

# **BRIGHTON AND HOVE CITY COUNCIL**

## **CHARGING POLICY For Care Services – APRIL 2016 - 2017**

**Effective from 11th April 2016**

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

- 1.1 This policy is approved by Brighton and Hove City Council and is compliant with The Care Act 2014, Care Act Regulations and Guidance. The aim is to provide a consistent and fair framework for assessing and charging all service users following an assessment of individual needs, and individual financial circumstances. It applies to all service users equitably. 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. Section 17 of The Care Act permits local authorities to undertake an assessment of financial resources. This will determine the amount a person should pay to meet the cost of providing for their needs for care and support.

The policy for non-residential services was originally formulated in December 2002 under consultation with service users and their carers. This has been revised to take account of the requirements of the Care Act 2014. For the purposes of this policy, an adult is a service user aged 18 and above.

- 1.2 The services **included** for this financial assessment policy are:

Residential Care including Nursing Homes  
Supported Accommodation\*  
Shared Lives Schemes\*  
Home Care  
Day Care, Day Activities  
Community Support / outreach services  
Money Advice and money management services  
Direct Payments / Personal Budgets for any services  
Tenancy Support (Supporting People) including Carelink alarm systems  
Adaptations over £1,000

\*People in Shared Lives and Supported Accommodation schemes, in addition to any assessed care and support charge, will also be responsible for paying for rent, food and utilities from their own income, usually including Housing Benefit or universal credit.

- 1.3 Services **excluded** from charges are:

All Daily Living Equipment  
Adaptations under £1000  
Services provided under Section 117 of the Mental Health Act, "after care" services.  
Intermediate Care and Reablement Services for the first 6 weeks  
Any Care funded under Continuing Health Care by the Health Authority  
Care and support provided to people with Creutzfeldt-Jacob Disease;  
Assessment of needs and care planning

- 1.4 **No Charge for Direct Support to Carers**

There is no charge carers for any services provided directly to them during 2016/2017. This policy will be kept under review. Where services are provided directly to the service user to meet their eligible care needs, in order to provide the carer with support, the service user will be charged in accordance with this policy.

## **2. From April 2016 the maximum charges for non-residential services are:**

### **2.1 Home Care provided by the council, including all forms of support at home £22.00 per hour**

(Please note that the charge is double where two carers are provided)

The maximum charge for care provided by an independent agency will depend upon the fees set by them. This can vary between providers but is usually less than £22 per hour.

### **2.2 Day Care / Day Activity provided by the council (for any time period) £35.00 per day**

The maximum charge for care provided by an independent agency will depend upon the fees set by them. This can vary between providers but is usually less than £20 per hour.

### **2.3 Additional Fixed Rate charges**

Any meals provided at a Day Centre and any transport costs will not form part of the assessed charge as they substitute for ordinary daily living costs.

**These charges are payable in addition to assessed contributions.**

**Meals at a day centre      £4.40 per meal**

**Transport to day centres   £3.60 per return journey**

## **3 The Financial Assessment Process**

3.1 The financial assessment follows the care needs assessment. When care needs have been assessed, details are passed to the Financial Assessment team who will usually make arrangements for a personal visit to the service user or their representative. In some cases it may be possible to complete an assessment over the telephone or by post or email but information will be subject to full verification. Where a person lacks mental capacity to complete a financial assessment we will consult someone with Enduring Power of Attorney (EPA), Lasting Power of Attorney (LPA) for Property and Affairs or a Deputy under the Court of Protection. If there is no person with a formal authority we can discuss with someone who has been given Appointeeship by the Department of Work and Pensions (DWP) or any other person who is dealing with that person's affairs.

We will:

- (a) Gather financial information from the service user or their representative and have sight of relevant documentation for verification purposes e.g. Bank statements, property valuations, completion statements etc.

- (b) Assist with the completion of the Financial Assessment Form which is signed as a correct statement by the service user or their representative
- (c) Arrange for “Forms of Authority” to be signed if any information needs further written verification from the asset holders, building societies etc.
- (d) Complete postal assessments and any further financial enquiries and verification
- (e) Undertake a Welfare benefits check and help with claims if applicable.
- (f) Provide written notifications to service users of the chargeable amount
- (g) Notify the care provider of the charge for their collection (in most cases).

