



## **London Borough of Newham**

### **Adult Social Care**

### **Charging Policy for Care & Support Services**

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Owner	Manager Financial Assessment & Charging Team

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## **1. Introduction**

- 1.1. This document sets out the London Borough of Newham's policy for assessing the financial contribution to be made by residents in receipt of care and support services from Adult Social Care.
- 1.2. The policy has been designed to comply with the Care Act 2014 and reflects prior charging policy decisions that are still relevant. The policy takes account of the Equalities Act (2010) and other associated legislation related to equality and diversity
- 1.3. For the purposes of this policy, a resident is an adult aged 18 or over
- 1.4. This policy will apply to all residents in receipt of social care support, except where:
  - Support is provided under Section 117 of the Mental Health Act
  - The recipient is a sufferer of Creutzfeldt Jacobs Disease
  - The recipient is an Asylum Seeker
  - The recipient has fully funded NHS care
  - The recipient is under 20 years of age and unable to receive benefits due to their continuing education at 6<sup>th</sup> form school.

## **2. Legal Basis for Charging and Financial Assessment**

- 2.1. The Care Act 2014 provides a single legal framework for charging for care and support.
- 2.2. Section 14 of the Care Act 2014 provides local authorities with the power to charge residents the cost they incur meeting eligible care and support needs, where the local authority is permitted to charge for the service being provided.
- 2.3. Section 17 of the Care Act 2014 requires local authorities to undertake an assessment of financial resources. The financial assessment will determine the level of the resident's financial resource, and the amount (if any) which the resident is considered able to contribute towards the cost of meeting their needs through care and support services.
- 2.4. The Council will refer to Care and Support Regulations (Statutory Instruments) and Care and Support Statutory Guidance and Annexes issued under the Care Act 2014, in all regards for specific guidance relating to charging and financial assessment, and as such, these statutory regulations form the basis of this policy.

### **3. Policy Aims**

- 3.1. This policy provides a framework for charging and financial assessments for all residents who receive care and support services, where a local authority is permitted to charge for the service provided. The policy aims to do this in a reasonable and fair manner, whilst promoting independence and social inclusion.
- 3.2. This policy aims to ensure that residents are actively encouraged to either maintain their existing employment or seek suitable employment opportunities. To support this aim, employment earnings will not be included as part of the financial assessment and services to support residents into work will be non-chargeable.
- 3.3. To reflect the significant contribution that Carers make, the Council does not charge for services provided to carers in their own right as a result of a carers' assessment. In addition, neither the resident nor the carer will be asked to make a financial contribution towards the cost of replacement care, delivered to the resident to provide a break in caring role. These services are known as respite for the carer.
- 3.4. The policy aims to ensure that all residents receive their full benefit entitlement. To achieve this, the Council will provide residents with information and advice about welfare benefits and tax credits that they may be able to receive, and where necessary will offer help with claiming these.

### **4. Principles of the Policy**

- 4.1. Where a resident is assessed as having the means to make a financial contribution to the cost of their social care support, they will be expected to make such contribution.
- 4.2. The contributions requested will be fair and reasonable. Due care will be taken in assessing the resident's finances and their ability to contribute towards their care and support.
- 4.3. Contributions will be calculated in the same way regardless of whether the support is directly provided by the Council, delivered on behalf of the Council by a contracted provider or purchased through a Direct Payment.
- 4.4. The resident will have the right to request a review of their contribution if they feel it is incorrect or if there has been a significant change in their financial situation.

- 4.5. The Council will take steps to recover any unpaid resident contributions, this will be done in line with Appendix D of the Care Act 2014. This could include, where appropriate, legal action.
- 4.6. Where a resident lacks capacity to provide information for a financial assessment to be undertaken, the Council will consult with a suitable person. A suitable person is someone who holds:
- Enduring Power of Attorney (EPA), or
  - Lasting Power of Attorney (LPA) for Property and Affairs, or
  - Lasting Power of Attorney (LPA) for Health and Welfare, Property and Affairs, or
  - Deputyship under Court of Protection, or
  - Any other person dealing with the resident's affairs (e.g. someone who has been given Appointeeship by the Department of Work and Pensions (DWP) for the purpose of benefits payments).

