

Darlington Borough Council
 Services for People
 Adult Social Care and Housing

Fairer Contributions Policy
 For Non Residential Services

Draft

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Background

1. Fairer Charging Policies for home care and other non-residential social services (the Fairer Charging guidance) was designed for an era of traditional local authority social care provision where people received services direct from the Local Authority or via independent providers under contract to the Local Authority. However, with increasing numbers of people receiving direct payments and the introduction of personal budgets to support greater choice and control comes the need to reconsider how an individual's contribution towards non-residential services, if any, might be worked out.
2. Typically an individual's charge for non-residential services has been based on the number of units of different types of community care services they have received. In the case of direct payments, financial contributions towards the cost of care have been calculated on a comparable basis.
3. A personal budget is an upfront allocation of social care resources to a person who is eligible for support. Following an assessment of their need for non-residential social services, a person who the council consider eligible for support will be allocated an amount of money necessary to meet their needs.
4. People will have the option to take a personal budget as commissioned services or as a statutory direct payments or a mixture of both.
5. Currently, the cost of service for charging purposes is calculated depending on the composition of an individual's care package, i.e. hourly for home care and daily for day care.
6. When a personal budget is taken as a direct payment as opposed to commissioned service, the individual may purchase different types of community care services which may not correspond with the current classifications, i.e. home care and day care, therefore, the fairer contributions policy aims to calculate what an individual can afford to pay towards the total cost of their assessed needs.

Policy Statement

7. This policy has been written in accordance with Fairer Charging Guidance 2003 issued by the Department of Health and the Fairer Contributions Guidance 2010. The power to charge for services is given to local authorities under Section 17 of the Health and Social Services and Social Security Adjudications Act 1983 and guidance on the exercise of this power is issued by the Secretary of State under Section 7 of the Local Authority Social Services Act 1970

The aim of the Policy is to provide a reasonable and fair charging framework for all adults with an assessed eligible need for social care support. The income generated from the charges helps maintain and develop services for vulnerable people.

8. Darlington Borough Council will use its legal powers to charge for non- residential Social Care Services in a manner consistent with the legislation, official guidance and best practice. The Contributions Policy will be periodically reviewed by the Council. Appropriate consultation will be carried out in respect of any proposed changes.
9. The Adult Social Care Contributions Policy for non-residential services will:
 - a. Ensure that all individuals receiving Adult Social Care support are treated on an equal basis
 - b. Be based upon 'ability to pay' as determined by the Financial Assessment process, applying all national guidelines and any locally approved concessions
 - c. Ensure that the income of Individuals is maximised with particular reference to Welfare Benefits and other sources of income
 - d. Ensure that Disability Related Expenditure is assessed in a proactive, consistent and sensitive manner
 - e. Ensure that the Policy (and appropriate guidance) is transparent to external scrutiny, widely advertised, and is available in a variety of media, versions and languages to meet the communication needs of the full range of Individuals
 - f. Apply the capital limits set out in the Charging for Residential Accommodation Guidance (CRAG) Section 6.
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_097578
 - g. Exercise discretion to waive charges in a fair and transparent manner.

Support Needs

10. In Darlington, the types of support you will be required to contribute towards are:
 - a. Personal Care
 - b. Domestic Care
 - c. Sitting Services
 - d. Direct Payments and support to manage a direct payment
 - e. Sleepovers
 - f. Day Care
 - g. Transport as provided in conjunction with the provision of community care services
 - h. Social Activities e.g. visiting a museum, bowling etc.
 - i. Assistive Technology i.e. Telecare

Where an individual requires more than one carer to support them with any of the above, their contribution will be based on the cost of both carers.

