

London Borough of Brent

Draft

Fairer Contributions Policy

(Non-Residential Care & Housing Related Support)

Contents

Paragraph		Page Number
1	Background	
2	Guiding Principles	
3	What support is covered (Scope and exclusions)	
4	What support is not covered	
5	Application of this policy	
6	Financial Assessment	
7	Charging Mechanism (How the contribution is calculated)	
8	Financial Assessment of Couples	
9	Earned income disregard	
10	Decline to provide financial details	
11	Delays in completing the financial assessment	
12	Effective point of charging	
13	Deprivation of Capital	
14	Review of Financial Circumstances	
15	Service users who are in arrears (Non payment of Charges) (including waiver & Appeal)	
16	Complaints	
17	Use of financial information and privacy	
18	Equality Impact	
19	Reviewing the Self Directed Support Charging policy document	
20	Appendices	

1. Background

- 1.1 Under s.17 of the Health and Social Services and Social Security Adjudications Act 1983 a local authority has a power to charge for non-residential services provided under s29 National Assistance Act, s45(1) NHS Act 2006, s8 Residential Homes Act 1980 and s2 Carer and Disabled Children Act 2000 where the charge is reasonable and the service user has means to pay. This means that the Council has discretionary powers to require adult recipients of non-residential services to contribute to the cost of any services.
- 1.2 This policy was written to comply with the requirements set out in “Fairer Charging for Home Care and other non-residential Social Services” Guidance issued by the Department of Health in September 2003 and the subsequent Fairer Contributions Guidance issued in 2010.
- 1.3 The Policy has also taken into account the Audit Commission’s guidance on good practice in the design of charging policies to ensure that consideration has been given to the use of targeted public subsidy to promote Council’s broader social inclusion objectives.

2. Guiding Principles

- 2.1 Guiding Principles - there are 5 principles that support the proposed policy, namely to make sure that the Council:
 - a. Recovers contributions from service users for non-residential services based on the service user’s ability to pay. It is intended that no one would be put in a position of financial hardship as a result of this charging policy as a maximum contribution will be set at either the full cost of the services provided or at a level that affords the service user a basic living allowance whichever is the lowest.
 - b. has a clear and transparent contributions policy which is easy to understand and is consistently applied to all service users, taking into account their individual circumstance and needs.
 - c. provides an early notification to service users of their contribution to non-residential care costs.
 - d. ensures that service users have an opportunity to maximise welfare benefits thus maximising their ability to contribute to their non-residential care costs.
 - e. ensures administrative efficiency and convenience for service users (including netting of service user contributions at the point of resource allocation for personal budget).

3. What support is covered (scope and exclusions)

- 3.1 This policy applies to the following:

- a. Home/Domiciliary Care services provided under s29 National Assistance Act, s45(1) NHS Act 2006, s8 Residential Homes Act 1980 and s2 Carer and Disabled Children Act 2000.
- b. Day services including transport, if provided. It does not include those in Residential placements under s21 National Assistance Act 1948, , who receives a day service, as these are part of the package of care that they are already contributing towards under alternative statutory provision.
- c. Any community based care packages through Personal Budget.
- d. Telecare/Assistive Technology.
- e. Meals on wheels will continue to be invoiced separately at a flat rate on the basis that they are a substitute for ordinary expenditure.
- f. One-off community care services (for example, intensive house cleaning)
- g. Telephone line rental/TV licences. However, this would be charged at cost. (This does not include telephone line rental/TV licences in sheltered or extra care housing where separate Housing charges may apply).

4. What support is not covered

4.1 There are a number of circumstances in which service users will not be asked to contribute towards their care or support cost. These include those being provided with care or support:

- a. under Section 117 of the Mental Health Act 1983 (after care services).
- b. who have any form of Creutzfeldt Jacob Disease.
- c. paid for in full by a Primary Care NHS trust.
- d. in intermediate care setting, re-ablement for up to six weeks or as part of short-term/ rehabilitation or extended stay (for example, following a stay in hospital).
- e. Where the Council is satisfied that any contribution would lead to exceptional hardship it reserves its discretion not to require a contribution (in full or in part).
- f. Services provided to relevant and former relevant children under the Children Act 1989 are not required to contribute towards the cost of any provision under this policy.
- g. basic aids and adaptations equipment where provided will be provided free of charge.

