

**HARTLEPOOL
BOROUGH COUNCIL**

**CONTRIBUTION
POLICY FOR
NON-RESIDENTIAL
SUPPORT**

April 2015

Review date: March 2016

1. Background

- 1.1 The Care Act 2014 (the Act) provides a single legal framework for charging for care and support under sections 14 and 17. It enables a local authority to decide whether or not to charge a person when it is arranging to meet a person's care and support needs or a carer's support needs.
- 1.2 Section 69 of the Act provides that a local authority may recover such charges as they consider reasonable in respect of relevant services.

2. Guiding Principles

- 2.1 The following principles support the policy to ensure the council:
 - Recovers contributions from service users for non-residential services based on the person's ability to pay
 - Has a clear and transparent contribution policy which is easy to understand and consistently applied to all people using services, taking into account individual circumstances and needs.
 - Provides an early notification to service users of their contribution to non-residential care costs.
 - Ensures that people have an opportunity to maximise welfare benefits and their ability to contribute to their non-residential care costs.
 - Ensures efficiency and convenience for people using services.

3. What Support is covered?

- 3.1 This policy applies to the following:
 - a. Home and domiciliary care services (including extra care).
 - b. Day Services including transport if provided.
 - c. Any community based care packages through personal budgets and direct payments.
- 3.2 This policy does not apply to people who meet the following criteria, who will not be asked to contribute towards their care or support costs:

- People in receipt of after care services under S117 Mental Health Act 1983.
- People with Creutzfeldt Jacob Disease.
- People whose support is fully funded by NHS (i.e. continuing health care).
- People accessing Reablement Services for up to six weeks.
- People requiring basic aids and adaptations equipment.

3.3 Examples (not an exhaustive list) of exempt support are:

- a. Provision of information, advice and guidance.
- b. Provision of assessment including assessment of community care needs.

4. Application of this Policy

4.1 This policy applies to all people accessing the support listed in 3.1 above.

4.2 Representatives. Where the person using services lacks capacity to manage their financial and / or property affairs, as assessed by an officer of the council or somebody duly appointed by them, the local authority will consult with their agent (i.e. a person lawfully authorised to act on their behalf) under the following:

- Enduring Power of Attorney (EPA)
- Lasting Power of Attorney (LPA)
- Deputyship.

4.3 Where the person's only income is from the Department of Work and Pensions (DWP) and the person has no other financial assets, then the local authority will work with an appointee authorised by the DWP.

4.4 If there is nobody willing to undertake the role of representative, as a last resort, the council will appoint an officer to undertake the role of appointee, as described above, to support the person using services.

4.5 The local authority will, in the first instance, pursue this person using services for any unpaid liabilities owed to the council. It also reserves the right to pursue the agent either as litigation friend for the person using services or where it appears the agent may have acted in breach of their duties.

5. Financial Assessment

- 5.1 The council will complete a financial assessment for all people using services as soon as possible unless they:
- a. are exempt as described under section 3 of this policy.
 - b. Chose not to be financially assessed. ***Please note that people who decline a financial assessment will be required to pay the full costs of any support provided to them.***
- 5.2 The financial assessment team will offer a face-to-face meeting to complete the financial assessment forms and undertake a comprehensive benefits check, offer advice and provide practical support to apply for any benefits they might be entitled to claim.
- 5.3 At the point of the needs assessment, the practitioner will advise that there may be a contribution to the costs of support and explain how this will be calculated.
- 5.4 Any contribution will not exceed the full cost of support or reduce the person's income below the basic living allowance calculated as set out at 6.1 below.

6. How the contribution is calculated

- 6.1 When the council assesses a person'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 follows:

BASIC LIVING ALLOWANCE = IS <u>or</u> PGC & 25%

- 6.2 The capital thresholds and the basic living allowance are updated annually and accord with the levels set within the Care and Support Statutory Guidance and by the DWP respectively.

