

BRIGHTON AND HOVE CITY COUNCIL

Charging and Financial Assessment Policy for Adult Care and Support Services

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1. Introduction and Legal basis for charging for Care and Support

1.1 This policy is compliant with The Care Act 2014, Care Act regulations and Care Act Guidance. Its aim is to provide a consistent and fair framework for charging and financial assessment for all service users following an assessment of their individual needs, and their individual financial circumstances.

1.2 For the purposes of this policy, an adult is a service user aged 18 and above.

- a. Section 14 of The Care Act 2014 provides councils with a power to charge for meeting a person's eligible needs in a single legal framework.
- b. Section 17 of The Care Act 2014 permits local authorities to undertake an assessment of financial resources. The financial assessment will determine the level of a service user's financial resources, and the amount (if any) they should pay towards the cost of meeting their needs through care and support funding.
- c. The Act requires that there must be no charge for provision of the following types of care and support:
 - Community equipment (aids and minor adaptations): i.e. Minor adaptation to property costing £1,000 or less; equipment for the purposes of assisting with nursing at home or aiding daily living.
 - Intermediate care (including reablement support) services for up to 6 weeks;
 - Care and support provided to people with Creutzfeldt-Jacob Disease;
 - Any service or part of service which the NHS is under duty to provide. This includes Continuing Healthcare and the NHS contribution to Registered Nursing Care;

- Services that local authorities have a duty to provide through other legislation;
- Assessment of needs and care planning, including the cost of the financial assessment, as these constitute 'meeting needs'.

2. Policy objectives

- That financial support towards care costs will be determined through a financial assessment;
- To provide clear information so people know what they will be charged;
- To apply the rules consistently, to avoid variation in the way people are assessed and charged; and to minimise anomalies between different care settings
- To support carers to look after their own health and wellbeing and to care effectively and safely;
- To be person-focused,
- To ensure that people are not charged more than the cost of service provision
- To ensure that where a customer lacks capacity to undertake a financial assessment that the local authority consults a suitable person defined as having Enduring Power of Attorney (EPA), Lasting Power of Attorney (LPA) Property and Affairs Deputyship under the Court of Protection or any other person dealing with that person's affairs (e.g. someone who has been given appointeeship by the Department of Work and Pensions (DWP) for the purpose of benefits payments).

3. Residential Care: Charging and financial assessment for care and support in care homes on a permanent basis

3.1 Only where a customer has an eligible care and support need will a financial assessment be required.

- a. People requiring permanent care in a care home setting must have a financial assessment to determine whether they are eligible for council funding towards the care home fees.
- b. People will be advised of the maximum amount of funding the council will pay towards the fees and this is known as

‘The Local Authority Rate’. This rate is inclusive of any assessed contribution from the resident’s resources, and in the case of nursing care, includes the free nursing care element (FNC) paid by the NHS.

- c. Where a person decides to reside in another local authority area BHCC will match the local authority rate for the area where the customer decides to live.
- d. Where a person chooses to live in a care home charging more than The Local Authority Rate they must identify a person, known as a third party, to meet the additional cost. This additional cost (known as a ‘top-up’) must be sustainable and the local authority has the right to refuse a customer using their assets for this purpose, if the costs cannot be met over a sustained length of time.
- e. The third party must confirm they are able to meet the costs of the top-up for the duration of the agreement, including any price changes that may occur. Both they and the resident will be made aware of the cost and the consequences of failing to maintain payment. The third party will be asked to enter into an agreement.
- f. People who own a property or other valuable asset, over which security can be taken, may be eligible to defer care costs against the value of the property/asset. This is known as a Deferred Payment Agreement. Details of this scheme can be found within the council’s separate Deferred Payment Agreement policy.
- g. Contributions are payable from the date care commences.
- h. The Financial Assessment will take into account income, capital and the value of any assets. The charging methodology will take into consideration any mandatory disregards of income, capital and property as defined in the Charging for Care and Support Statutory Guidance.
- i. The financial assessment will take account of prescribed minimum allowances. These are known as ‘Personal Expenditure Allowance’ (PEA) and Savings Credit Disregard.

The rates applicable for the relevant financial year (April – March) are set out on the appendix below.

