

Appendix 6



Fairer Contributions Policy

July 2011

Adult and Community Services

Fairer Contributions Policy

1. Introduction

- 1.1 The Fairer Contributions Policy is designed to ensure that people pay a fair contribution towards the costs of their services.
- 1.2 The Fairer Contribution Policy follows statutory guidance and builds in a number of safeguards to reflect local need and the needs of disabled people.

2. Legislative Context

- 2.1 Section 17 of the Health and Social Services and Social Security Adjudications Act 1983, gives local authorities discretionary powers to charge adults for non-residential services. Statutory guidance, "Fairer Charging Policies for Homecare and Non-residential Services" was issued in 2003 under section 7 of the Local Authority Social Services Act 1970.
- 2.2 This was updated by, "Fairer Contributions Guidance: calculating an individual's contribution to their personal budget", issued in November 2010. This guidance provides information about how Councils should calculate the user contribution for recipients of a Personal Budget. In future, users of social care services will receive Personal Budgets with which to purchase their support instead of being provided with available services.
- 2.3 The key themes of the 2010 Fairer Contributions guidance are:
 - Charges should not be levied for any one service in isolation but for the overall package of care.
 - Councils have discretion not to charge for services at all. The council has discretion to charge for services selectively. Where this is applied, it may result in the reduction of the person's personal budget.
 - Non personal budget holders should not be treated less favourably than personal budget holders.
 - No one should be expected to contribute any more than the financial assessment shows is reasonably practical for them to pay.
 - Consideration for charging is not purely budget based, but takes into account service needs

3. Principles

- 3.1 The London Borough of Barking and Dagenham has adopted the following principles to ensure that service users make fair contributions :
 - Contributions from service users will be fair and reasonable, and calculated with their input through an individual financial assessment.
 - Individual financial assessments will ensure that service users are only charged what they can reasonably afford to pay.
 - Contributions will not exceed the cost of providing the service and will not include any costs of assessment or the administration process for the service provided
 - Benefits advice will be available to service users through the assessment process and will ensure that service users have access to their full benefits and entitlements
 - After charges have been applied, service users will retain at least their basic income support or pension credit plus 25% as protected income, thus ensuring that people charged will only pay what they can reasonably afford for their service. An additional protection of £10 is available for those aged 85 and over.

- Services to meet assessed needs will not usually be refused or withdrawn if a person does not pay their assessed charge although this may happen where a person with mental capacity and the means to pay decides not to do so. Debt recovery may be pursued for all outstanding verified charges in line with the debt recovery corporate policy.
- Contributions will be determined by reference to both level of service and the service users' means and will be levied after a full financial assessment.
- A discretionary allowance of 25% of an individual's net disposable income will be included in the assessment process.

4. Services exempt from the Fairer Contributions Policy

- After Care Services under S117 Mental Health Act 1982 - These would continue to be provided free of charge.
- Residential Intermediate Care Services for a maximum of 6 weeks - These would continue to be provided free of charge.
- Re-ablement Services, for a maximum of 6 weeks - These would continue to be provided free of charge.
- Needs and Financial Assessments for Community Care Services - These would continue to be provided free of charge.
- Provision of Information, Advice, including Benefits Maximisation and Guidance - These would continue to be provided free of charge.
- Services provided to carers under S2 Carers and Disabled Children Act 2000 - These would continue to be provided free of charge.
- Community equipment and minor adaptations - Separate arrangements apply – Payment up to first £50 of equipment on each occasion.
- Carer support services (for the avoidance of doubt this does not include residential respite)

5. Respite Services

- Short term respite services will be included as part of the Resource Allocation Schedule and will fall under the Fairer Contributions Policy
- Sustained long term residential respite services will be charged under the Charging for Residential Accommodation Guide (CRAG) – a nationally set policy.

6. Services included in Fairer Contributions Policy

An assessed contribution will be made for:

- Personal care
- Home care
- Personal support
- Day opportunities
- Transport
- Services previously funded under the Supporting People as part of a service to meet needs under FACS
- Direct payments
- Personal budgets and managed personal budgets

It should be noted that this list is illustrative rather than exhaustive

7. Direct Payments

A financial assessment for service users receiving Direct Payments or a Personal Budget will be undertaken in accordance with this Fairer Charging Policy. Where possible, direct payments and personal budgets will be made net of any assessed service user contribution.

8. Financial Assessment

A full financial assessment will be undertaken for all individuals who receive services for which an assessed charge can be made. The financial assessment will ensure that service users;

- Have sufficient money to meet their basic housing costs and any disability related expenditure; and
- Retain their minimum guaranteed income of basic income support or pension credit plus 25% as "Protected Income" (pension credit plus 25% plus £10 for people aged 85 and over). This amount will not be included in the assessment calculations.

9. Assessing Ability to Pay

9.1 Overview

The financial assessment is based on the services user's income, against which deductions will be made for allowable expenditure.