4.2 Examples (not an exhaustive list) of exempt support are stated below.

- a) Services provided directly to carers (under section 2 Carers and Disabled Children's Act 2000) to support them in their caring role. Where housing related support is offered to carers outside the social care system, different eligible and charging arrangements may apply.
- b) Provision of Information, Advice and Guidance and undertaking community care assessments.

5. Application of this policy

This policy applies to all service users accessing the support listed in 3 above.

6. Financial Assessment

- 6.1 The Council will positively seek to complete a financial assessment for all service users as soon as possible unless they -
- a) are exempt as described under section 4 of this policy.
 - b) choose not to be financially assessed. Service users who choose not to be financially assessed will be required to pay the full costs of support provided.
- 6.2 A financial assessment will be undertaken as soon as the Supported Self-Assessment has been carried out. At the point of needs assessment, the practitioner or support worker will also advise that there may be a contribution to the costs of the support. The Financial Assessment Team will offer a face to face meeting to complete the financial assessment form and undertake a full benefits check, advice and practical support to apply for benefits they might be entitled to claim.
- 6.3 Where the service user opts for the direct payment element, all contribution to support costs will be deducted prior to any direct payment being made available.
- 6.4 This total contribution will not exceed the full cost of support or reduce the service user's income below the basic living allowance calculated as set out in paragraph 7.1 below. If an individual chooses to take a social care support commissioned by London Borough of Brent that therefore will result in an invoice being issued, the individual will receive one itemised invoice for support received in every four-week period.

7. How the contribution is calculated

- 7.1 When the Council assesses a service user's ability to pay a contribution towards the cost of their support, it ensures that each individual maintains a portion of their income that is at least the level of basic living allowance. This allowance is equal to the basic level of income support (IS) or pension guarantee credit (PGC) plus an additional 25% of this amount, as a buffer. The calculation of basic living allowance (Income Support Threshold) is as stated below.

$\text{Basic living allowance} = \text{IS or PGC} + (\text{IS or PGC} \times 25\%)$

The Capital Threshold and the Basic Living Allowance are updated annually and accord with the levels set within CRAG and by the DWP respectively.

- 7.2 The maximum contribution per week is calculated using financial information received from service users and other information available to the Council. The calculation will take account of relevant income and capital. The income that will be taken into account includes all the

benefits received by service user (except those listed in paragraph 7.8 and 7.9 below), State Pension and Occupational Pensions; any other income; and capital.

- 7.3 Savings between the lower threshold (as set out in CRAG) and the upper threshold will attract a surcharge of £1 per week for each £250 (or part of £250). For example, if a service user has savings of £17,250 the notional income would be £12 per week being £17,250 less £14,250 (= £3,000) divided by £250 (= £12).
- 7.4 Capital includes any savings in bank or building society accounts; National Savings bank accounts; PEP, ISA or TESSA accounts; SAYE (Save as Your Earn) schemes; cash; Premium Bonds or National Savings Certificates; stocks, shares, trust funds and investments; invested in property, building and land (rental income will be included); and which someone else is holding on behalf of service user.
- 7.5 If there are joint savings with husband, or wife, or partner, only 50% of the total amount will be taken into account.
- 7.6 In calculating the maximum contribution, the value of the main residence occupied by the service user will be ignored (if the property is subsequently sold, such liquid capital that results for the service user will be subject to financial assessment). However, if service user owns a second property, this will be taken into account. The maximum contribution, subject to paragraph 10, will be the full cost of care.
- 7.7 Service users will be assessed in their own right, and the income of their carer, parent or partner/spouse will not be taken into account.
- 7.8 There are some incomes, which are partly or wholly disregarded in the calculation of the maximum charge. These include:
- the mobility part of Disability Living Allowance;
 - £10 of a War Pension or War Widow's Pension;
 - payments from the Independent Living Fund - the Department of Health issued a draft guidance document in 2000 in which it stated that service users receiving financial support from the ILF should have their contribution to the ILF considered as a disability related expense within the assessed charge for non-residential services.
 - child benefit and child tax credit;
 - the part of Attendance Allowance and Disability Living Allowance (care component) that covers care at night;
 - working tax credit;
 - disabled person's tax credit;
 - maternity allowance;
 - charitable income;
 - the savings part of Pension Credit; and
 - ex gratia payments made to former Far Eastern prisoners of war;
 - payments made under the Vaccine Damage Payment;