11. Whether the service is commissioned by Darlington Borough Council or given as a Direct Payments the total cost of the package will be calculated. The individual will be financially assessed to determine their maximum contribution they need to pay towards a 100% of the total cost of their package.
12. Services which are not included within the Contributions Policy but are charged at a flat rate, and not part of the financial assessment.
 - a. Pre prepared meals

- b. Meals at Day Care (It is the expectation that where an individual is in a 24 hour residential or nursing placement, that the provider would pay the charge of the meal or provide a suitable alternative)

13. In Darlington, the services that will **not** be charged for are:

- a. After-care, relating to an individual psychiatric need, which has been provided under Section 117 of the amendments to the Mental Health Act 1983 (2007) may not be charged for under Section 17 of the Health And Social Services And Social Security Adjudications Act 1983
- b. Rehabilitation, training, employment or drop in services
- c. The Council will not charge for the giving of advice about the availability of services
- d. Assessment, including assessment of community care needs.
- e. Individuals of non residential social services who have any form of Creutzfeldt Jacob Disease (CJD) should not undergo a financial assessment but should be treated as automatically exempt.
- f. Community Equipment, e.g. bath hoist, handrail
- g. Carers Services.
- h. Reablement- in accordance with the Reablement Policy
- i. Other exemptions apply as per Fairer Charging Guidance 2003 and CRAG 2010.

Short Break Stay

14. Any assessed need for short break stays in a residential care home will be financially assessed in accordance with the Charging for Residential Accommodation Guide (CRAG). Under Direct Payment legislation direct payments cannot be made for purchasing more than four continuous weeks of residential care per year.

The Financial Assessment

15. To ensure that everyone is treated fairly all, individuals who have non residential support needs will be offered a financial assessment. The purpose of this assessment is to calculate the ability to contribute towards the cost of these services and to enable Individuals to maximize benefits to which they may be entitled.

Process

16. The Financial Assessment will be conducted in the individuals own home, or at a location of their choice wherever possible.

17. Where the individual has a representative, i.e. Deputy, Power of Attorney or Appointee that deals with their financial affairs, they must be present at the visit to sign the documentation.

18. If the individual does not have a legal representative who deals with their financial affairs they may wish to have a carer, relative, advocate or a friend present during the visit.

19. Financial information will be gathered and recorded on a Financial Assessment Form which is signed by the individual (or their representative) and the Visiting Financial Assessment Officer to confirm its accuracy. An estimated charge will be left with the individual.
20. Charges should not be made for any period before an assessment of charges has been communicated to the individual. However, where the individual has not co-operated reasonably with the financial assessment, charges may be made. In such situations, charges will be made from the date that the initial appointment was made with the Visiting Financial Assessment Officer.
21. Written confirmation of the assessed charge will be sent to the individual (or their representative) within five working days of the visit or two working days for urgent cases.
22. Where an assessed need has been identified services will commence regardless of whether a financial assessment has been completed. No charge will be made to the service user until the financial assessment has been completed and charges will not be backdated to the commencement of the service.
23. If the initial assessment could not be completed or was incorrect upon checking, the charge will commence the week after the confirmation letter has been sent out.

Assessing an Individuals Ability to Pay

24. This will consist of:

- a. Calculating an individuals total income and Capital
- b. Calculating disregards and allowances
- c. Disability Related Expenditure Assessment
- d. A comprehensive welfare rights check.

Income

25. Income is assessed net of any Income Tax and National Insurance contributions payable and net of any housing costs such as rent or mortgage and Council Tax and includes the following:

- a. Retirement Pension
- b. Income Support/Pension Credit
- c. Attendance allowance
- d. Disability Living Allowance (DLA) Care Component
- e. Private/occupational Pensions
- f. War Widow/War Disability pensions
- g. Employment and Support Allowance (ESA)
- h. Incapacity Benefits
- i. Rental Income except where this income is as j below.
- j. Earned income will not be taken into account

26. AA and DLA Care Component are paid at the higher rate if a person has day and night needs. If a person is not receiving night time care arranged by the Council then the

Work Incentives

27. As earnings rise, entitlement to Housing Benefits and Council Tax Benefits falls. Therefore, housing costs and Council Tax is assessed net of any Housing Benefit and Council Tax Benefit payable. This means that if either benefit is withdrawn as earnings rise, the increase in the net housing and Council Tax costs will be reflected in the assessment.
28. Working Tax Credit which, replaced Working Families Tax Credit and Disabled Persons Tax Credit, is disregarded as income in the financial assessment
29. All earnings are disregarded as part of the financial assessment for non-residential social services. This includes financial assessments for carers. "Earnings" should be defined in the same way as in the Charging for Residential Accommodation Guidance (CRAG).