- 6.3 The maximum contribution per week is calculated using financial information received from the person using services and other information available to the council. The calculation will take account of relevant income and capital.
- 6.4 The income that will be taken into account includes all the benefits received by the person (except those listed at 6.5 and 6.6 below), state pension, occupational pensions, any other income and capital including notional income and capital as defined by the Care and Support Statutory Guidance.
- 6.5 Savings between the lower threshold (as set out in the Care and Support Statutory Guidance) and the upper threshold will attract a surcharge of £1 a week for each £250 (or part thereof). For example if a person has savings of £17,000 the notional income would be £15 a week being £17,000 less £14,250 (= £2,750) divided by £250 (= £11). The lower and upper thresholds are currently:
- | | |
|--------|---------|
| Lower: | £14,250 |
| Upper: | £23,250 |
- 6.6 Capital including any savings in bank or building society accounts; PEP; ISA or TESSA accounts, SAYE (Save as You Earn) schemes; cash; Premium Bonds or National Savings Certificates; stocks, shares; trust funds and investments in property, building and land (rental income will be included); and which someone else is holding on behalf of the person using services is taken into account.
- 6.7 If there are joint savings with a spouse or partner, 50% of the total amount will be taken into account.
- 6.8 In calculating the maximum contribution, the value of the main residence occupied by the person using services will be ignored (if the property is subsequently sold, such liquid capital that results for the person will then be subject to financial assessment). However, if the person using services owns a second property, 100% of the value will be taken into account. The maximum contribution, subject to 6.10, will be the full cost of care services.
- 6.9 People using services will be assessed in their own right and the income of any parent or carer (unless a spouse / partner as detailed in 7.0) will not be taken into account.
- 6.10 There are some types of income which are partly or wholly disregarded in the calculation of the maximum charge. These include:
- The mobility part of DLA;
 - £10 of a war pension or war widow's pension;
 - All Guaranteed Income Payments (GIPs) made under the Armed Forces Compensation Scheme;

- Payments from the Independent Living Fund (ILF). The Department of Health issued guidance in 2000 which stated that people receiving financial support from the ILF should have their 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 (AA), Disability Living Allowance (DLA), Constant Attendance Allowance (CAA) and Exceptional Severe Disability Allowance (ESDA) that covers care at night where the council purchases no element of higher care;
- Working Tax Credit;
- The savings part of pension credit;
- Ex-gratia payments made to Eastern prisoners of war;
- Payments made under Vaccine Damage Payment;
- Compensation from personal injuries award is disregarded for assessment purposes for a period of 52 weeks, with the exception of any part of the award provided to meet care costs. Where people using services are in receipt of compensation for personal injuries, their compensation will be considered on a 'case by case' basis. Where a person is unwilling to disclose the terms of any compensation payment(s) then they will be assessed as full cost.

6.11 Housing costs, mortgage, rent or council tax (net of related benefits) will be deducted from the relevant income as 6.4 above before calculating the maximum contribution.

6.12 Disability Related Expenses (DRE) will be considered when the extra cost is needed to meet the person's specific needs due to a long-term condition or disability, with the overall aim of maintaining independence or quality of life. The council will disregard these costs from any income where it is satisfied that the cost has been incurred by the person using services 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 an individual case by case basis.

6.13 Non-disability related expenses. Calculation of the maximum contribution will take into account such expenses as referred to in the Care and Support Statutory Guidance. Some expenses i.e. household contents insurance, water rates etc, are deemed to be afforded by the person using services from their prescribed protected income. The council will seek to allow additional costs, together with other essential expenses, such as service charges and ground rent that owner occupiers may incur if they are not receiving related benefits to cover these costs. Essential expenses will include payments under court orders (i.e. child maintenance).

6.14 Dependants. The calculation of the maximum contribution will take into account the financial implications for people using services who have dependent children up to 18 years of age or for whom they provide

maintenance payments (and dependant adults in exceptional circumstances).

6.15 The accessible income is calculated by adding together all the identified weekly income and then subtracting:

- any costs for housing
- any income that must be disregarded under the policy;
- any DRE;
- the Basic Living Allowance.

6.16 The result is the assessable income. The maximum that a person could be asked to contribute each week will be the lower of:

- a. the assessable income, and
- b. the full cost of support received.

A breakdown of how the contribution has been calculated will be provided to the person using services. Examples of how contribution is calculated (using 2013 thresholds) are:

1. No financial information declared
= FULL COST
2. Customer savings of over £23,250
= FULL COST
3. Customer savings under £23,250
= customer income (including tariff income on savings)

LESS

Basic income level (Basic IS/PGC + 25% extra and Customer expenses (Housing and disability)

LEAVES

Accessible income
Chargeable income =

Charge lower of
a) accessible income
b) cost of service

7. Financial Assessment of Couples

- 7.1 The financial assessment will seek to identify shared capital, benefits or other income and apportion these between the relevant parties. The council will use the lower amount of contribution from a “better off” assessment process for couples.
- 7.2 It is the responsibility of the person using services (or the person acting on their behalf) to notify the council of any joint financial arrangements. A couple is defined as two people who are married, in a civil partnership or are living together as if in a marriage or civil partnership.

8. Earned Income

- 8.1 Earned income is, in all cases, disregarded for the purposes of assessing a person’s financial contribution towards any support services.

9. Decline to provide financial details

- 9.1 People have the right to decline to provide their financial details to the council. In such cases the council will be unable to complete a financial assessment and the person using services will be charged for the full cost of the support they receive.