4. Residential Care: Charging and financial assessment for care and support in care homes on a temporary basis

- a. The council will financially assess and charge people having a temporary stay in a care home from the date of admittance.
- b. Following an assessment of a person's eligible care and support needs, it may be decided they would benefit from a temporary stay in a care home. A temporary resident is defined as a person whose need to stay in a care home is intended to last for a limited period of time and where there is a plan to return home. The person's stay should be unlikely to exceed 52 weeks, or in exceptional circumstances, unlikely to substantially exceed 52 weeks.
- c. Where a person's stay is intended to be permanent, but circumstances change and the stay becomes temporary, then the council will assess and charge as a temporary stay.
- d. Where a temporary stay becomes permanent the financial assessment will be reassessed from the date of that decision.
- e. The financial assessment for temporary stays will disregard the person's main or only home where they intend to return to that home.
- f. The financial assessment will treat income and capital in the same way as for permanent residential care with the following exceptions:
 - Disability Living Allowance or Attendance Allowance will be disregarded from the financial assessment.
 - Where Severe Disability Premium or Enhanced Disability Premium are in payment, these will be included in the assessment.
- g. If Housing benefit is paid, this will be disregarded.

h. Liabilities for rent, mortgage interest and water rates are taken into account.

5. Care at home: Charging and financial assessment for all other service funding (sometimes referred to as non-residential care)

- a. The council will charge for care and support funding for people living in their own homes. The charge will usually apply from the start date of the care provision.
- b. The same charging policy applies to people who receive a direct payment to purchase care themselves and people who choose council commissioned services.
- c. The council will undertake a financial assessment to determine the amount a person can pay towards their care and support costs. This is based upon income, capital with allowances for:
 - housing costs,
 - disability related expenditure (DRE). See schedule A for guidance in relation to DRE
 - General living allowance – See Appendix A for rates
- d. Evidence will be required to substantiate fully a person's financial circumstances.
- e. People with capital in excess of the higher capital limit (see appendix A) will be responsible for meeting all of their care and support costs.
- f. The financial assessment will refer to Statutory Guidance for all disregards in respect of income and capital when making a determination of the person's financial resources.
- g. People will receive written notification of the outcome of their financial assessment. Contributions are payable from the date care commences.
- h. Payments will usually be made direct to the service provider. People with council provided services will be invoiced on a monthly basis in arrears. People receiving direct payments will receive 'net' payments from the council on a 4 weekly

basis and must make arrangements to pay their contribution directly into the specified account.

- i. Financial assessments will be reviewed in the following circumstances:

Where the person notifies the council that their circumstances have changed:

At any time where the council discover an amendment to the financial information held (this can lead to additional charges being backdated).

EG inheritance, previously undisclosed assets or income

Where benefit rates change significantly:

6. Charging and financial assessment for support for carers

BHCC will not charge carers for any services provided directly to them during 2015/16. This policy will be reviewed in 2016/17. Where services are provided to the service user with eligible care and support needs in order to provide the carer with support, then the service user will be charged in accordance with this policy.

7. Including notional assets or income in the assessment:

- a. Deprivation of income and/or assets is the disposal of income and capital (property and investments) in order to avoid or reduce care charges. Disposal can take the form of transfer of ownership or conversion into a disregarded form. In all cases, it is up to the person to prove to the council that they no longer possess an income or an asset. The council will determine whether to conduct an investigation into whether deprivation of income or assets has occurred. Where the council decides that deprivation has occurred we will include the amount as though they still owned the asset or income. This is known as notional income or notional assets.
- b. The value of any land or property, other than the person's main or only home, will be included within the financial assessment as a capital asset. The only exception to this rule is where the customer is taking steps to occupy that home. In this case the value will be disregarded for a maximum of 26 weeks.

- c. A couple is defined (for administration of their financial affairs) as two people living together as spouses or partners. Where capital is held and income is received on a joint basis, then it is assumed that each person is entitled of 50%.
- d. People in Shared Lives schemes will be responsible for paying rent, food and utilities from their own income, usually including Housing Benefit. They will have a non-residential financial assessment to determine whether they should contribute towards the cost of the care element of the service package.
- e. Allowable housing costs (e.g. rent/mortgage/council tax) will only be allowed in the financial assessment where the customer is liable to pay these costs. Where the customer is not liable for these costs, but contributes towards these through a private board agreement or similar, then the customer will be expected to meet this expenditure from their general living allowance.
- f. Where funds are held in trust, the financial assessment will seek to determine whether income received or capital held in trust should be included or disregarded. Copies of trust documents (e.g. Trust Deed, Will Settlement etc) are required to be produced as part of the financial assessment.
- g. Where the customer receiving care and support has capital at or below the higher capital limit, but more than the lower capital limit (see Appendix A for the rates) they will be charged £1 per week for every £250 in capital between the two amounts. This is called “tariff income”. For example, if a person has £4,000 above the lower capital limit, they are charged a tariff income of £16 per week.