Capital, Savings and Assets

30. The Council will take into account all monies held by an individual when calculating a charge towards home care and other non residential services subject to the capital limits set out in the Charging for Residential Accommodation Guidance (CRAG) Section 6
31. Capital will be taken into account to calculate a tariff income on the same basis as set out in CRAG. These savings limits will be updated in line with any CRAG uplifts.
32. Individuals with capital above the upper limit will be asked to pay the full charge for the service.
33. Capital held which is below the lower limit will be fully disregarded from the Financial Assessment.
34. When capital is held which is above the lower capital limit but below the upper capital limit a weekly income of £1.00 for every complete £250.00 or part of £250.00 will be taken. This is called tariff income.
35. The value of the main residence occupied by the individual will not be taken into account for non residential social services, but other forms of capital will be taken into account as set out in CRAG.
36. Any joint savings will be included equally unless evidence can be provided to show otherwise.
37. Any properties other than the main residence will be treated as a capital asset, the council may obtain a valuation to determine the value of the asset.
38. As per CRAG compensation awards comprise of two elements, the first element is the actual compensation award, the lump sum, which is defined as capital, which is

disregarded in the financial assessment and the second any income that the lump sum produces will be included within the financial assessment.

Allowances/ Disregards

39. An individual's income will not be reduced by charges below the Standard Minimum Guarantee plus a buffer of 25%. This is calculated according to age, level of impairment, marital and family status, according to Department for Work and Pensions limits.
40. The Savings Credit Reward will be fully disregarded.
41. Any mortgage and rent payable, net of any housing benefit are disregarded. A disregard will only be made if the individual's name is on the deeds of the property or is included on the tenancy agreement and are deemed eligible under the housing benefit rules. A disregard will only be made for non dependants if a non dependant deduction has been made by Housing Benefits or if the individual's name is on the deeds of the property.
42. Any council tax payable net of council tax benefit is disregarded.
43. Disability Related Expenditure is disregarded
44. £10 per week of War Disability Pensions and War Widows Pension is disregarded
45. The mobility component of DLA is excluded by law from being taken into account for charges. War Pensioner's Mobility Supplement is also disregarded.

Full Cost of Service

46. If an individual chooses not to supply all of the information requested on the Financial Assessment form they will be asked to complete a Full Cost of Service Declaration. This will result in the individual being charged the maximum rate applied by the Council or 100% of the cost of the service whichever is less.
47. If the individual has capital in excess of the upper capital limit they will also be charged the maximum rate applied by the Council, or the cost of service, whichever is less

Disability Related Expenditure (DRE)

48. The Department of Health defines Disability Related Expenditure as "any reasonable additional cost that the individual incurs due to a disability or condition or for health and safety reasons". The Department of Health of Guidance (2009) states in relation to Disability Related Expenditure "It is not possible to give a completely comprehensive list of disability related expenditure which could legitimately be claimed for, however the overall aim of the policy is to allow for reasonable expenditure needed for independent living by a disabled person"

49. Allowable Disability Related Expenditure will be for expenditure deemed necessary as a result of disability or condition or for health and safety reasons. Costs arising simply from a matter of personal choice where a reasonable alternative is available at a lesser charge will not normally be allowed.
50. The Care Manager or other professional may be required to assess the need for disability related expenditure.
51. All individuals whether in receipt of disability related benefits or not, will be asked if they have any Disability Related Expenditure and the cost of this will be assessed and given as a disregard/allowance in line with Council Policy. A checklist will be made available which will support individuals to identify Disability Related Expenditure
52. Where a disregard is relevant, evidence of actual expenditure will be requested. If receipts have not been kept the Council can request that this is done for future expenditure. It is legitimate that the Council can verify that items that have been claimed for have been purchased.
53. Generally, disregards should be given based on past expenditure; however in some cases estimates of annual expenditure based on available evidence can be made.
54. Allowances for Disability Related Expenditure can be set for a fixed period ahead but the individual must be informed that they may seek a review at any time if their Disability Related Expenditure changes. This will require supplementary evidence.
55. If the individual fails to keep future receipts and there is doubt as to whether the expenditure was actually incurred it is reasonable for the Council not to include this in the assessment.
56. Where the individual has chosen to pay privately for disability related care services normally provided by the Council, the permitted allowance would not exceed the normal cost if the Council provides those services. These allowances would only be permitted when the Care Manager agrees that there is a support need.
57. Disability Living Allowance Mobility Component cannot be treated as income as part of the financial assessment. However, transport costs do not need to be allowed as DRE if the Mobility Component (or Mobility vehicle) is considered available to meet such costs. Additional transport costs over and above the Mobility Component should be allowed if necessitated by illness or disability.
58. Where a Community Alarm is provided it will be charged for at the ongoing rate and cannot be means tested. The actual cost, net of any Housing Benefit or Supporting People Grant will be considered for an allowance under the Disability Related Expenditure Assessment.
59. The Community Alarm Service is classed as a dispersed alarm unit (stand alone or hard wired), plus either a pendant and or a pull cord. Any other alarm equipment linked to the dispersed alarm unit is outside of the definition of a Community Alarm Service. Darlington's Housing Department apply a charge for this service, which is reviewed on an annual basis.

