

Fairer Charging Policy



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1 Introduction

Adult Social Care has gone through a period of significant change and the on-going budget pressures on the service are very significant. Currently, Plymouth City Council does not take account of disability related benefits in respect of a client's income. With this in mind, Plymouth City Council has reviewed its Fairer Charging Policy and will now take into account 70% of disability related benefits as income with the remaining 30% being disregarded to cover disability related expenditure. This policy has been written following a period of consultation on proposals which were given final approval by full council on 30th June 2014.

The introduction of the Care Act in May 2014 will have an impact on the fairer charging policy and will need to reflect the cap of costs that people will have to pay for care in their lifetime. The care bill is due to take effect from April 2015 and therefore this policy will need to be reviewed during 2015/16.

1.1 Legislative context

Section 17 of the Health and Social Services and Social Security Adjudications Act 1983 (HASSASSA Act 1983) gives local authorities a discretionary power to charge adult recipients of non-residential and some respite services such amounts as they consider reasonable.

Like most local authorities, Plymouth City Council is reliant on the income raised from charging for such services to fund a proportion of the costs. Without this income, service levels would be significantly reduced. Central government assumes that councils will partly fund services from client charges when allocating funding each year. Plymouth City Council has developed this charging policy on the basis of equity, need and a duty to provide care.

The policy meets the statutory guidelines as set out in "Fairer Charging Policies for Home Care and other non-residential Social Services: Guidance for Councils with Social Services Responsibilities", Department of Health 2003 and Non-Residential Social Services' and Fairer Contributions Guidance issued in November 2010 under section 7 of the Local Authority Social Services Act 1970.

1.2 Equality statement

This policy aims to be fair and implementation should not lead to anyone being unfairly disadvantaged. If a customer feels that this policy does not treat them fairly, they can ask for a review of their assessment. Plymouth City Council aims to ensure equality of treatment and access to services for all.

No person or groups of persons applying for services from the council will be treated any less favourably than any other person on the grounds of age, gender, sexual orientation, race and nationality, nature of disability, marital status, religion or belief. Information about council services will be accessible and, where necessary, targeted to those who may otherwise have trouble accessing information or services

2 Charges for Services

2.1 Services for which a charge may be made

- Home care
- Day care and day opportunities/activities
- Bath in day care settings
- Individual assistance
- Personal Budgets (for those buying their own care)
- Extra care
- Supported living
- Respite

This list is not exhaustive.

2.2 Carers

Carers, providing regular and substantial care as determined by the Carers (Recognition and Services) Act 1995, will not be financially assessed and charged for any services provided directly to them.

However, services delivered to the cared-for person which benefit the carer by allowing them to take a break from caring will be subject to a charge. For example the regular respite scheme. This charge will depend on the financial circumstances of the cared-for person.

3 Financial Assessments

A financial assessment will be offered to everyone receiving non-residential community care service, initial respite stays or multiple services.

3.1 Non-disclosure

If a person receiving a chargeable service does not wish to have a financial assessment or either refuses or chooses not to disclose their financial circumstances, then they will be required to pay the full cost of the service provided to them.

3.2 The Financial Assessment Process

The financial assessment process is an assessment of financial means. This will be in addition to an assessment of need made under the NHS and Community Care Act 1990. A charge will be made based upon information provided by the customer on a Financial Assessment form and assessed in accordance with Fairer Charging & Fairer Contributions Guidance. Evidence to support the financial assessment will be required and this will be explained at the time the form is completed. Failure to supply information may result in full costs being charged.

The assessment process looks at the service user's ability to pay a charge. Financial information of the service user will be needed and this can include details about shared property/income for example in the case of married or unmarried couples. This may require us to ask the partner to tell us about their financial situation. In the case of married or unmarried couples we ensure that the service user is not required to pay additional

charges as a result of being part of a couple and include additional calculations as part of the assessment. . We call this a ‘better off’ calculation.

3.3 Key Elements

The financial assessment is broken down into four key elements:

- Income and capital, including some property
- Property, this relates to property that is owned by the service user but is not lived in by them.
- Allowable expenditure and disregards
- Disposable income
- Charge calculation

3.4 Income and Capital

3.4.1 Capital limit

The financial assessment will apply the capital limits determined each year by the Secretary of State and set out in the “Charging for Residential Accommodation Guide” (CRAG) issued by the Department of Health (DH). These are currently set with the lower limit of £14,250 and upper limit of £23,250, as of April 2014. These are subject to annual review each April by the Department of Health.

If the total sum of the customer’s capital is equal to or more than £23,250 in savings, investments and property they will be required to pay the full cost of any service they receive.