All service users, after paying for their social care services and housing costs will be left with a weekly amount not less than basic income support or Pension Credit Guarantee plus a 25% buffer and a proportion of their disability related benefits.

The contribution will be the lesser of the service user's available income or the standard cost for the received services supplied subject to the Council's minimum charge of £5.

9.2 Capital

The value of capital and assets is as defined in CRAG and the National Assistance (Assessment of Resources) Regulations (1992). Service users with capital above the CRAG upper limit (other than the value of their main home), are liable to pay maximum charge for services they receive. The capital limits will be reviewed annually in accordance with CRAG.

9.3 Calculation of income

The following sources of income will be fully disregarded in the charging assessment;

- Mobility component of Disability Living Allowance
- First £20 of any Charitable income unless it is wholly disregarded as per CRAG
- Working Tax Credit
- War widows' supplementary pension
- A partner's disability related benefits
- Winter fuel and cold weather payments
- Social Fund Payments
- Maintenance payments specifically relating to a child
- Child benefit.

The following sources of income will be partially disregarded in the charge assessment;

- War disablement pension, war widows pension (£10 per week disregarded)
- Sub tenants – disregards apply as per CRAG
- Boarders – disregards apply as per CRAG.

9.4 Welfare benefits

As part of the financial assessment process, advice will be provided to service users regarding benefit entitlements. Assistance will be available to complete benefits applications should a potential entitlement be identified.

9.5 Equity Release Schemes

The most common form of Equity Release Scheme is a Home Reversion Scheme (HRS), where a home owner will transfer the ownership of all or part of their home to a commercial or "not for profit organisation. Depending on the terms of the HRS, the funds released may be translated into an annuity, or a combination of these. Other forms of equity release will be considered on an individual basis and income from the equity release may be considered in the financial assessment.

9.6 Household Expenditure

The following Household Expenditures may be allowed depending on the service user's circumstances;

- Rent net of housing benefits
- Mortgage net of income support or pension credit assistance
- Board and lodging (as defined and managed in CRAG)
- Council Tax net of Council tax benefit
- Building Insurance (and in exceptional circumstances contents)
- Essential service charges and ground rent net of assistance funding

9.7 Couples

When assessing one member of a couple it is the Council's policy to assess in the most beneficial way to the service user. All couples will be offered a joint assessment to identify the most beneficial outcome, whilst noting that a spouse or partner is not obliged to disclose their resources, should they choose not to.

When assessing one member of a couple as a single person;

- 100% of solely owned and 50% of all jointly owned capital and savings will be taken into account (excluding the value of the main home);
- All assessable income appropriate to the service user will be considered,
- An allowance will be made for 50% of the couple's total joint basic household expenditure;
- The 'basic' level of income support or Pension Credit Guarantee will be 50% of the couple's allowance + 25% buffer; and
- An allowance will be made for the service user's proportion of disability related expenditure where they receive a Disability Related Benefit (i.e. Attendance Allowance, Disability Living Allowance or the Severe Disability Premium). This allowance is 25% of DLA middle and lower rate and AA lower rate and 35% of higher rate DLA and AA.

When assessing as a couple:

- The income and savings capital for the couple will be considered. If the spouse or partner is not willing to disclose this information, the service user will be assessed as a single person;
- An allowance will be made for 100% of the couple's basic household expenditure;
- The 'basic' level of Income Support or Pension Credit Guarantee will be that of a couple;
- The couple's assessed disposable income is then halved prior to considering any individual Attendance Allowance or Disability Living Allowance awarded;
- An allowance will be made for the service user's proportion of disability related expenditure where they receive a Disability Related benefits (i.e. Attendance Allowance or Disability Living Allowance) and ;
- When both partners receive a joint care package, the standard CRAG capital limits will be doubled.

9.8 Disability Related Expenditure

In order to ensure that service users have sufficient disposable income to meet disability related needs, the following disregards will apply:

- 35% of Disability Living Allowance (DLA) Higher and Attendance Allowance (AA) Higher rate Care component
- 25% of DLA Middle and Lower rate and AA Lower rate

9.9 Shared costs

If more than one person lives in the service user's home the additional costs relating to a disability or condition will be shared between the occupants whose needs contribute to the additional costs. The cost of providing domestic assistance or gardening, if allowed, may be attributed to all the adult occupants of the service user's home.

10. Service user contribution issues

10.1 Decline to provide Financial Details

Service users have the right to choose not to disclose their financial details. If this right is exercised they will be required to pay the full cost of the care, and no weekly maximum rate will apply.

If the service user has savings above the CRAG capital limits, currently £23,250, full cost also applies.

10.2 Delays in completing the Financial Assessment

If a service user unreasonably delays completing the financial assessment they will be required to pay the full charge for the service provided, until the financial assessment is completed. If a financial assessment results in a lower charge than this, consideration will be given to refunding the difference depending on the circumstance of the case. This decision will be made by an Adult Social Care Manager.