#### **4. The Financial Assessment Calculation for all services**

First we take account of Capital and Savings (see “tariff income” at 4.1)

Then we take account of income

Then we make allowances for various types of expenditure

The difference between the income calculation and the expenditure allowances is the amount charged for care services.

The amount charged will depend upon whether the service user needs a Residential Care Home service or other services while remaining in their own home (known as “non-residential services”).

##### **4.1 Treatment of Capital and Savings**

People with over £23,250 in capital and savings pay the full cost of any service from the start date of the service.

People who do not want to disclose full financial information may opt to pay the full cost without going through this assessment.

People who are unable to show that they do not have £23,250 will pay the full cost from the start of the service.

For people needing permanent care and support in a residential care home or nursing home, the net value of their former home, where owned by them, will be taken into account when calculating their level of savings.

Where care needs are met in a person’s own home, the main residence occupied by the service user will not be taken into account but the value of all other forms of capital and savings will be taken into account, including any other property, eg second homes, holiday homes, whether or not they are rented out and whether they are located in this country or abroad. Where a property is not occupied as a main home, for example where the person has moved out to live with other family members or to move into rented accommodation, the property value will be taken into account for charging purposes. The only exception to this rule is where the person is taking steps to occupy that home. In this case the value will be disregarded for a maximum of 26 weeks.

We will take into account any form of savings irrespective of where and how they are invested (with the exception of special complex rules regarding capital held in a trust and capital held in investment bonds with Life Assurance). (Note that, where funds are held in trust, or in a disregarded savings bond, the financial assessment will seek to determine whether any income received should be included or disregarded. Copies of trust documents (e.g. Trust Deeds, Will Settlements etc.) must be provided for verification.

The capital limits are currently £23,250 upper limit and £14,250 lower limit with effect from **11/04/2016**. Any capital above £14,250 is calculated as “tariff income” which is calculated as £1.00 per week for every complete £250 or part).

People with more than £23,250 held in their own name, or held in their share of joint accounts, or in accounts held by another person on their behalf, will pay the full cost of the care service. **This charge applies from the start date of the service.**

**Notional assets, savings or income included in the financial assessment:**

If a person has gifted any savings, investments, income or property to another person, prior to, or whilst receiving any care services, any such amounts will usually be included in the financial assessment as though they remain in their own possession. This is called “notional capital or notional income”. This may also apply where a person has spent down their capital more significantly than would usually be the case. Consideration will be given to exceptional circumstances.

This is sometimes referred to as deprivation of assets and can include transfer of ownership or conversion from one kind of asset to one that would otherwise be disregarded. In all cases, it is up to the person to prove to the council that they no longer possess the income or asset and the council will determine whether to conduct an investigation into whether deprivation has occurred. Where notional assets are included in the assessment and the person is unable to pay the charges, the council may charge the person who received the gift to pay for the costs of care services.

Notional capital or income will also be taken into account if a person is not claiming monies to which they are entitled.

#### **4.2 Income to be taken fully into account**

Income includes **most state benefits** means tested and non-means tested, including State Retirement Pension, Pension Credit, Employment and Support Allowance, Tax Credits, Child Benefit, Statutory Sick Pay, Income Support (including all premiums for age, family and disability), Job Seekers Allowance, Personal Independence Payments (PIP) for care, Universal credit etc. (see exceptions in 4.3)

Income also includes:

Attendance Allowance, Disability Living Allowance and PIP (care components only)

All other income is included eg.

Occupational Pensions

Private Pensions

Income from annuities

## Trust Income

Income from charitable or voluntary sources (subject to £20 per week disregard)

Rental Income / lodging payments (including other persons in the household)

All other income except where it derives from capital that has been taken into account  
**(subject to exceptions below in 4.3)**

Where another person, who is not a spouse or partner or civil partner or a dependent child, lives in the household of the service user (e.g. A relative, a friend, a lodger) the payments they make towards the household expenses will be taken into account as income.

Where no actual payments are made by the person living in the household there will be an assumed income of one third of the basic Income Support allowance as a contribution towards general household living costs.

### 4.3 Income to be disregarded

Earnings are disregarded.