If a customer has less than £23,250 in savings, investments and property, the Financial Assessment Team has to make sure the service user has enough money to cover all of the following before they will have to pay towards the cost of their services –

An amount that is equal to Income Support or Pension Credit Guarantee (this is a weekly amount of money the Government sets as the lowest level of income that everyone should have to live on) plus 25%

Enough income to pay housing costs. This includes rent (after housing benefit), mortgage payments and Council Tax (after any Council Tax Reduction). This does not include money to pay any arrears of housing costs.

Enough income to cover any costs relating to their disability.

As part of the assessment the Financial Assessment officer may ask about service user’s expenditure if the capital levels have dropped below £23,500, in what could be classed as an unreasonable period of time. Income, capital or property must not be transferred or given away intending to avoid paying the costs of care, or to claim additional welfare. If a service user is considered to have transferred money in this way this could be classed as deprivation of capital and the assessment would be made based on the level of capital if reasonable expenditure had been made. This would be discussed with the service user at the time of the assessment.

3.4.2 What counts as capital?

Plymouth City Council will take account of government guidelines regarding what can be considered as capital as set out in CRAG. Capital includes, for example:

- Money in any bank/building society current and deposit account
- Post Office/National Savings and Premium Bonds, Income Bonds
- PEPs, TESSAs and ISAs
- Stocks, Shares and Unit Trusts
- Trust Funds – Some trust funds are disregarded
- Any other cash savings
- Capital held on the person's behalf by another party, Court of Protection, spouse/partner (where capital is held by one partner but the other has a beneficial interest).
- Property - This is any dwelling that is owned by the service user but not lived in by them. This can include houses, static caravans, chalets etc and includes property that may be lived in by another person

Note: the above list is not exhaustive and will be subject to an assessment of individual circumstances. This will be discussed as part of the assessment process.

3.4.3 What counts as income?

Plymouth City Council will take account of government guidelines regarding what can be considered as income as set out in CRAG and "Fairer Charging Policies for Home Care and other non-residential care services". Income includes, for example:

- State benefits (e.g. Retirement Pension, Pension Credit, Incapacity Benefit, ESA, Severed Disability Allowance, Income Support and/or Universal Credit, Disability Benefits including Attendance Allowance, Disability Living Allowance Care Component and/or Personal Independence Payment).
- Occupational and private pensions or other regular income from investments
- Tariff income on savings above £14,250 (this assumes £1 for every £250 of capital, or part thereof, between the lower and upper capital limits as stated in CRAG)
- Any other income from other sources, e.g. rental from property, etc.

3.4.4 The following income will be disregarded, in line with Department of Health Guidance

- Earnings from employment
- Mobility Component of; Disability Living Allowance, Attendance Allowance Personal Independence Payment, War Pensioner's Mobility Supplement
- The first £10 of any War Pensions
- War Widows Special Payments
- Savings credit element of Pension Credit
- Night rate of Disability Living Allowance (Care Component) or Attendance Allowance
- Guaranteed Income Payment paid under Armed Forces Compensation Scheme (payable to veterans only)

- Child Tax Credit
- An element of Armed Forces Independence Payment
- Working Tax Credits
- Child Benefit

3.5 Allowable Expenditure and Disregards

Allowable expenditure is money that is not taken into account when assessing how much income individuals have available that can be used to pay charges. There are two main types of allowable expenditure:

- Protected income (personal allowance + 25%)
- Housing costs - see Point 3.5.3

3.5.1 Protected income (Personal Allowance)

Customers will not be charged against any income that they have up to their basic level of Income Support, or Guarantee Pension Credit, plus 25%.

It is expected that protected income will cover costs such as:

- Food
- Clothing
- Utility bills such as gas, electricity, telephone.
- TV licence
- Repair and replacement of household items
- Repair and maintenance of buildings
- Gardening
- Pets
- Other expenditure, such as personal debts

3.5.2 Disability Related Expenditure

Disability related expenses are those expenses not already covered by a Personal Budget or support plan which occur as a result of disability and which the service user has little or no choice but to incur in order to maintain independence of life.

If a service user is in receipt of disability benefits, there is an expectation that there will be disability related expenditure they need to use some of this money towards. The financial assessment process allows service users to self-assess their disability related expenditure and the Council will automatically disregard a standard allowance of 30% of disability related benefits to cover these expenses. However an individually assessed allowance may be calculated in respect of those who feel their needs exceed the standard allowance. Additional allowances will be discussed by the Financial Assessment Officer. – See Point 3.11

Payments to family members are not normally treated as disability-related expenditure unless identified in the support plan for exceptional circumstances including cultural or religious reasons.