- Compensation from personal injuries awards are disregarded for assessment purposes for a period of 52 weeks, with the exception of any part of the award provided to meet care costs. There are specific circumstances under which these compensation payments are fully disregarded for assessment purposes and it will not always be possible to ask recipients of these awards to make a contribution. Where service users are in receipt of compensation for personal injuries, their contribution will be considered on a 'case by case' basis.

7.9 Housing costs, mortgage, rent or Council Tax (net of related benefits) will be deducted from the relevant income, as stated in paragraph 7.2 above, before calculating the maximum contribution.

7.10 Disability Related Expenses (DRE) – this will be considered when the extra cost is needed to meet a service user's specific need due to a condition or disability as identified in the service user's assessment. The Council will disregard these costs from any income where it is satisfied that the cost has been incurred by the service user as a result of their disability, and it is not reasonable for a lower cost alternative item or service to be used. Receipts may be requested. DRE will be assessed on a case by case basis in accordance with the guidelines set out by NAFAO.

7.11 Non-disability related expenses – the calculation of the maximum contribution will take into account such expenses as referred to in the Department of Health Guidance. Some expenses (for example, household content insurances, water rates, etc.) are deemed to be afforded by the service user from their prescribed protected income. Brent Council will seek to allow additional costs, together with other essential expenses such as service charges and ground rent that owner/occupiers incur if they are not receiving related benefits to cover those costs. Essential expenses may include home maintenance (where this is not provided by a third party e.g. landlord or Council and required for the health and safety of the service user e.g. electrical, heating system repairs, home accessibility) and payments under court order (e.g. child maintenance).

7.12 Dependants - the calculation of the maximum contribution will take into account the financial implications for service users who have children up to 18 years of age, (and rarely, adults) who are financially dependent on them. Children will continue to be considered as dependants on receipt of proof that they remain in full time education after their 18th birthday.

7.13 The assessable income is worked out by:

adding together all identified weekly income and then subtracting;

- a) any costs for housing;
- b) any income that must be disregarded under this policy;
- c) any disability-related expenditure; and
- d) the Basic Living Allowance.

The result is the assessable income. The maximum that a service user could be asked to contribute each week will be the lower of the assessable income and the full cost of the support being received. A breakdown of how the contribution has been calculated will be provided to the service user. Examples of how the Council might work out the maximum contribution are shown below.

Example of how contribution is calculated (using 2011/12 thresholds)

No financial information declared

= *Full Cost*

*

Customer savings £23,250 or more

= *Full Cost*

*

Customer savings under £23,250

**Customer Income
(Incl. Tariff Income on savings)**

less

**Basic Income Level
(Basic IS / PCGC + 25% extra)**

and

**Customer Expenses
(Housing + Disability)**

leaves

Assessable Income

Chargeable Income

charge lower of

- a) Assessable Income**
- b) Cost of Service**

8. Financial Assessment of Couples

- 8.1 In the event of shared capital, benefits or other forms of income, the financial assessment will seek to identify such shared sums and they will be apportioned between all relevant parties. Financial assessments will also consider disability related expenses of both parties, whether one or both are service users.
- 8.2 Whilst all circumstances will be taken into account for the purpose of calculating the maximum charge to ensure that the outcome does not financially disadvantage either party, whether or not they are a service user, it is the responsibility of the service user or anyone acting on their behalf to notify the local authority of those circumstances. Financial assessment would be applied on the basis of joint assets if it were considered advisable that a couple could possibly benefit from being jointly financially assessed. A couple is defined as two people who are married or in civil partnership or are living together as if married or in civil partnership.