60. If more than one person lives in the service users home, then additional costs relating to a disability or condition may be shared between the occupants whose needs contribute to the additional costs. The costs of providing domestic assistance or gardening , if allowed may be attributed to all of the adult occupants of the service user's home.
61. The Disability Related Expenditure Assessment will be reviewed on an annual basis as part of the Financial Reassessment.
62. The Council may use its discretion to allow costs without evidence being provided.
63. Indicators of reasonable Disability Related Expenditure costs are shown in Appendix 1. These costs will be reviewed each year as part of the budget setting process.

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The Welfare Rights Check

64. After the Financial Assessment has been completed the Visiting Financial Assessment Officer should ensure that appropriate benefits advice is given to all individuals. This should include advice about benefit eligibility; help with the completion of benefit claims and the follow up of claims with the benefit provider where the Individual wishes this. As most decisions about benefit entitlement carry the right of appeal, then the Visiting Financial Assessment Officer should suggest that expert advice be sought as early as possible to avoid loss of benefit and avoid lengthy appeal processes.
65. Advice should not be limited to benefits directly affecting charges. It will therefore include Housing Benefit, Council Tax Benefit, and Council Tax Discounts and reductions as well as the core benefits of Income Support and Pension Credits, disability benefits (AA/DLA) and Tax Credits.
66. The individual should also be notified whether charges are likely to increase if the benefit application is successful.
67. Some individuals may prefer to obtain independent Welfare Rights advice from agencies such as Age Concern, Citizens Advice Bureau and should be offered this choice. Where the Individual has given permission, information regarding the financial assessment will be exchanged with the relevant agency.
68. Individuals can choose not to take the advice offered by the Visiting Financial Assessment Officer. Where the individual fails to make a claim for a benefit that they will be entitled to, this may result in this amount being treated as notional i.e. as if it is still there.

Other Advice

69. During the home visit information about other services available to the individual should be provided. This might include information about Influenza Vaccine campaigns, Lifeline/Assistive Technology, energy efficiency schemes for older people and Council/PCT events in the area for vulnerable groups of people.

Treatment of Couples and other individuals living in the same household

70. The Council will only consider an individual's means when assessing their ability to pay a charge. Therefore, parents and other members of an adult user's family will not be required to pay the charges, except in certain legal circumstances, for example, where a family member is managing the Individual's financial resources i.e. Appointee, Deputy, Power of Attorney.
71. The Council can consider an individual's means that include resources that are not held in that person's name, but the individual has legal entitlement to. If the Council believes that the individual has means that were not initially disclosed then the partner's relevant resources will need to be disclosed. If the partner does not provide the necessary information and the Council is not satisfied that the individual has insufficient funds to pay for their care, and then a request for the individual to pay the full cost of care may be made.

72. If savings are held jointly then they will be treated as being divided equally between the owners unless information can be provided to confirm that this is not the case.
73. In some cases benefits such as Income Support and Pension Credits are calculated for the need of a couple and may be paid to one partner but are paid for a couple. In these instances it is not possible to apportion the money to each individual. Therefore, it is reasonable to take into account income that has been paid jointly. However the expenditure needs of both partners should also be taken into account. Therefore, basic levels of Income Support/Guaranteed Credit plus 25% buffer would be applied as a disregard.
74. If the assessment of need is for one partner then the outcome of the joint Financial Assessment would be halved.
75. Where an individual lives in a family home e.g. an adult son/daughter living with parents or parent living in son/daughter's family home, and that individual makes a contribution to the household expenses i.e. board, the provision of meals and accommodation, no disregard will be given for the board element as this is already taken into account with the award of the standard minimum guarantee plus 25%.