'Unreasonable delay' will be determined on a case by case basis, however as a general rule the Council will expect the service user or their representative to assist the Financial Assessment Team. Where the service user or representative prefers to complete the financial circumstances statement by post, then it is expected that this will be returned to the Council within 2 weeks.

If further information is required for the financial assessment then it is expected that the service user will provide this within 1 week of the date it was requested.

10.3 Review of Financial Circumstances

Service users are required to inform the Financial Assessment Team as soon as their financial circumstances change, as this may affect their assessed charge. This specifically includes receipt of a new benefit, other changes of more than £10 per week to their income or expenditure, and changes to capital or savings which mean that they are above the threshold. Service users may inform the Council of lesser changes at any time and should do so promptly if they believe that a change will result in a reduction to their financial assessment and want it to be applied immediately.

Following notification of a change or a review visit, a new financial assessment will be completed using the information provided. If the revised assessment results in an increase in

the weekly charge, the service user will be notified of the revised charge and it will be backdated to when the service user's circumstances changed.

If the revised assessment results in a decrease in the weekly charge, this will be backdated to one month before the date of the review.

Examples of when a financial assessment may take place are listed below:

- On request from the service user or his / her authorised representative
- Following an award or withdrawal of a benefit
- New information is received as to the service user's income and expenditure
- When the Department of Work & Pension increases benefits
- As a result of changes to the hourly rate or maximum charge
- At the request of the appropriate Service Manager
- Annual review

10.4 Annual Review

In addition to the reviews described above, the financial assessment will be reviewed annually to take account of the annual increases in benefits and other income which take place each April. Where the service user is in receipt of benefits paid at standard rates, the revised amount will be substituted. Benefits paid at non standard rates will be increased in line with the benefits changes..

For other components of the financial assessment, such as occupational pension, disability related expenditure, rent and Council tax, a percentage increase linked to the Retail Price Index (RPI) will be applied.

Changes resulting from the annual increase or the application of a revised minimum guaranteed income (protected income) will apply from the date assigned to these changes.

An explanation and full details of the revised assessment will be sent to the service user, who will be asked to check the figures and contact the Financial Assessment team if they believe it is not an accurate representation of their circumstances.

The Financial Assessment Team will send a financial assessment review form to service users annually. The service user can use the form to advise the Council of any changes to their circumstance. The service user also has the option to request a visit from a member of the Financial Assessment Team to assist in completing the form or undertake a financial review in more detail.

10.5 Waivers

A service user who is assessed as being liable to pay a contribution but who believes that paying the charge will cause them financial hardship can apply for the charge to be waived. When the application is received, an Adult Social Care manager will consider the information and make a decision within 20 working days of receiving the application. If the decision of the panel is in favour of the original assessment and the service user did not pay the charge during the application process, outstanding payments will have to be made up

10.6 Reviews, Appeals and Complaints

The London Borough of Barking and Dagenham has a robust complaints process to ensure service users can express their views or make a complaint. The Council welcomes feedback from service users, and has dedicated officers to manage the complaints process.

If a service user is dissatisfied with their assessed charge calculation, believes that they have insufficient funds to pay the charge, or that the charge is incorrect (i.e. incorrect hours or service have been charged) they have the right to request a review.

The service user or their authorised representative can start the review process at any time by contacting their social worker or the Financial Assessment Team.

10.7 Appeals

If an application is refused, and the service user is unhappy with the decision, an appeal can be made in writing within 28 working days of receiving the refusal letter. The appeal should include an explanation of why the service user thinks the decision is wrong and also include any information in support of the case.

The appeal will be considered by a Divisional Director in Adult and Community Services who will then make a decision within 20 working days of receiving the appeal letter. The decision letter will include the reason for the decision and will be sent within 5 working days of the consideration.

If the appeal is turned down and the service user is still not happy with the decision, the Local Government Ombudsman can be contacted.

10.8 Debt recovery

If the service user does not pay the charges either in full or in part and the invoice remains unpaid, the Council's debt recovery procedures may be instigated. This may result in legal action and extra costs to the service user.

11. Privacy

Information will be collected to enable the calculation of charges relating to service provided and assessment of welfare benefit entitlement. In accordance with the Data protection Act 1998, this information will only be shared with other relevant people and agencies in accordance with the data protection principles or with the written consent of the service user or their legally appointed representative.

A service user has the right to request to view their personal information held by the Council at any stage.

12. Equality Impact Assessment

An equalities impact assessment has been undertaken of the London Borough of Barking and Dagenham's Fairer Contributions Policy. A copy of the impact assessment is available on the Council's website. This policy has specific measures in place to ensure that disabled people are treated equally to non-disabled people in relation to service charges.

13. Review of this Policy

This policy will be reviewed in March 2012 and at least annually thereafter. This policy may also be reviewed at other times in response to national changes or guidance.