9. Earned income disregard

- 9.1 This Policy will disregard a service user's earnings as defined in the "Charging for Residential Accommodation Guidance" (CRAG).

10. Decline to provide financial details

- 10.1 Service users have the right to choose not to provide their financial details to the Council. In such cases, the Council is unable to undertake a financial assessment, and the service user will be charged for the full cost of support they may receive.

11. Delays in completing the financial assessment

- 11.1 If a service user unreasonably delays completing the financial assessment they will be required to pay the full cost of the support provided, until a financial assessment is completed. If a financial assessment results in a lower charge any re-imbursment to the service user will be at the discretion of the Council and will require the service user to demonstrate exceptional hardship. 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.
- 11.2 If further information is required for the financial assessment then it is expected that the service user will provide this within 2 weeks of the date it was requested.
- 11.3 The Council aims to complete financial assessment within 14 days of a request for assessment.
- 11.4 Where the financial assessment is likely to exceed the 14 days due to the complexity of the assessment then the Council will, by agreement with the service user or their representative, agree an interim level of contribution based on the information available at that time. Where, on

completion of the assessment, the service user is assessed to pay a lower contribution than the interim figure the Council will re-imburse the full amount owed with interest at 2% above the Bank of England base rate. In the alternative, if the service user is assessed as requiring to pay a larger contribution than the interim figure the Council will invoice for the difference without interest. Payment is expected within 21 days after which interest of 2% above the Bank of England's based rate will become payable, Alternatively, if services are received by way of Direct Payment the Council may agree to recover the monies owed incrementally by reducing the weekly direct payment payments, provided that the Council is satisfied that the service user is able to continue to meet their eligible needs.

12. Effective point of charging

- 12.1 All service users will be informed on confirmation of their support plan (or as soon as possible for housing related support) of the contribution, unless 11.4 applies. The service users will be expected to contribute towards the cost of the services received from the date that the Council advises them of their assessed contribution (usually at sign off of the care/support plan). If this is done verbally, then this will be confirmed in writing within 7 days. No contribution will be payable prior to support being provided, nor will any contribution payment commence prior to the service user agreeing to accept the services on the basis that they will contribute to the assessed cost.
- 12.2 It is the responsibility of the service user to advise the Council of any change in their financial circumstances as this may prompt a review of their contribution.
- 12.3 Any increase in contribution due to an award or increase in benefit entitlement will take effect from the date of the award.
- 12.4 Any increase in contributions due to an increase in other income or amount of capital held will take effect from the date of change in circumstances.
- 12.5 In the event of a reduction of income or benefit received, any amendment to the assessed contribution will take effect from the date of the change in circumstances, provided the Council is advised of the change in circumstances within two weeks.
- 12.6 Billing for assessed contribution will cover a four-week period.

13. Deprivation of Capital

- 13.1 Where the Council believes that a service user has deprived himself of a capital asset in order to reduce his contribution the Council will treat the service user as still possessing the asset.
- 13.2 The Council would decide from available evidence whether the service user owned the capital.

- 13.3 It is up to the service user to prove that they no longer have a resource. Failure to do so will result in the Council treating the service user as if they still possess the actual capital. Examples of acceptable evidence of the disposal of capital would include: a trust deed, deed of gift, receipts for expenditure, proof that debts had been repaid.
- 13.4 The timing of the disposal will be taken into account when considering the purpose of the disposal.
- 13.5 Where, for the purpose of avoiding or reducing the contribution, capital which would not have been disregarded has been used to acquire personal possessions, the current market value of those possessions should be taken into account as an actual resource. Their market value should not be disregarded.
- 13.6 If the service user, in depriving himself of an actual resource, converted that resource into another actual resource of lesser value, he should be treated as notionally possessing the difference between the value of the new resource and the one which it replaced e.g., if the value of personal possessions acquired is less than the sum spent on them the difference should be treated as a notional resource.
- 13.11 If the Council decides that the service user has disposed of capital in order to avoid paying a contribution or to reduce the contribution payable, the Council will decide whether to treat the resident as having the capital (notional capital) and assess the contribution payable accordingly; and then whether:
- a) to recover the assessed contribution from the resident in full; or
 - b) recover the assessed contribution by instalment; or
 - c) defer payment until a later date; or
 - d) place a charge on any property owned by the service user either with agreement or subsequent to court action; or
 - e) take appropriate action as agreed by either policy or management.