## **5. Non-Chargeable Services**

5.1. The following services are not charged:

- Where support is provided as an enablement service and for a period of six weeks or less
- Equipment, aids and minor adaptations
- Support into Employment
- Housing Related Support
- Professional Support
- Carers Services
- Respite for the Carer

## **6. The Financial Assessment Process**

- 6.1. The Financial Assessment will take into account income, capital and the value of assets. Taking into consideration any mandatory disregards of income, capital and property as defined in the Care and Support (Charging and Assessment of Resources) Regulations 2014.
- 6.2. The resident's financial circumstances will determine whether they are eligible for financial support towards care costs from the Council.
- 6.3. Residents will be asked to provide details of their income, benefits, savings, capital and property as part of the assessment of needs carried out by their social work practitioner. This information will be used to produce an indicative contribution – notified in writing.

- 6.4. Residents can choose not to disclose their financial details or just declare that they have capital or assets above the maximum capital threshold. This is known as a “Light Touch assessment”. The resident will be expected to pay the full cost of their care. For details please see the calculation of charge in Annex A.
- 6.5. Following the indicative assessment, the Financial Assessment and Charging Team will contact the resident to:
- Validate Income, Capital and Savings
  - Look at any allowable expenditure appropriate to the setting in which their care and support is being provided to see if any charges can be reduced. See appendix B below for examples of different allowances made in different settings.
- 6.6. This contact may take the form of a visit to the resident’s current residence, or over the telephone, which ever is the most appropriate.
- 6.7. If the resident refuses a financial assessment, or does not engage with the process within four weeks of the initial assessment, the Council will undertake a ‘light touch assessment’ and will assume that the resident is able to afford the full cost of the service to be provided
- 6.8. Once this information is provided a full financial assessment will be completed and notification of the final contribution will be sent in writing. This assessment will calculate the resident’s assessable income, which is the maximum amount they can afford to contribute towards the cost of their care.

## **7. Income**

- 7.1. Examples of income taken into account as part of the financial assessment are set out below. This list is not intended to be exhaustive
- Pension Credit (savings credit is not included)
  - Retirement Pension
  - Income Support
  - Occupational Pensions
  - Attendance Allowance (AA)
  - Disability Living Allowance (DLA)
  - Severe Disability Premium (SDP)
  - Incapacity Benefit
  - Severe Disablement Allowance
  - War Pension
  - Employment and Support Allowance (ESA)
  - Personal Independence Payments (PIP)
  - Universal Credit

7.2. In Line with the Care Act 2014 where a resident has deliberately deprived themselves of income, benefit or tax credit entitlement in order to avoid care charges they will be treated as having that income, benefit or tax credit as notional income for the purposes of the financial assessment.

7.3. Some types of income will be disregarded for the purpose of the financial assessment. These are:

- Any income from Employment
- The mobility component of Disability Living Allowance (DLA) and Personal Independence Payments (PIP)
- The first £10 of any War Pension or War Widow's Pension
- Child Support maintenance payments.

For Care and Support provided in the community there are additional disregards as below

- The elements of Disability Living Allowance (DLA), Attendance Allowance (AA) and Personal Independence Payment (PIP) that relate to night time care, provided only daytime support is required by the resident.

## **8. Savings and Capital**

8.1. Examples of savings and capital taken into account as part of the financial assessment are set out below. This list is not intended to be exhaustive.

- Bank / Building Society balances
- Stocks and Shares
- Premium Bonds
- National Savings Certificates
- Income from any Trust Funds not administered by the High Court or the Court of Protection.

8.2. In the case of Trust Funds not administered by the High Court or the Court of Protection, both capital and income are disregarded.

## **9. Treatment of Property**

9.1. Property including the resident's main home will be included in the financial assessment as a capital asset unless the person intends to occupy the property as their home.