(Earnings consist of any remuneration or profit derived from employment or self-employment, including bonus or commission and holiday pay but excluding reimbursement of expenses and any occupational pension)

DLA (Mobility Allowance)

War Pensioners Mobility Supplement

War Widow(er) Special Payments

Tax credit income (related to earnings)

Pension Credit "**Savings Credit**" Payments are disregarded for non-residential services but there are other special rules for residential care with a partial disregard

## 5. Assessment for non-residential services

### 5.1 General Living Allowance – known as MIG (Minimum Income Guarantee)

The standard living allowance for people who live in their own home is intended to cover general living expenses including food, utilities, fuel, transport, leisure, insurances and other miscellaneous living costs and including any debts relating to these expenses. In accordance with Government guidance, the minimum allowance is calculated by reference to basic Income Support Rates plus a 25% buffer and these rates differ according to age and other circumstances. However, irrespective of the age of the service user, the weekly allowance in this policy has been aligned to pension credit rates which are more generous than for other age groups. These allowances for 2016/17 are **£195 per week** for single people and **£297 per week** for couples or **£149 per week** for one person in a couple (the rates are reviewed by the Department of Health every April).

Where there are dependent children in the household, the general allowance will be calculated by taking basic Income Support rates for the adult(s) and the dependent children, multiplying the total by 125% and rounding up the total to the nearest whole pound. (Note that basic income support rates do not include

SDP for adults but extra allowances may apply in the case of enhancements for dependent disabled children).

## **5.2 The Disability Related Expenditure assessment (DRE)**

Service Users will be asked to list any additional expenses, extra to the standard allowances explained in 5.1 that arise specifically as a consequence of disability. Examples of such expenditure and verification methods are set out in **Appendix A**.

## **5.3 Housing Costs**

Allowances are given for the following housing costs:

- Rent (net of Housing Benefit - or Universal Credit)
- Council Tax (net of Council Tax Reduction and discounts)
- Minimum mortgage repayments (as a substitute for rent) excluding enhanced mortgage payments.  
Ground Rent and Maintenance (except costs already allowed in the standard living allowance eg. Lighting, heating, Hot water, etc.)
- Water Rates / Metered Water Costs

No Allowance for rent will be made where the service user lives in another person's household and there is no legal liability for rent payments. This is because any charge made for living in the other person's household will be deemed to be covered by the general living allowance of at least **£195** per week. Where the person is not liable for these costs, but contributes towards them through a private board agreement or similar, then the service user will be expected to meet this expenditure from their general living allowance.

## **5.4 Method of Calculation for non-residential services**

- a) Income less expenditure and allowances equals "assessable income"
- b) Assessable income is rounded down to the nearest whole pound.
- c) There is no charge if this is below £3.00 per week
- d) Note that where the actual service costs are less than the assessed charge, the lower amount will be charged.

## **5.5 Assessing Couples**

- a) Financial assessments will usually be carried out for couples by reference to all income, savings and expenditure of the household. Where means tested benefits are being paid, this will be a similar process to Income Support / ESA / JSA/ Guarantee Pension Credit, Housing Benefit / Universal Credit.

b) Where no means tested benefits are in payment the income and savings of both partners will usually be considered in order to determine individual ownership including any beneficial interest of the service user.\* (see below)

c) Where the total savings and assets of the service user are over £23,250, including any interest in savings held by their partner, the full cost of care services will apply.

d) Councils may consider whether a service user could reasonably have access to, or legal entitlement to, resources held by another person, including a partner. For example, where there are savings in joint bank accounts or where savings and assets are held in one partner's name and can reasonably be assumed to be shared, particularly where the service user's monies have been saved in that account. In such cases it is reasonable to seek disclosure from the partner and refusal will allow the council to decide that the user has not shown they are unable to pay and therefore the full cost will be charged.

e) Where income and savings are held in the partner's name an assessment may be made of the history of this arrangement and the extent to which the service user has some access to the resources held by the partner. Savings held in joint accounts will be treated as 50% ownership unless there is specific evidence as to a different percentage. The actual position regarding payments for rent, mortgage, water rates etc will be considered and the general living allowance will be amended accordingly.

## **6. Residential Care: Charging for care homes for permanent residents**

6.1 Only where a person has been assessed as having an eligible care and support need will a financial assessment be necessary to determine whether or not they must pay the full fees.