10. Completing the Financial Assessment

- 10.1 The council aims to complete a financial assessment within 14 days of a request for assessment. Where further information is required it is expected that the person being assessed will provide this within two weeks.

11. Effective Point of Charging

- 11.1 People will be informed of their assessed maximum contribution within five working days of being financially assessed and people using services will be expected to contribute towards the cost of the services that they are receiving from the date that their services commence. Where this is done verbally a confirmation will be followed up in writing.
- 11.2 No contribution will be payable prior to support being provided and no contribution payment will begin prior to the person agreeing to accept services, on the understanding that they will contribute to the assessed cost.

- 11.3 It is the responsibility of the person using services or their representative to inform the council of any change in their financial circumstances as this may trigger a review of their contribution.
- 11.4 Any increase in contribution due to an award or increase in benefits entitlement will take effect from the date of the award.
- 11.5 Any increase in contribution due to an increase in other income or amount of capital held will take effect from the date of the change in circumstances.
- 11.6 In the event of any 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 four weeks.
- 11.7 Payment for assessed contribution will cover a four-week period by Direct Debit or alternatively a Social Care Payment Card with the frequency of regular payments to be agreed with the person using services.

12. Deprivation of Capital

- 12.1 Where the council believes that a service user has deprived himself or herself of a capital asset in order to reduce their contribution, the council will treat the person using services as still possessing the asset.
- 12.2 It is up to the service user to prove that they no longer have the resource and if they cannot do this then the council will treat the person as if they still possessed the actual capital. Examples of acceptable evidence of the disposal of capital would include: receipts for expenditure or proof that debts had been repaid.
- 12.3 The timing of the disposal will be taken into account when considering the purpose of the disposal.
- 12.4 Where, for the purposes of avoiding or reducing 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.
- 12.5 If the person using services, in depriving himself / herself of an actual resource, converted that resource into another actual resource of a lesser value, s/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.

12.6 If the person using services is found to have disposed of capital in order to avoid paying or reduce their payable contribution, the council will decide whether to treat the person as having the (notional) capital and assess the payable contribution taking this capital into account.

12.7 If the council decides that the person has disposed of capital inappropriately, the council will then decide whether to:

- recover the assessed contribution from the person in full, or
- recover the assessed contribution by instalment, or
- defer payment to a later date, or

- place a charge on any property owned by the person either with agreement or subsequent court action, or
- take other appropriate action as agreed with management.

13. Complaints

13.1 Complaints about the level of charge levied by the council are subject to the normal procedure for adult statutory social care complaints as set out in the Local Authority Social Services and NHS Complaints (England) Regulations 2009.

The council also welcomes feedback from people who use services. If people using services are dissatisfied with the way they have been treated through the financial assessment process, or the services they receive, then they have the right to lodge a complaint to the Complaints Officer. The council has a statutory complaints process to ensure that people's views and concerns are considered and dealt with appropriately and that the council holds itself accountable to the highest possible standards.

14. Review of Financial Circumstances

14.1 The person using services must advise the council of any change in their financial circumstances because this may affect their assessed contribution. Changes which should be notified include:

- a. receipt of a new benefit or any changes to benefits;
- b. change to income or allowable expenditure;
- c. if the person's capital or savings crosses one of the capital thresholds; or
- d. changes to living arrangements.

14.2 Once the council is informed of any changes in the person's financial circumstances then a new financial assessment will be completed

using the updated information that has been provided. If the revised assessment results in a change to the person's contribution then the person will be notified of this in writing. The revised contribution will be backdated to the date of the changed circumstances.

15. People using services that are in arrears/non-payment of charges

- 15.1 If a person refuses to pay their assessed contribution the matter will be referred for legal action in accordance with the debt collection protocol. A review of the person's community care needs will always be undertaken at this time.
- 15.2 The council will seek to recover any funds owing – including the cost of legal action. The council may recover arrears from contributions through Debt Collection Agencies and / or the courts where people have the means to contribute towards the cost of their support but refuse to do so.
- 15.3 The council appreciates that sometimes people who use services may experience difficulties or exceptional circumstances and the council will consider these on an individual basis and, where appropriate, through the appeals process.

16. Use of financial information and privacy

- 16.1 The council keeps information about people who use their services confidential and it is only seen by authorised staff. The information will only be shared with other relevant people and agencies in accordance with the Data Protection Act (DPA) 1998 or with the written consent of the person using services or their legally appointed representative. The DPA also gives people the right to see information that the council keeps about them.

17. Equality Impact

- 17.1 The council has assessed that this policy does not discriminate against groups of people using services or present adverse impacts due to any characteristics protected under the Equality Act 2010.
- 17.2 This policy will be reviewed annually prior to the start of each financial year. Annual review will ensure all rates are consistent with inflation or other relevant changes which may occur.