8. Diversity and equality

- a. The council is fully committed to the broad principles of social justice and is opposed to any form of discrimination and oppression. It therefore willingly accepts not only its legal responsibilities but also wishes to embrace best

practice in all areas of its work in order to secure equality of both treatment and outcome.

- b. The council is committed to ensuring that no one is treated in any way less favourably on the grounds of personal differences such as age, race, ethnicity, mobility of lifestyle, religion, marital status, gender, sexual orientation, physical or mental impairment, caring responsibilities and political or other personal beliefs.

9. Recovery of Debt

- a. The Care Act 2014 provides powers to recover money owed for arranging care and support where a person refuses to pay the amount they have been assessed to pay.
- b. The powers for recovery of debt extend to the service user and their representative, where they have misrepresented or have failed to disclose (whether fraudulently or otherwise), information relevant to the financial assessment.
- c. The council will only proceed with Court action where alternatives have been exhausted. At this stage the council will proceed with action through the County Court.
- d. The council will deal with each case of debt on an individual basis and will give regard to the level of debt and the cost of recovery. Taking action through the County Court will be carefully considered where the cost of recovery would be disproportionate.
- e. Debt that arises from 1st April 2015 must be recovered within 6 years from when the sum became due to be paid.

Schedule A – Disability Related Expenditure

- i. People receiving non-residential services will be asked about additional costs incurred as a direct result of their disability. Allowances will be made in appropriate circumstances.
- ii. Only costs actually incurred by the customer will be considered as part of the assessment as allowable expenditure.
- iii. The council has the right not to allow costs that should be met by other agencies, such as the NHS. This applies to therapies such as physiotherapy, chiropody and incontinence pads
- iv. The council will include the following disability related expenditure within the financial assessment subject to some maximum allowances

10. Payment for any community alarm system

privately arranged care services in limited circumstances
Costs of any specialist items needed to meet the person's disability needs:

- a. specialist washing powders or laundry;
- b. additional costs for dietary needs due to illness or disability (evidence from the customer's GP may be required);
- c. additional costs of bedding, for example, due to incontinence; due to medical condition or disability;
- d. any heating or metered water costs, above average levels for the area and housing type, due to age, medical condition or disability;
- e. reasonable costs of basic garden maintenance, cleaning or domestic help, if necessitated by the customer's disability and is not met by social services;
- f. purchase, maintenance and repair of disability-related equipment, including equipment or transport needed to enter or remain in work;
- g. the council will not make allowances at a higher rate where a reasonable alternative is available at a lower cost, for example where incontinence pads are available on the NHS but the customer decided to purchase them privately ;

- h. other transport costs necessitated by illness or disability, including costs of transport to day centres, over and above the mobility component of DLA or PIP, if in payment and available for these costs. Where the council provides transport and the customer wishes to use alternative transport at a higher cost, the cost of council provision will be used to determine any allowance.
11. All other expenditure will be assessed as either an everyday living cost, or will be reviewed as a specific need against the customers' care and support plan.

Schedule B - Complaints

- i. If person wants to complain about any aspect of the financial assessment:
- ii. The first stage is to ensure that the assessment has been conducted and calculated correctly. Requests for a financial reassessment should be direct to:
 - The Team Manager
 - Adult Social Care
 - Financial Assessment Team
 - 2nd Floor
 - Bartholomew House
 - Bartholomew Square
 - BRIGHTON
 - BN1 1JP
- iii. The manager will reassess the information provided and take account of any information omitted from the initial assessment.
- iv. Where the assessment is correct, complaints about the level of charge are subject to the Care and Support Complaints Procedure as set out in The Local Authority Social Services and NHS Complaints Regulations 2009. Complaints should be addressed to.

Xxxxxxxxxxxxxx complete

Schedule C – Summary of Publications

- i. The following publications have been referred to in the compilation of this policy
 - The Care Act 2014
 - The Care Act 2014 Regulations Part 1
 - The Care Act 2014 Care and Support Statutory Guidance
 - Mental Health Act 1983
 - The Local Authority Social Services and NHS Complaints Regulations 2009

APPENDIX A: Rates for 2015/16

Personal Expenditure Allowance in residential care £24.90 per week

The Higher Capital Limit £23,250 (46,500 for couples)

The Lower Capital Lime £14,250 (28,500 for couples)

General Living Allowance £189 per week

Others to be added xxxxxxxxxxxx