6.2. Charges for residential care are payable from the date care commences.

6.3 Property will usually be taken into account for charging purposes unless the resident is taking steps to occupy that home. In this case the value will be disregarded for a maximum of 26 weeks. Property is disregarded where it is occupied by a spouse or partner or another relative aged over 60 or disabled.

6.4 The Financial Assessment will take into account income, capital and the value of any assets. The charging calculation will take into consideration any mandatory disregards of income, capital and property as defined in the Charging for Care and Support Statutory Guidance.

6.5 The Assessment will allow the prescribed minimum personal allowance known as the 'Personal Expenditure Allowance' (PEA). This is **£24.90 per week from April 2015**. Some people may also qualify for an additional Savings Credit Disregard depending upon the level of their income and state benefits.

6.6 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.

6.7 Where a person decides to reside in another local authority area the council will match the local authority rate for the area where the person decides to live.

6.8 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.

6.9 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.

6.10 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.

## **7. Charging for Residential and Nursing Home care on a TEMPORARY basis**

7.1 The council will financially assess and charge people having a temporary stay in a care home from the start date of the service.

7.2 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.

7.3 Where a person's stay is intended to be permanent, but circumstances change and the stay is temporary, the council will charge on the basis of a temporary stay.

7.4 The financial assessment for temporary stays will disregard the person's main or only home where they intend to return to that home.

7.5 The financial assessment for a temporary stay 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.

7.6 If Housing benefit is paid, this will be disregarded.

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

## **8. Financial re-assessments for all Services**

Financial assessments will be reviewed in the following circumstances:

- a) Where someone receives a new or backdated state benefit, such as Attendance Allowance, Severe Disability Premium etc. Note that charges will be backdated to the date of the DWP award for the additional benefit. (actual payments from DWP may be later).
- b) At any time where the council discover an amendment to the financial information previously provided: e.g. Inheritance, previously undisclosed property, savings or income, including benefits (this can lead to additional charges being backdated).
- c) Where a person notifies the council that their circumstances have changed:
- d) Where there is a significant change to Government regulations, state benefit entitlements or charging policy revisions
- e) Benefit Uprates for residential care in April of each year.
- f) Otherwise, financial reviews will take place over a period of time.

## **9. Backdating charges**

Charges will usually date from the start of the service where the service user has been provided with appropriate charging information.

Backdated charges will apply where additional benefits have been successfully claimed. People will be advised of this policy in writing and will be required to pay the additional charge from the date they are found to be eligible for the benefit. This may include a period of backdated payment from the DWP.

Where people have not provided correct financial information, backdated assessments and charges will usually apply from the start of the service or from the date any additional assets were acquired.

Where it is found, at any time, that a person still has, or did have, over £23,250 the maximum charge will be backdated to the start date of the service costs.

## **10. Notification of Charges**

The outcome of the financial assessment and charge information will be confirmed in writing. This might provide a provisional charge pending the production of evidence of income, capital, costs of disability, or awaiting the outcome of additional benefit claims. If all information is complete the notification will provide details of the final assessment.

## **11. Paying the contributions**

11.1 Care Agencies: Where the service is provided by an independent care agency, the service user will usually pay them direct, upon receipt of an invoice from them or by standing order. If the service user fails to pay the provider further action will be taken.

11.2 Council Services: Where the service is provided directly by the Council the service user will receive an invoice, monthly in arrears, from the Council's Central Collections Team.

### **11.3 Direct Payments for care services**

Where the service user receives Direct Payments in order to purchase their own care services, they will be required to pay their contribution into their Direct Payments account. The preferred method is for the service user to set up a standing order from their personal bank account into the Direct Payments account. Where a charge applies, the service user must pay this into the account first, to cover the first part of the care costs, and the council will pay the remainder of the agreed eligible care costs into the account on a 4 weekly basis.

## **12. Recovery of Debt**

a. The Care Act 2014 provides powers to recover money owed for arranging care and support where a person fails 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 all circumstances will be carefully considered.

### **13. Appeals and Complaints**

Service users have the right to ask the Council for a review of the assessed charge if they consider it to be unreasonable.

The appeal will involve the following checks:-

- That income included in the assessment is correct
- That the standard disregards/allowances are correct
- That all eligible additional disability costs have been included
- That any further exceptional circumstance has been considered which may warrant special discretion.

The Appeal Decision is initially made by the Head of Financial Assessments to ensure consistency and equity with other service users and provides an information base of exceptional decisions.