Review of Assessed Charges

76. All individuals will have their charges reassessed on an annual basis in line with the commencement date of their service.
77. A financial reassessment will be completed as a result of any changes in financial circumstances. This includes being awarded new benefits (e.g. Attendance Allowance) and the payments of new income.

Change in Financial Circumstances

78. It is the responsibility of the individual or their representative to inform Adult Social Care of any relevant change of financial circumstances, as failure to do so may lead to backdated charges. Examples of changes in circumstances include reductions and increases in income or reductions or increases in capital.
79. The individual will be notified in writing of any alteration to their weekly contribution, as a result of any changes. Any change to the individual's weekly contribution may be from the date of such change.
80. An individual or their authorised representative can request a reassessment of their charges at any time.

Collection of Charges

81. All individuals will be invoiced on a 4 weekly basis, in arrears for their assessed charge.

Appeals and Complaints Procedure

Appeals

82. An individual or their authorised representative can request a review of their financial assessment and their charge at any time.
83. If the client disagrees with the initial assessment then a visit will be made by a different Visiting Financial Assessment Officer to verify the assessment. This will be completed within 10 working days and a written reply made setting out the reasons for maintaining or amending the present charge.
84. If the individual or their authorised representative still disputes the charge, then a further review will be completed by the Visiting Financial Assessment Officers' line manager. Again, a written reply will be sent out confirming the reasons for maintaining or amending the current charge.
85. If the individual still remains dissatisfied regarding the outcome of their appeal then the Director of Services for People or a nominated officer will hear appeals against decisions made by the Financial Assessment Section.
86. The Director of Services for People or a nominated officer will deal with requests for reviews of matters relating to Darlington Borough Council's Contributions Policy for non residential services.
87. At any time in this process the individual or their representative can make a complaint under the Adult Social Care Complaints Procedure.

Waiving the Charges

88. In exceptional cases, the charges for Community Care services may be waived. Cases will be considered individually based upon the effect to the individual. This may include cases where the individual would refuse essential services if they were required to pay or if they or if they persistently refuse to pay any charge levied.
89. In such cases, the Care Manager and their Team Manager will submit a report outlining the client's circumstances and the reasons why they believe that the charges should be waived to the Assistant Director Adult Social Care and Housing for approval. Approval may be given retrospectively and the individual would be reimbursed for contributions paid back to the date that approval was effective. It can also be given for a specified period of time to give the individual the opportunity to reassess their own position on paying for their care.
90. The Council has a responsibility to provide care and support to people assessed as needing it through a Community Care Assessment regardless of the individual's ability or willingness to pay. Services that are essential to support someone safely in the community should not be withdrawn because the person refuses to pay. Where the person withdraws themselves from services, further enquiries and alternative advice and assistance will be offered.

Debt Management

91. The management of outstanding debt will be undertaken in a balanced manner. It is the responsibility of Officers of the Local Authority to collect money due to the Council. This will be done in a sensitive manner and in a progressive way with legal action being the very last resort.

Complaints Procedure

92. Darlington Adult Social Care welcomes and responds positively to all comments, compliments and complaints as a means of demonstrating its commitment to working in partnership with individuals and carers and improving services.

93. The Adult Social Care Complaints Procedure comprises of one stage after which the complainant should be advised to discuss the matter with the Complaints Manager or refer the matter to the Local Government Ombudsman.

94. Although complainants can refer their complaint from the outset to the Local Government Ombudsman, they will not normally investigate the matter until the Council has conducted its own investigation and made a response.

95. More information is available from:

Adult and Children's Social Care Complaints Officer
Town Hall
Darlington
DL1 5QT
Tel: 01325 388043

www.darlington.gov.uk/complaints

96. Complaints concerning the conduct of Officers of the Council will be dealt with under the Council's employment policy and procedures.