14. Review of Financial Circumstances

- 14.1 Under Section 17(3) of HASSASSA 1983, all service users have the right to ask the Council for a review of a charge for which they have been assessed if they consider that they cannot pay it.
- 14.2 A re-assessment may be necessary for any one of the following reasons:-
- a) An annual review
 - b) The service user requests a re-assessment

- c) The service user's financial circumstances change
 - d) There was an error or omission (on the part of the service user or the Council) in the financial assessment
 - e) An appeal is upheld
- 14.3 The service user or their authorised representative can start the review process at any time by contacting their social care/support worker or the Financial Assessment Team.
- 14.4 If a service user's financial circumstance changes, they must advise the Financial Assessment Team as soon as possible, as this may affect their assessed contribution. Changes, which should be notified, include:
- a) Receipt of a new benefit or changes to benefits.
 - b) Changes to income or allowable expenditure.
 - c) If the service user's capital or savings crosses one of the capital thresholds (refer to paragraph 7.3 and Appendix A).
 - d) Changes to living arrangements (e.g. the service user or their partner moves to a care home, the service user moves to another residence or the number of people in the service user's household changes).
- 14.5 After a service user has told the Financial Assessment Team about changes in their financial circumstances or a review visit is made, a new financial assessment will be completed using the new information that is provided. If the revised assessment results in an increase or a decrease in the weekly charge, the service user will be notified of the revised contribution and it will usually be backdated to when the service user's circumstances changed.

15. Service users who are in arrears (Non Payment of Charges)

- 15.1 Service provision for Service Users who refuse to pay their assessed charge may be affected.
- 15.2 Arrears of payment are dealt with through the Council's debt collection process. The Council will take steps to recover any amounts owing, including legal action. The Council may recover arrears from contributions through Debt Collection Agencies and or the courts where service users have the means to contribute towards the cost of their support but refuse to do so.
- 15.3 The Council wants to make sure that any contributions made to service users are fair and reasonable. The Council appreciates that sometimes; people who use its services may experience difficulties or exceptional circumstances, which the Council would consider on an individual basis. The Council also allows people to have their exceptional circumstances considered through two different ways, which are: Contribution waivers; or Appeals.
- 15.4 Contribution waiver

- 15.4.1 A waiver is a request to set aside the assessed contribution for a fixed period prior to any invoices being raised. A waiver will only be issued in exceptional circumstances.
- 15.4.2 Where a service user feels that they cannot afford to pay their assessed contribution (and the assessment calculation is agreed to be correct under the policy), they may apply to the Council via their social worker/support worker to request consideration to waive part or all of their assessed contribution.
- 15.4.3 If the social worker/support worker believes a waiver is appropriate they should refer the matter to the Financial Assessment Manager and through their line manager, for the relevant Head of Service to approve. If the Head of Service agrees that to require the contribution the service user would experience exceptional hardship, then the contribution may be suspended for up to three months and then reviewed.
- 15.4.4 The relevant Head of Service may approve waivers up to the lower of 3 months charges and £2,500. Waivers over this amount require the approval of the Director for Adult Social Services. All waivers must be documented and a copy kept with the Financial Assessments Team.

15.5 Appeals

- 15.5.1 The Council's Fairer Contribution Appeals process aims to protect the rights of all service users, by encouraging a fair and open resolution of individual issues.
- 15.5.2 This process provides a safeguard to those people who have been assessed to pay a contribution, however cannot reasonably afford to pay the assessed contribution (or part of it), or service users feel that the contribution has been incorrectly assessed or the financial assessment process has not been complied with (see also paragraph 14.2 above).
- 15.5.3 It is for the person, with help if necessary from an adviser, support worker, friend or advocate to demonstrate to the Council that their means are insufficient to reasonably pay their assessed charge.
- 15.5.4 If service users are concerned about their contribution, they should contact the Financial Assessments team as soon as possible, to resolve the issue promptly.
- 15.5.6 If service users are dissatisfied with the outcome of discussion with the Financial Assessments Team, they can make use of the 'review and appeals procedure (Appendix B) below.
- 15.5.7 The Council will consider reviews or appeals within 3 months of the date of charge notification and only accept at its discretion those received outside this timescale.