9.2. The value of the person's main home will be disregarded if occupied by:

- The residents partner, former partner or civil partner (except where they are estranged), or
- A qualifying relative who is:
  - Aged 60 or over
  - Is a child of the resident aged under 18
  - Incapacitated

9.3. The Council may also disregard the main property in cases where a qualifying relative that does not fit the criteria as per 9.2.

## **10. Allowable Expenditure**

10.1. The following expenses are considered as part of the financial assessment and allowances are given to meet these costs where applicable;

- Council Tax (net of any council tax support)
- Rent (net of any housing benefit and service charges)
- Mortgage
- Ground Rent
- Disability Related Expenditure (DRE), which is described in detail in Appendix B where appropriate to the setting in which care and support is provided.

## **11. Financial Assessment based on capital**

11.1. Where the resident has appropriate capital valued at £23,250 or more, they will be offered a light touch assessment, and will be expected to make a contribution equal to the cost of their support.

11.2. Where the resident has capital valued at between £14,250 and £23,250, the financial assessment will be carried out in line with section 11 above but will include an amount of tariff income. This tariff income will be calculated at a rate of £1 of additional income for every £250 (or part thereof) of capital between £14,250 and the actual value of the resident's capital.

11.3. Where the resident has capital valued at less than £14,250, the entire value of that capital will be wholly disregarded for the purpose of the financial assessment.

## **12. Financial Assessments based on Income**

12.1. Where the financial assessment is calculated based on the resident's income, the maximum contribution to the cost of their care will be calculated as follows:



- Total income (including any tariff income applicable to capital, See Capital below)
- Less any allowable expenditure applicable to the setting in which care and support is provided.
- Less the appropriate minimum guaranteed income amount, personal expenses allowance, or disposable income allowance, applicable to the setting in which care and support is to be provided.

### **13. Start Date of Contributions**

13.1. Contributions will start from the later of the date notification is received or care has started, this can be based on the initial assessment undertaken by the social worker. For Care and Support in a care home, contributions will be due from the date of admission

### **14. How the contributions are calculated towards care costs**

14.1. The actual charge is based on the type of care that the resident is receiving, using the information from the financial assessment.

#### **14.2. For care and support delivered in a care homes on a permanent basis**

- 14.2.1. Residents who choose to live in accommodation that costs more than the local authority benchmark rate can do so providing the resident or a third party meets the additional cost. This additional cost is, known as a 'Top-Up', for further information please see Top-Up policy.
- 14.2.2. Residents who own a property may be eligible to defer care costs against the value of the property. This is known as a Deferred Payment Agreement. London Borough of Newham will make Deferred Payment Agreements available under the national scheme as set out by the Department of Health and that meet the eligibility criteria. Details of the Deferred Payment Agreements are within the Councils Deferred Payment Policy which is available on request.
- 14.2.3. The financial assessment will take into account statutory amounts required to be retained by the resident from their income. These are known as 'Personal Expenditure Allowance' (PEA) and for residents with a Deferred Payment Agreement and addition of 'Disposable Income Allowance' (DIA). These amounts are dependent upon the resident's financial circumstances, and are reviewed annually by the Department of Health.
- 14.2.4. The Personal Expenditure Allowance/Disposable Income Allowance is to ensure that a resident has money to spend as they wish. It must not be used to cover any aspect of care and support contracted by the local

authority and/or assessed as necessary to meet the person's eligible needs.

- 14.2.5. Where a resident has no income, the Council is not responsible for providing one. The Council will however support the person to access any relevant state benefits or independent advocacy service.

