

**Charging policy  
For Non-residential  
services/support for  
adults living at home**

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Updated by:  
Adult Social Care Contributions  
Adults & Communities Directorate  
PO Box 16436  
Birmingham  
B2 2ZE

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## **HOW TO USE THIS DOCUMENT**

This charging policy is fully operational from 5th January 2009 and has been updated on 1 August 2012.

# **GENERAL INFORMATION**

## **1. LAW AND GOVERNMENT GUIDANCE**

1.1 Health and Social Services and Social Security Adjudications Act 1983, Section 17 gives local authorities a discretionary power to charge adult recipients for non-residential services. Local authorities can make such charges as they consider reasonable. Any charge made under this section can be recovered as a civil debt.

1.2 Local Authority Social Services Act Section 7 allows the Secretary of State for Health 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, including those in 1.1 above, councils must have regard to guidance issued under this section.

1.3 Fairer Charging Policies for Home Care and other non-residential Social Services – Guidance for Councils with Social Services Responsibilities. Issued under 1.2 above by Department of Health September 2003

1.4 Department of Health Fairer Charging Policies for Home Care and other non-residential Social Services – Practice Guidance – August 2002

## **2. OVERVIEW OF THE CITY COUNCIL'S CHARGING POLICY**

### **2.1 Requirements of the Government's Fairer Charging Policy**

On 6th April 2003 the Directorate fully implemented the requirements of the Government's Fairer Charging Policy for Non-Residential Services \*. (Ref: \*Cabinet - 16.12.02)

These are to:

- Offer all adult service users benefit advice, irrespective if charges apply.
- Ensure financial assessments give consideration to disability related expenditure.
- Issue a single invoice, within 35 days, for contributions in respect of chargeable services/support received. Invoices thereafter will be issued every 4/5 weeks.
- For Direct Payments, contributions in respect of chargeable services/support will be deducted from the gross payment.
- Ensure that any charge does not reduce a service user's income below basic Income Support plus 25%.

### **3. APPLICATION OF THE POLICY**

#### **3.1 Which services does this policy apply to?**

This policy applies to the following services:

- In-house and external home support
- In-house and external day services. Day services include, for example, services provided by community placement teams, as well as day centres.
- Direct payments / Individual Budgets.
- Shared Lives

Meals are not included in this policy as they are charged at a flat rate regardless of income, as they are a substitute for an ordinary living expense. These separate arrangements for charging for meals will continue.

Services provided as part of enablement / reablement are not charged for.

#### **3.2 Who does this policy apply to?**

This policy applies to all service users accessing the services listed in 3.1 above. However, some services are exempt from charges(\*Ref Section 4) and some service users are outside the charging policy (\*Ref Section 5). Also, special rules apply to persons who have received compensation payments (\*Ref Section 7)

#### **3.3 Who completes the financial assessment?**

The Fairer Charging Team carries out the financial assessments for non-residential services and provides benefits advice on behalf of the Adults and Communities Directorate.

#### **3.4 Benefits advice**

The Fairer Charging guidance requires that all service users are offered benefits advice as part of their financial assessment to make sure they maximise their entitlements. The guidance states that where local authorities seek a contribution towards the cost of non-residential services they must not leave the service user with less than the basic level of Income Support plus a further 25%. If benefits are considered as income the local authority has to consider all disability related costs within the financial assessment.

When the Fairer Charging Team undertake a financial assessment they will also offer benefits advice and any assistance necessary to make a claim. A successful benefits claim may mean that the service user's contribution increases or they may have to begin to contribute where they had not previously been required to do so .

### 3.5 How is the contribution is worked out?

For the financial assessment, the advisor needs to know details of the service user's assets, including all types of income (except earnings) and capital. From the total income the advisor will take an amount equal to Income Support plus a further 25%, any costs the service user has relating to their disability or mental health difficulty, and any allowable outgoings they have such as rent (after housing benefit), mortgage (after Income Support help), buildings insurance etc.. What is left is called **the assessable income**. Special rules apply to persons who have received compensation payments (\*Ref Section 7)

The amount of the person's contribution towards the cost of the service, **called the charge contribution**, will also depend on the level and cost of the services delivered. No one will be asked to contribute more than their assessable income. There is no maximum charge contribution, Services users may be expected to contribute the full cost of their care package. Where a service user's assessable income is £1 or less per week they will not pay a contribution towards their care costs (as the cost of collection will exceed the income received by the Department). If a services users does not wish to have a financial assessment they will be required to contribute the full cost of their care package  
If a service user unreasonably delays completing the financial assessment they will be required to contribute the full cost of 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 upon the circumstances of the case.

### 3.6 Examples of how a service user's assessable income is worked out

#### Example 1:

Sanjay is a single person, living with his parents. He has Income Support of £86.35, plus the highest rate of Disability Living Allowance care component and the high rate mobility component. He has services during the day only so we can only take into account DLA at the middle rate and his mobility component is ignored. He has disability related expenditure for the purchase of a wheelchair and stair lift (£6.97 per week).

#### Eligible income:

Income Support	£101.35
DLA middle rate	£ 51.85
<b>Total eligible income</b>	<b>£153.20</b>

#### Allowances:

Disability Related Expenditure	£ 6.97
Income Support plus 25%	£145.19
<b>Total allowances</b>	<b>£152.16</b>

**Sanjay's Assessable Income** £ 1.04

#### Example 2:

Ethel is a single person aged 80 living alone. She owns her own house and has full help with Council Tax. With the help of the Fairer Charging Team she has the lower rate of Attendance Allowance. Ethel has disability related expenditure for gardening help (£3 per week) and additional support at home that she pays for (£9.68).