16. Complaints

- 16.1 The Council welcomes feedback from service users, and has dedicated officers to manage complaints.
- 16.2 If service users are dissatisfied with the way that they have been treated during the financial assessment process, or the service that they receive, they have the right to make a complaint to the Complaints Officer. The Council has a statutory complaints process to ensure that service user' views and concerns are considered and dealt with appropriately and that Council holds itself accountable to the highest standards.

17. Use of financial information and privacy

- 17.1 The information the Council collects and keeps about service users is confidential and can only be seen by authorised staff. This information will only be shared with other relevant people and agencies in accordance with the Data Protection Act 1998 or with the written consent of the service user or their legally appointed representative. This Act also gives people the right to see information that the Council keeps about them at any stage.

18. Equality Impact

- 18.1 The Council has considered the impact this policy will have of the diverse communities of Brent. The proposed policy was the subject of a considerable community consultation, which engaged a broad range of people of different ethnic groups, abilities, ages, genders, social-economic backgrounds and geographical areas within the Borough. Community views were carefully considered when making decisions about this policy, and deciding how the Council can treat service users in a fair and consistent way. The Council has assessed that this policy does not discriminate against groups of service users or present adverse impacts due to their race, gender, disability, sexuality or age.

19. Reviewing the charging policy

- 19.1 This policy document will be reviewed annually prior to the commencement of each new financial year. Annual review will ensure all rates and amounts are consistent with inflation or other relevant changes, which may occur. The Council will consult the community on such changes through its annual budget consultation. However, the council will consult more widely if it proposes to make any significant changes (over which the Council has control) to the contributions policy. The Council however, will not consult on changes or increases resulting from changes in the Charging for Residential Accommodation Guidance (CRAG), which may affect this policy, or to mandatory changes in either the Fairer Charging Guidance or the Fairer Contributions Guidance, all of which are issued by the Department of Health.

Appendice A - CURRENT THRESHOLD RATES (2011/12)

	£
Lower	14,250
Upper	23,250

Appendix B- REVIEW AND APPEALS PROCEDURE

You can request a review of your assessed contribution for any of the following reasons: -

- The Council have used incorrect dates or amounts.
- The Council have incorrectly calculated the contribution.
- You have additional expenditure which you did not previously state on the financial circumstances form.
- There are exceptional personal circumstances concerning your financial situation, which means that you believe it is unreasonable for you to pay the assessed contribution

Reasons that are not directly related to your financial circumstances will not be considered as grounds for review.

The Financial Assessment Manager will review your case and take into account the issues you have raised. The manager will write to you with the outcome of the review within 14 working days, they will also explain what to do next if you remain unsatisfied with this response.

If you are dissatisfied with the Financial Assessment Manager's review of your assessed charge, you can make a formal complaint using the Departments Complaints Procedure.

If you believe that your assessment has been calculated correctly and that all the information contained in it is correct, but that the assessed charge is still unreasonable, then you can Appeal the charge. Appeals should be made to the Assistant Director of Adult Social Services, who will respond to you within 14 working days.

The following table represents the appeal reasons and the response times:

Activity	Reason	Lead Officer	Targeted Working Days
Review A	Incorrectly calculated Exceptional personal circumstances: Additional expenditure, etc	Financial Assessment Team manager	14
Review B	Dissatisfied with outcome of Review A	Evoke the Departments Complaints procedure	14
Appeal A	Where the financial assessment is wholly correct, but service user still believes it to be unreasonable.	Refer to Director of Adult Services	14
Appeal B	Dissatisfied with outcome of Appeal A	Evoke the Departments Complaints procedure	14

You will need to write to the Complaints Officer outlining the nature and reason for the complaint.

Information regarding the Complaints Procedure can be accessed via the Councils Website www.brent.gov.uk