The appeal should be completed within 4 weeks of referral including written notification of the outcome. If the service user is still dissatisfied they can use the complaints procedure.

#### **Diversity and equality**

- a. The council is committed to the broad principles of social justice and is opposed to any form of discrimination. It therefore embraces best practice 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.

#### **Summary of Publications**

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 - Assessing the costs of disability for non-residential care

Evidence of actual expenditure may be requested at the Council's discretion.

Where receipts have not been kept, a council may request that this be done for future expenditure. It is legitimate for Councils to verify that items claimed have actually been purchased, particularly for unusual items or heavy expenditure.

Generally the items allowed for should be based on actual past expenditure; though in some cases estimates of annual spending based on available evidence will need to be made. Spending not yet incurred should not be allowed. It is not practicable for assessments to take account of expenditure users would incur if they had more income.

If, despite a request to keep future receipts, users fail to do so, it may be reasonable for Councils not to include this in the assessment.

The following allowances may be agreed but is not an exhaustive list of disability-related costs. It is reasonable to expect that most people would not qualify for the full range of allowances. These allowances should align with information gathered during the care assessment and should be identified in the Care Plan.

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

### DISABILITY EXPENDITURE ALLOWANCES 2015-16

Item	Average Fuel Costs - 2014-2015		Evidence
All fuel.	Single in flat and terraced	£1,203	Last 4 bills for all types of fuel.  Allowance = difference between the sums listed here and the average of <b>actual bills</b> (divided by 52.) (not the sums paid by DD)
	Couple in flat and terraced	£1,587	
	Single in semi-detached	£1,278	
	Couple in semi-detached	£1,684	
	Single in detached	£1,555	
	Couple in detached	£2,049	

Notes - consideration will be made for additional householders contributing to household costs.

- if bills not retained, copies to be provided within 28 days. If not provided within this timescale the allowance will apply from the date that the evidence is provided.
- Winter Fuel and Cold Weather Payments are disregarded.

ITEM	AMOUNT	EVIDENCE
Community Alarm System	Actual cost to service user	Bills from provider
Privately	Where Social Worker confirms as part of the Care Plan and Council funded	Signed receipts for at least 4 weeks using a proper

arranged care including domestic help	care is reduced accordingly. (does not usually allow payment to immediate family members)	receipt book Maximum £12 per week if no receipts
Laundry/Washing Powder	£3.61 per week	Care Plan identified an incontinence problem. Allowance applies where more than 4 loads per week
Dietary	Discretionary as special dietary needs may not be more expensive than normal	Details of special purchases – Max £6 per week
Gardening	Discretionary based on individual costs of garden maintenance	Signed receipts for at least 4 weeks using a proper receipt book Maximum £12 per week if no receipts
Wheelchair	£3.75 per week manual £9.12 per week powered	Evidence of purchase. No allowance if equipment provided free of charge
Powered bed	Actual cost divided by 500 (10 yr life) up to a maximum of £4.20 per week	Evidence of purchase if available
Turning bed	Actual cost divided by 500 up to a maximum of £7.27 per week	Evidence of purchase if available
Powered reclining chair	Actual cost divided by 500 up to a maximum of £3.30 per week	Evidence of purchase if available
Stair-lift	Actual cost divided by 500 up to a maximum of £5.88 per week	Evidence of purchase without DFG input
Hoist	Actual cost divided by 500 up to a maximum of £2.88 per week	Evidence of purchase without DFG input
Chiropody	Where paid privately	Signed receipts for at least 4 weeks using a receipt book  Maximum £2.00 per week
Hair Hygiene	Only applies where hygiene is not already included in care package and disability prevents personal care	Max £6.00 per week
Prescription Charges.	Cost of an annual season ticket divided by 52 or actual cost of prescriptions whichever is less.	For those not eligible for free prescriptions
Transport.	Discretionary based on costs that are greater than those incurred by the general public.	Evidence in the Care Plan for transport needs where person cannot use public transport – max £12 per week

Note: - Mobility Allowance cannot be included in the normal financial assessment as an income but the statutory guidance states that transport costs should be allowed where necessitated by illness or disability, over and above the mobility component of DLA if in payment. Therefore no further transport costs are allowed if Mobility Allowance covers them.

**Awaiting information from DH for updates AE Jan 2016**