#### Eligible Income:

State Retirement Pension	£ 86.95
Pension Credit	£113.95
Attendance allowance (lower rate)	£ 51.85
<b>Total eligible income</b>	<b>£252.75</b>

#### Allowances:

House insurance/maintenance	£ 15.00
Disability Related Expenditure	£ 12.68
Income support plus 25%	£178.38
<b>Total allowances</b>	<b>£206.06</b>

**Ethel's Assessable Income** £ 46.69

### **3.7 Responsibility for invoicing**

Once the Fairer Charging assessment has been completed, the Adult Social Care Contributions Team in the Adults and Communities Directorate will issue a single invoice for all chargeable services every four or five weeks.

### **3.8 Direct Payments**

Once the Fairer Charging assessment has been completed, the Direct Payments Team will ensure that the contribution for chargeable services is deducted from the gross payment.

### **3.9 Appeals**

An appeals process operates for service users who are dissatisfied with the assessed contribution. (\*Ref Section 6)

### **3.10 Service users who are in arrears**

Arrears of payment are dealt with through the City Council's debt collection process.

## **4. SERVICES EXEMPT FROM CHARGES**

### **4.1 After-care services provided under Section 117 of the Mental Health Act 1983.**

Section 17 of the Health and Social Services and Social Security Adjudications Act 1983 does not allow local authorities to charge for aftercare services provided under Section 117 of the Mental Health Act 1983 (\*Ref: Fairer Charging guidance 2001 H8)

### **4.2 Services to support carers**

Services provided directly to carers to support them in their caring role are not charged for.

## **5. SERVICE USERS WHO ARE OUTSIDE THE CHARGING POLICY**

### **5.1 Residential service users having day services**

Any person placed in a care home, regardless of their length of stay, who receives a day service will not pay a charge contribution for the day service. It is regarded as part of the package of care that they are already contributing towards. This applies whatever the length of stay – long term, short term and respite.

## 5.2 People having an assessment or being given advice

Adult and Communities Directorate are not allowed to charge for any assessment or for providing advice about the availability of any services. Where advice is provided during assessment this is not a chargeable service. Any non-residential service provided as a result of an assessment comes within the charging policy if it is a service listed in 3.1. **Services provided as part of the enablement or reablement programme are not charged for.** (D of H Fairer Charging Policies for Home Care & other non residential Services Guidance)

## 6. APPEALS PROCESS

### Stage 1

- 6.1 If a service user is dissatisfied with the assessed charge, they can appeal within 6 weeks of the Fairer Charging Team informing them of the charge. The service user should write to the Service Delivery Manager, Fairer Charging Team at 1<sup>st</sup> Floor, PO Box 16565, Birmingham, B2 2DG.
- 6.2 The Service Delivery Manager will arrange for an assessment officer previously not involved to undertake a review. This officer will check the information collected during the financial assessment and the service details. They will check the calculations and the disability related costs agreed to determine whether the charge has been correctly calculated according to the policy. (If the service user didn't provide all the information at the time of the financial assessment, this will be considered as a request for reassessment not as an appeal.)
- 6.3 Within 3 weeks of receiving the letter from the service user, the Service Delivery Manager will inform the service user in writing that either the original charge was correctly assessed giving the reasons or of a revised charge if applicable. The service user will also be told they have a further right of appeal, if they are not satisfied, to an appeals panel (see 6.4 - 6.6 below).

### Stage 2

- 6.4 If the service user is still not satisfied, they can appeal to an Appeals Panel. They should write, within 28 days of receiving the letter from the Service Delivery Manager, to the Head of Adult Social Care Contributions at 1<sup>st</sup> Floor, PO Box 16436, Birmingham. B2 2ZE saying they want to appeal further, and give the reasons/factors to be considered by an appeals panel.

**6.5** The appeals panel will consist of:

- Head of Adult Social Care Contributions
- Service Delivery Manager, Fairer Charging Team
- Responsible Group Manager from Assessment & Support Planning, Adults and Communities Directorate **or** their nominated officer at the appropriate level

**6.6** The appeals panel will meet within 28 days of receiving the service user's written request. It will consider the appeal, make a decision and inform the service user. The letter will explain the reasons for the decision and enclose information about the Directorate's complaints procedure advising the service user of their right to use this procedure if they are still not satisfied. (Any complaint following appeal will go straight to the formal stage of the complaints procedure.)

### **Stage 3**

**6.7** If the service user is still not satisfied with the decision of the appeals panel, they should use the Directorate's complaints procedure, with assistance from the social worker if necessary. . (Any complaint following appeal will go straight to the formal stage of the complaints procedure.)

## **7. SERVICE USERS IN RECEIPT OF COMPENSATION PAYMENTS**

As soon as Social work teams become aware that a potential service user has received or is likely to receive a compensation payment for personal injuries sustained, they should immediately inform the Head of Adults Services (Legal) and request legal advice. In these circumstances, an assessment of need should not be started or completed and/or a service provision decision should not be made before legal advice is sought.

The Directorate will be guided by Legal Services in terms of compensation cases, however, you are advised that where it is determined that capital from compensation will be disregarded for financial assessment purposes, income or interest from the investment of the compensation will be included.