Non-attendance at Services Commissioned by Adult Social Care

97. Where an individual does not require their non residential social care, then providing they give 48 hours notice, they will not be charged. Where notice has not been given, charges may only be waived at the discretion of the appropriate Service Manager, e.g. emergency admission to hospital.

EXAMPLES OF DISABILITY RELATED EXPENDITURE 2011-2012

Darlington Borough Council's assessment of Disability Related Expenditure is based on the good practice guidelines developed by the National Association of Financial Assessment Officers (NAFAO) and DWP- Fairer Charging Policies for Home Care and other non residential Social Services Practice Guidance August 2002

All amounts used will be reviewed on an annual basis as part of the budget setting process. It is not possible to give a completely comprehensive list of DRE expenditure which could be legitimately claimed for. Expenditure must be identified in consultation with the individual and by reference to the support plan and/or with advice from the Care Manager or other professional.

Decisions in each case must be reasonable and take into account:

- the assessed eligible needs and capacity of the individual
- the circumstances, needs and health of others living in the household
- the availability of voluntary help
- actual expenditure and whether a cheaper alternative is reasonably available to the individual.

Disability Related Expense	Evidence Required
Alarm Line (Community Alarm System)	Check Lifeline services/bills from provider/Direct Debit on bank statements
Foot care Not normally allowed unless special circumstances as should be provided under NHS	Bill/receipt /bank statement Confirmation of need from Care Manager or doctor/health professional
Domestic help – Private (e.g. housework and shopping), Where service user is unable to do this as a result of disability and there is no-one else in the household who could reasonably be expected to assist) if Care Manager confirms requirement as part of the Support Plan and Council supported care is reduced accordingly.	Bill/receipt/bank statement/contract/ letter Confirmation of need from Care Manager
Clothing and footwear May include specialised clothing or footwear, or frequent replacement, e.g. for people with physical disabilities, mental health problems or learning disabilities	Bills/receipts/bank statement
Bedding and Towelling May include sheets, quilts towels etc	Bills/receipts/bank statement
Dietary Additional costs of special dietary needs due to illness or disability	Details required Receipts required

Disability Related Expense	Evidence Required
<p>Assistance Dogs (e.g. blind, deaf or epileptic) Unless provided free from relevant organisation (including training & vets bills).</p>	<p>Details required Receipts required</p>
<p>Gardening Basic garden maintenance (where client is unable to maintain due to disability and no-one else in household can reasonably be expected to assist) Check if local gardening scheme available</p>	<p>Confirmation of need from Care Manager Receipts/ bank statements/ bill/invoice.</p>
<p>Heating Exceptional Any heating costs or metred costs of water above the average levels for the area and housing type required by age, medical condition or disability)</p>	<p>Confirmation of need from Care Manager 12 months of bills/ receipts.</p>
<p>Laundry Includes: additional costs of washing powder, cleaning materials, wear & tear on washing machine, washing clothing & bedding, if necessitated by age, medical condition or disability</p>	<p>Confirmation of need from Care Manager Bills/Receipts required</p>
<p>Health Needs Non prescribed items e.g. incontinence creams, wipes etc where not provided by the NHS)</p>	<p>Bills/Receipts required</p>
<p>Personal Care – Private Includes bathing, washing feeding and dressing if Care Manager confirms requirement as part of the Support Plan and Council supported care is reduced accordingly.</p>	<p>Bills/receipts/bank statement/service agreement/letter from carer. Check with Care Manager if assessed need for care and Council supported care reduced accordingly</p>
<p>Prescriptions Where the individual has to pay</p>	<p>Receipts required</p>
<p>Holidays Additional reasonable costs for disability related adaptations plus cost of accommodation for Personal Assistant, if applicable</p>	<p>Receipts /invoices required</p>
<p>Special equipment Purchase, maintenance, and repair rent of disability related equipment</p>	<p>Evidence of purchase Confirmation of need from Care Manager or Occupational Therapy worker.</p>
<p>Transport Costs Other transport costs necessitated by illness or disability</p>	<p>Bills/receipts required Evidence of need from Care Manager</p>
<p>Other Disability Related Expenditure</p>	<p>Bills/receipts required Evidence of need from Care Manager</p>