#### **14.3. For care and support provided in care homes on a temporary basis**

- 14.3.1. A temporary resident is defined as a resident 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 resident's stay should be unlikely to exceed 52 weeks, or in exceptional circumstances, unlikely to substantially exceed 52 weeks.
- 14.3.2. Residents who have a temporary stay that becomes permanent will be assessed for a permanent stay from the date permanency is confirmed.
- 14.3.3. Where a resident'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.
- 14.3.4. The Financial Assessment for temporary stays will completely disregard the resident's main or only home where the resident intends to return to that home.
- 14.3.5. The Financial Assessment will treat income and capital in the same way as if the resident was entering a care home on a permanent basis with the following exceptions:
- Where the resident is in receipt of Disability Living Allowance or Attendance Allowance, these are completely disregarded from the financial assessment.
  - Where the resident receives Severe Disability Premium or Enhanced Disability Premium, these benefits cease when Disability Living Allowance or Attendance Allowance ceases.
- 14.3.6. The Council will ensure that reasonable payments made by the resident for the maintenance of their home, such as rent (net of any housing benefit), water rates, insurance premiums are disregarded.

**For care and support provided in the community including a person's own home.**

14.3.7. Residents will retain a level of income equal to their appropriate minimum guaranteed income amount, as set out in the Care and Support (Charging and Assessment of Resources) Regulations.

14.3.8. Residents with partners who live together will be given the opportunity to be financially assessed both as an individual and as a couple. This is to ensure that any contribution will not leave a household with less than the appropriate level of minimum guaranteed income. The Council will always request the lowest contribution possible.

14.4. For care and support in the community residents will be required to pay according to the outcome of their financial assessment. This may be either;

- The actual cost of care and support
- The assessed weekly contribution
- No charge applied

The cost of support is based on the Personal Budget.

14.5. For care and support delivered in a care home the weekly contribution will be either the financially assessed contribution or the cost of the care home, dependent on the outcome of the financial assessment.

14.6. A standard allowance for disability related expenditure will be allowed for residents who undergo a full financial assessment and qualify by receiving either Disability Living Allowance, Personal Independence Payment or Attendance Allowance. Further information is shown in Appendix B.

14.7. A resident can request an individual assessment of Disability Related Expenditure and this will be carried out if a resident feels that their Disability Related costs are higher than the standard amount.

14.8. All additional Expenditure will require verification, this will be done via receipts and bank statements, and all expenditure will need to be relevant and reasonable.

## **15. Notification of Contribution**

15.1. Once the financial assessment is complete, the resident will be notified in writing of their maximum weekly contribution. The details of the assessment and an explanation of how the charges are calculated will be provided.

15.2 Contribution will remain payable for some services even if the resident is in hospital or is away on holiday. These services include;

- A residential care home
- Supported living
- Day centres
- Direct payments - these will be reviewed on a case by case basis
- Charges for extra flex care in sheltered accommodation - these will be reviewed on a case by case basis

## **16. How Contributions will be paid**

16.1. For care and support provided in a care home

16.1.1. The care home may invoice the resident or their representative directly for their contribution.

16.1.2. If this is not possible, or if the care home experiences problems with payment, invoices will be raised every 4 weeks in arrears by the Council.

16.2. For care and support provided in the community

16.2.1. Invoices will be raised every 4 weeks.

16.2.2. As per the Care Act, a resident will not be charged more than the cost of delivering the care and support, therefore the charge could fluctuate if the delivery of care falls below the maximum assessed contribution in a given week (Monday-Sunday)

16.2.3. Any adjustments due to invoices already issued will be made on the next possible invoice.

16.3. For care and support purchased through a Direct Payment

16.3.1. Usually, the contribution will be deducted from the payment made every 4 weeks in advance.

16.3.2. If this is not possible, or if the resident experiences problems with payment, invoices will be raised every 4 weeks in arrears by the Council.

16.3.3. For residents with Direct Payments managed by a 3<sup>rd</sup> Party, invoices will be raised every 4 weeks in arrears by the Council.

## **17. Review of the Financial Assessment**

- 17.1. A financial reassessment can be requested at any time by the resident if they feel that their circumstances have changed or they feel the financial assessment is incorrect.
- 17.2. Where a new benefit claim is successful, the financial assessment will be reviewed, and where appropriate, the benefit income (where applicable) will be included in the financial assessment from the date that the benefit claimant is notified of the award by the Department for Work and Pensions (DWP) or HMRC.
- 17.3. Financial assessments will be updated annually in line with the increases in state benefits, this usually occurs in April each year, the resident or the representative will be informed of the outcome of any annual re-assessments.

