage of the current 2,425 clients would face an increase or decrease (or no change) in contributions compared with the current methodology.

Again, the outcomes when shown against the equalities characteristics do show variation, but the data does not provide an explanation of *why*, for example, 33% of those clients recorded as having “Physical” as their primary support reason face an increase compared with only 17% for those with “Learning Disability”. Again, the reasons can only be speculated on, as shown in section 4a below.

#### **4a. Use the table to show:**

- Where you think that the strategy, project or policy could have a negative impact on any of the equality strands (protected characteristics), that is it could disadvantage them or if there is no impact, please note the evidence and/or reasons for this.
- Where you think that the strategy, project or policy could have a positive impact on any of the groups or contribute to promoting equality, equal opportunities or improving relationships within equality characteristics.



Protected Characteristic	Positive Impact ✓	Negative Impact ✓	No Impact ✓	Reason and evidence (Provide details of specific groups affected even for no impact and where negative impact has been identified what mitigating actions can we take?)
<b>Age</b>		✓		<p>Overall, the changes proposed increase the contributions to be paid by all age groups, so there is a negative impact. Within the number of cases, older adults form a growing proportion of Sandwell's population; <b>51%</b> are age 65 or over in the dataset.</p> <p><u>Table 1</u> identifies that people aged 65 or over have on average a significantly higher level of “disposable income” from which to pay contributions – this could be because their average income is higher, or because they receive higher allowances in the financial assessments regulations.</p> <p><u>Table 2</u> shows that fewer of those aged under 65 face an increase in contribution under the proposed model, which suggests some “redistributive” effect. However, the differential impacts on specific age groups is a direct consequence of their (apparent) disparity in disposable income – which in turn appears to be the result of national disparities rather than any discrimination.</p>
<b>Disability</b>		✓		<p>Based on 2011 census data, Sandwell has a relatively high share of people with disabilities, and those with complex needs are a growing proportion of the population.</p>

				<p><u>Table 1</u> identifies that people on the highest rate of DWP benefit (being used as a proxy for “disability severity”) actually have a lower disposable income than those on the middle rate – but that is probably due to the fact that Sandwell disregards the higher rate unless the person receives 24-hour care.</p> <p>In terms of primary support reason, the Memory and Cognition and Physical and Sensory Impairment categories face the larger increases, but the reason for this redistributive effect is not obvious.</p>
<b>Gender reassignment</b>				<p>It is not known how many residents in Sandwell have had a gender reassignment, nor how many pay a contribution to service costs, due to low numbers or declaration rates. Consequently, there is no evidence that the revisions to the Contributions Policy will contribute to any differential impact (positive or negative) on gender reassigned people</p>
<b>Marriage and civil partnership</b>		✓		<p>The breakdown by marital status of Sandwell residents or those paying a contribution to service costs is unknown. We do know who is in a couple if they have had a joint assessment of funds, but the requirement to end a joint assessment for couples will inevitably have a negative impact. However, this is unavoidable as it arises from the Care Act regulations.</p>
<b>Pregnancy and maternity</b>				<p>The breakdown by pregnancy or maternity status of Sandwell residents or those paying a contribution to service costs is unknown. Consequently, there is no evidence that the revisions to the Contributions Policy will have any differential impact on those of this status, and this is not an outcome that the service works to</p>

<b>Race</b>		✓		<p>The 2011 national census data shows the Sandwell population is 66% self-declaring as white and 34% other ethnic groups. For those people in the database receiving non-residential care, there is a higher number of those declaring themselves white (69%): this is likely to be due to the high proportion of older adults amongst users of ASC services, and older adults are numerically more likely to declare themselves white.</p> <p><u>Table 1</u> identifies that there is a clear differential in disposable income by race – those identifying as white have an average of £35.22 per week under the current model, and this increases to £41.85 in the proposed model but with no obvious explanation. For those identifying as black, the current average is £31.07, increasing to £35.47 in the proposed model. . For those identifying as Asian, the current average is the lowest at £16.46 and it increases to £23.68 in the proposed model. No explanation for this has been identified.</p>
<b>Religion or belief</b>				<p>The recorded breakdown of Sandwell residents is that 55.2% are Christian whilst the remaining 44.8% are either “other” or “no” religion. A breakdown of those people who are subject to the Contributions Policy for non-residential care shows is not available, so there is no evidence that the revisions to the Contributions Policy will have any differential impact on people of different religion or belief</p>
<b>Sex</b>			✓	<p>The 2011 national census data on the Sandwell population shows that there are slightly more women (<b>51%</b>) than men. In terms of people who are subject to the Contributions Policy for non-residential care, the proportions are higher for women (<b>59%</b>), likely to be because they have higher life expectancy.</p>

				<p><u>Table 1</u> identifies that men have a higher average disposable income than women in the current model, whilst Table 2 suggests that marginally more women face an increase under the proposed model.</p>
<b>Sexual orientation</b>				<p>The breakdown of Sandwell residents by sexual orientation is not known. Consequently, there is no evidence that the revisions to the Contributions Policy will have any differential impact on people of different sexual orientation</p>
<b>Other – health conditions</b>				<p>The breakdown of Sandwell residents by health condition is not known. Consequently, there is no evidence that the revisions to the Contributions Policy will have any differential impact on people of different health condition.</p> <p>Adult Social Care services are focused on people with age- or disability-related care or medical conditions which impact on their ability to maintain their independence. There is no evidence that suggests that the revisions proposed would have a differential impact on the contributions being paid by people of different health conditions</p>

Does this EIA require a full impact assessment? Yes ☐ No ☒

If there are no adverse impacts or any issues of concern or you can adequately explain or justify them, then you do not need to go any further. You have completed the screening stage. You must, however, complete sections 7 and 9 and publish the EIA as it stands.

If you have answered yes to the above, please complete the questions below referring to the guidance document.

**5. What actions can be taken to mitigate any adverse impacts?**

It is proposed to offer transitional protection to those who are significantly impacted by the various changes proposed to the contributions policy

**6. As a result of the EIA what decision or actions are being proposed in relation to the original proposals?**

All have been included

**7. Monitoring arrangements**

The financial assessments service will continue to monitor the take up of their service by protected characteristics

**8. Action planning**

You may wish to use the action plan template below

[illegible]

## 9. Publish the EIA

This EIA will be published as part of the Cabinet Report and will be available on Corporate Management Information System of Sandwell Council

### Where can I get additional information, advice and guidance?

In the first instance, please consult the accompanying guide “Equality Impact Assessment Guidance”

#### **Practical advice, guidance and support**

Help and advice on undertaking an EIA or receiving training related to equalities legislation and EIAs is available to **all managers** across the council from officers within Service Improvement. The officers within Service Improvement will also provide overview quality assurance checks on completed EIA documents.

#### **Please contact:**

Kashmir Singh - 0121 569 3828