3.5.3 Housing Costs

Allowable housing costs, which will not include any arrears payments, follow;

- Rent payable, under a formal tenancy agreement (less any Housing Benefit received)
- Council Tax (less any Council Tax Reduction)
- Mortgage Payments (both interest only and interest and capital repayments)
- Ground Rent/Service charge (these generally apply to leasehold properties)
- Buildings & Contents insurance
- Water Rates
- Personal Alarm systems

The amount of housing costs that will be treated as allowable expenditure will be the total amount as prescribed above divided by the number of adults in the household.

3.6 Charge Calculation

In order to assess the amount payable towards a person's care and support, the following calculation is undertaken:

$$\begin{array}{r} \text{INCOME} \\ \textit{Minus} \\ \text{PROTECTED INCOME/DISREGARDS/ALLOWANCES} \\ \textit{Equals} \\ \text{DISPOSABLE INCOME} \end{array}$$

Total income (as outlined above) **less** protected income, 30% of disability related income and housing costs (all outlined above). The resulting figure is the net disposable income and is the amount that is considered as available for paying towards care and support.

The person will then be asked to pay either their disposable income or the true cost of their care and support, whichever is the **lower** amount.

For example, if a customer's disposable income is £30.00 per week and the service that is received costs £50.00 per week, the customer will pay £30.00 as this is the most that they can pay. However, if the service received costs £20.00 per week, the customer will pay this amount as this is less than their disposable income.

3.7 Benefit maximisation

Local Authorities are required to ensure that those who undergo a financial assessment are offered benefits advice and assistance in order to ensure the income of the assessed person and also their carer is maximised.

All assessed persons will be offered a benefits maximisation check and given assistance with claiming benefits irrespective of whether this has an impact on contributions or not. If claiming additional benefits will result in an increase of charge the assessed person will be

informed of the fact and, wherever possible, be given an indication of the amount of additional contribution.

3.8 Change of Circumstances

Customers are required to notify the council's Financial Assessment Team as soon as possible of any change in circumstance which they might reasonably be expected to know might affect their assessed charge for non-residential care services.

Changes to be notified include changes to personal details such as change of address as well as changes in financial situation, i.e. a change in their income, capital or expenditure.

3.9 Re-assessments

Contributions towards the cost of care and support services will be reviewed periodically to take into account increases in benefits, private pensions and the cost of living. This is known as a financial re-assessment and customers will be informed prior to any increase in contributions.

Service Users can request a re-assessment of their charge if their circumstances change, for example their capital falls below the capital limits as set by the Secretary of State. Request should be made to the Financial Assessment team

3.10 People who refuse to pay

The assessment of care needs is very different to the assessment of finance and contribution. A service may not be withdrawn because the customer refuses to pay the charge. However, failure to pay the assessed contribution is likely to result in the council pursuing the debt through the civil courts.

3.11 Appeals

When a customer indicates that they are dissatisfied with the outcome of the financial assessment and/or charge, they have the right to ask the council to review their assessment.

Section 17 (3) of the Health and Social Services and Social Security Adjudications Act 1983 (HASSASSA) give a person the right to ask the council for a review of the charge which has been assessed, if they consider that they cannot pay.

The statutory guidance states that "information for charge payers should make clear that they may either seek a review of their assessed charge or they may make a formal complaint if they are dissatisfied with any aspect of the assessment".

On receipt of a request for a review, a different financial assessment officer from the one who completed the work will review the original financial assessment and check that the assessment has been carried out fully in line this policy and the treatment is consistent with other customers. A new financial statement may need to be completed to ensure that all relevant details are considered at the initial assessment.

If a review reflects that the 30% Disability Related Expenditure Allowance is not sufficient to meet the essential needs of the service user then an higher rate will be allowed. If the review reflects a lesser allowance is needed the assessment will reflect the lower amount even if it is below the 30% allowance.

If the Financial Assessment Officer is unable to resolve the query to the satisfaction of the service user or representative, the service user will be informed of their right to appeal the decision via the council's complaints procedure.

3.12 Sharing information

As we work in partnership with the health service and other agencies to provide a package of services, we sometimes need to share personal information of service users with other organisations involved in their care.

If necessary, a form giving us permission to share personal information with other organisations will need to be completed. For you own protection or for the protection of other people, we may on rare occasions, share information without your permission. Under these circumstances we will explain why this has happened.

3.13 Protection of Public funds

Plymouth City Council prides itself on setting and maintaining high standards and a culture of openness, with core values of fairness trust and value. The Anti-fraud and corruption policy fully supports Plymouth City Council's desire to maintain an honest authority free from fraud and corruption.

All allegations of financial abuse, financial irregularities or deception to gain access to public funds will be treated seriously, investigate with the appropriately action taken. We aim to protect public funds by ensuring we have a robust assessment process to ensure that those who need financial support will be able to access it.