## **18. Appeals**

- 18.1. Where a resident, who has been fully assessed and provided the full information relating to their income and expenditure feels that they are unable to pay their assessed contribution due to financial constraints they can request a financial reassessment.
- 18.2. If following this financial re-assessment, the resident feels that they are still unable to pay their contribution, they will need to write to the Financial Assessment & Charging Team, Building 1000 Dockside, London, E16 2QU.
- 18.3. Once the letter is received, this will be reviewed by the Manager of the Financial Assessment & Charging Team along with a Senior Manager from Adult Social Care, the outcome of the request will be sent to the resident in writing within 14 days.
- 18.4. If the resident is dissatisfied with the outcome of discussion with the Financial Assessments Charging Team, they can make a request to the Council to investigate their circumstances and resolve the matter in line with the Councils Complaint Procedure.

## **19. Complaints**

- 19.1. The Council welcomes feedback from residents and has dedicated officers to manage complaints.
- 19.2. If a resident is dissatisfied with the way in which they have been treated during the financial assessment process, or the service that they have received, they

have the right to make a complaint to the Complaints Officer. The Council has a statutory complaints process to ensure that residents' views and concerns are considered and dealt with appropriately and that the Council holds itself accountable to the highest standard.

## **20 Use of Financial Information & Privacy**

20.1 The information the Council collects and keeps about residents is confidential and can only be seen by authorised staff. The information is only shared with other relevant parties in accordance with the Data Protection Act 2018 or with the written consent of the resident or their legal representative. This act also gives residents the right to see information that the Council keeps about them at any stage.

## **21. Reviewing the policy**

21.1 This policy document will be reviewed at least annually prior to the commencement of each new financial year to ensure all rates and amounts are consistent with inflation or other relevant changes to set rates within The Care Act.

21.2 Any increase to standard allowances, maximum charges and/or capital thresholds which are set within this policy will be reviewed annually as part of the Councils fees and charges reviews and will be consulted upon as part of the Councils budget setting process

## **Appendix A – How the resident charge is calculated**

Below are basic examples of how income is used to calculate the weekly contribution for both services delivered in a care home and in the community.

### **Example 1 – Services delivered in residential care**

Total Benefits	£212.10 per week
Other Income	£15.00 per week
Total Income	£227.10 per week

#### **Disregarding**

Expenses	£5.00 per week
Personal Allowance	£30.65 per week

Total Income minus disregards	£191.45 per week
Weekly contribution	<b>£191.45 per week</b>

**Example 2 – Services delivered in community. The basic living allowance will vary according to age and disability benefits received. The disability related expense will also vary according to the award received.**

Total Benefits	£227.10 per week
Disability Benefit	£73.90 per week
Total Income	£301.00 per week

**Disregarding**

Disability related expense	£15.00 per week
Basic Living Allowance	£232.60 per week
Total Income minus disregards	£53.40 per week
Weekly contribution	<b>£53.40 per week</b>

## **Appendix B – Disability Related Expenditure**

### **Standard Disability Related Expenditure**

A standard rate of DRE will be applied. The amount depends on the age of the resident and the disability benefit that they are in receipt of, as per the table below

#### **Disability Related Expenditure – Standard Allowances**

Aged between 18- Pension Age

- Low Rate Disability Living Allowance/PIP £10.00 per week
- Mid Rate Disability Living Allowance/PIP £15.00 per week
- High Rate Disability Living Allowance/PIP £25.00 per week

Over Pension Age receiving

- Low Rate Attendance Allowance/PIP £15.00 per week
- High Rate Attendance Allowance/PIP £25.00 per week

If the actual disability related expenditure is above the standard amounts, the resident will be assisted to list these individually; the resident will be required to provide proof of expenses such as receipts or bank statements detailing each item.